

~~REPEALED~~

C O N T E N T S

ACT No.	SHORT TITLE	PAGE NO.
1	The Delhi Urban Art Commission Act, 1973	1
2	The Code of Criminal Procedure Act, 1973	29
3	<u>The National Co-operative Development Corporation (Amendment) Act, 1974</u>	270
4	The Esso (Acquisition of Undertakings in India) Act, 1974	277
5	<u>The Presidential and Vice-Presidential Elections (Amendment) Act, 1974</u>	286
6	The Water (Prevention and Control of Pollution) Act, 1974	296
7	The Appropriation (Vote on Account) Act, 1974	327
8	<u>The North-Eastern Areas (Reorganisation) Amendment Act, 1974</u>	334
9	The Public Wakfs (Extension of Limitation) (Delhi Amendment) Act, 1974	335
10	The Appropriation (Railways) Act, 1974	336
11	<u>The Gujarat State Legislature (Delegation of Powers) Act, 1974</u>	338
12	The Economic Offences (Inapplicability of Limitation) Act, 1974	340
13	The Gujarat Appropriation Act, 1974	342
14	The Gujarat Appropriation (Vote on Account) Act, 1974	346
15	The Appropriation (Railways) No. 2 Act, 1974	353
16	The Appropriation (Railways) No. 3 Act, 1974	355
17	The Appropriation Act, 1974	357
18	The Pondicherry Appropriation (Vote on Account) Act, 1974	361
19	The Appropriation (No. 2) Act, 1974	364
20	The Finance Act, 1974	371
21	<u>The Estate Duty (Distribution) Amendment Act, 1974</u>	411
22	<u>The Additional Duties of Excise (Goods of Special Importance) Amendment Act, 1974</u>	413
23	<u>The Union Duties of Excise (Distribution) Amendment Act, 1974</u>	415
24	The Gujarat Appropriation (No. 2) Act, 1974	417
25	The Pondicherry Appropriation Act, 1974	426
26	The Direct Taxes (Amendment) Act, 1974	429

Contents

CHARTERS

ACT No.	SHORT TITLE	PAGE No.
27	The Cinematograph (Amendment) Act, 1974	443
28	The Coal Mines (Conservation and Development) Act, 1974	453
29	The Major Port Trusts (Amendment) Act, 1974	461
30	The Essential Commodities (Amendment) Act, 1974	472
31	The Finance (No. 2) Act, 1974	479
32	<u>The Industries (Development and Regulation) Amendment Act, 1974</u>	483
33	<u>The Alcock Ashdown Company Limited (Acquisition of Undertakings) Amendment Act, 1974</u>	484
34	The Press Council (Amendment) Act, 1974	485
35	The Companies (Temporary Restrictions on Dividends) Act, 1974	487
36	<u>The Indian Iron and Steel Company (Taking Over of Management) Amendment Act, 1974</u>	492
37	The Additional Emoluments (Compulsory Deposit) Act, 1974	496
38	The Compulsory Deposit Scheme (Income-tax Payers) Act, 1974	512
39	The University of Hyderabad Act, 1974	522
40	<u>The Esso (Acquisition of Undertakings in India) Amendment Act, 1974</u>	555
41	<u>The Companies (Amendment) Act, 1974</u>	556
42	<u>The Payment of Bonus (Amendment) Act, 1974</u>	590
43	The Appropriation (No. 3) Act, 1974	591
44	The Appropriation (Railways) No. 4 Act, 1974	593
45	The Interest-tax Act, 1974	595
46	<u>The Delhi Sikh Gurdwaras (Amendment) Act, 1974</u>	609
47	The Oil Industry (Development) Act, 1974	611
48	The Indian Telegraph (Amendment) Act, 1974	629
49	<u>The Small Coins (Offences) Amendment Act, 1974</u>	631
50	<u>The Indian Works of Defence (Amendment) Act, 1974</u>	632
51	<u>The Reserve Bank of India (Amendment) Act, 1974</u>	634
52	The Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974	647
53	<u>The Navy (Amendment) Act, 1974</u>	654
54	The East Punjab Urban Rent Restriction Act (Extension to Chandigarh) Act, 1974	661

~~REPEALED~~

Contents

ACT No.	SHORT TITLE	PAGE No
-X 55	<u>The Delhi Municipal Corporation (Amendment) Act, 1974</u>	664
-X 56	<u>The Repealing and Amending Act, 1974</u>	671
57	<u>The Sick Textile Undertakings (Nationalisation) Act, 1974</u>	687
58	<u>The Representation of the People (Amendment) Act, 1974</u>	715
-X 59	<u>The Punjab Municipal (Chandigarh Amendment) Act, 1974</u>	717
-X 60	<u>The Working Journalists (Conditions of Service) and Miscellaneous Provisions (Amendment) Act, 1974</u>	719
61	<u>The Appropriation (No. 4) Act, 1974</u>	722
62	<u>The Gujarat Appropriation (No. 3) Act, 1974</u>	725
63	<u>The Gujarat Appropriation (No. 4) Act, 1974</u>	728
64	<u>The Pondicherry Appropriation (No. 2) Act, 1974</u>	732
-X 65	<u>The Salaries and Allowances of Members of Parliament (Amendment) Act, 1974</u>	735
	<u>The Constitution (Thirty-second Amendment) Act, 1973</u>	736
	<u>The Constitution (Thirty-third Amendment) Act, 1974</u>	740
	<u>The Constitution (Thirty-fourth Amendment) Act, 1974</u>	742
	INDEX	745

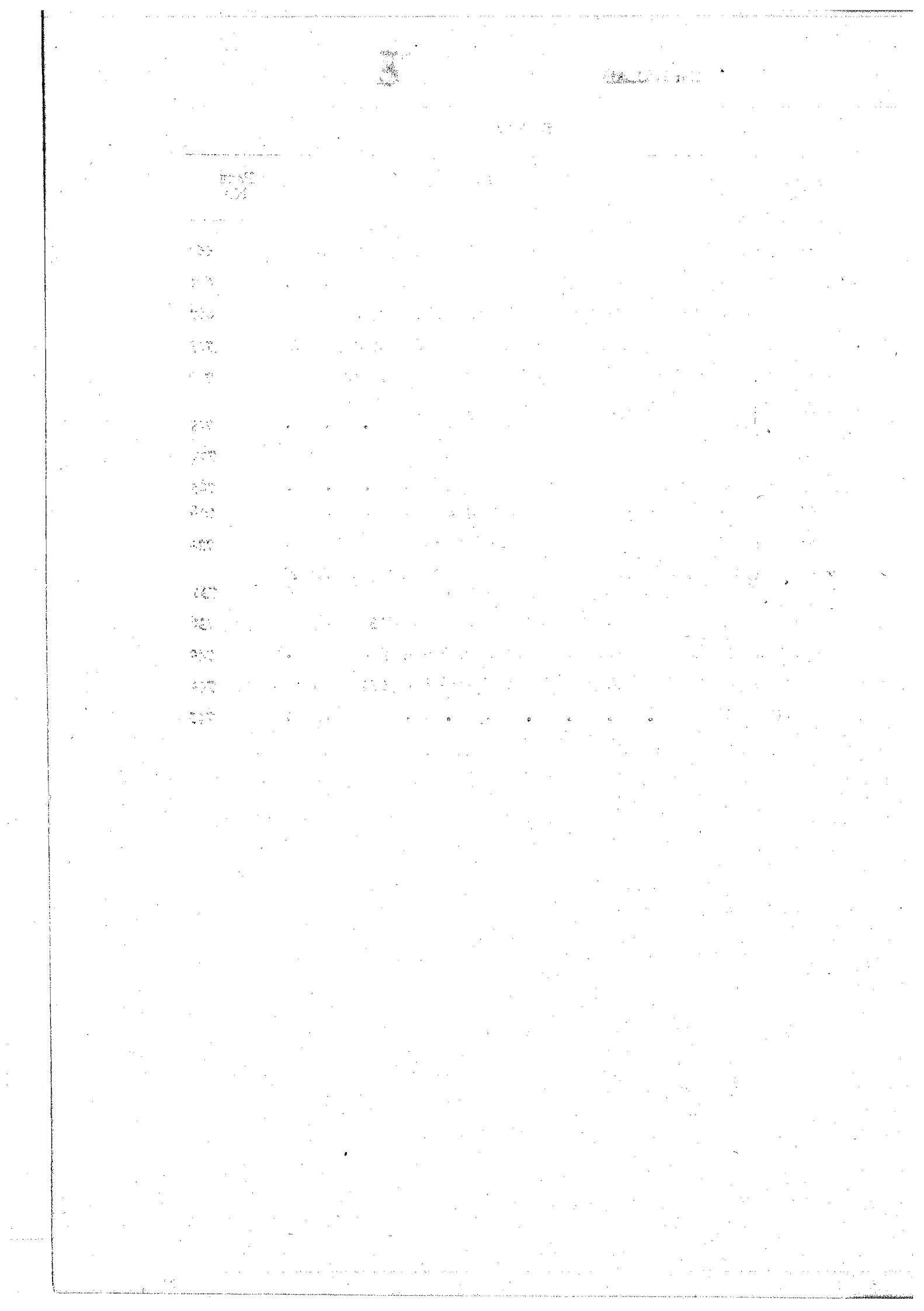


TABLE SHOWING EFFECT OF PARLIAMENTARY LEGISLATION OF 1974

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 1974 Act by which affected
1	2	3	4	5
1854	24	Malabar War-Knives Act, 1854	Repealed	56, s. 2 and Sch. I
1867	19	Darjeeling (High Court's Jurisdiction) Act, 1867.	Repealed	56, s. 2 and Sch. I
1885	13	Indian Telegraph Act, 1885	S. 7 amended w.e.f. 1-6-1975	48, s. 2
1898	5	Code of Criminal Procedure, 1898.	Repealed w.e.f. 1-4-1974	2, s. 484
1898	6	Indian Post Office Act, 1898	First Schedule amended	20, s. 25
1903	7	Indian Works of Defence Act, 1903.	Ss. 1, 37, 44 amended	50, ss. 2, 3, 4
1934	2	Reserve Bank of India Act, 1934.	Ss. 2, 8, 9, 17, 18, 33, 42 45A, 45E, 45H, 45I, 45K, 45N, 46A, 58 amended	51, ss. 2, 4, 5, 6, 7, 10, 11, 13, 14, 16, 17, 18, 20, 23, 24
			Ss. 18A, 45MA, 45NA, 58A. Chapter V(58B to 58F) inserted	<i>Ibid.</i> ss. 8, 19, 21, 25, 26
			Ss. 32, 45G, 45O, 45P omitted	<i>Ibid.</i> s. 9, 15, 22
			S. 43 substituted	<i>Ibid.</i> s. 12
			Throughout the Act for “Bar King Companies Act, 1949” “Bar King Regulation Act, 1949” substituted.	<i>Ibid.</i> s. 3
1934	32	Indian Tariff Act, 1934	S. 3, First Schedule ame- ded.	20, s. 18
1936	4	Payment of Wages Act, 1936	S. 7 amended	56, s. 3 and Sch. II
1944	1	Central Excises and Salt Act, 1944.	First Schedule amended	20, s. 21 and Sch. II
1948	15	Industrial Finance Corpora- tion Act, 1948.	S. 30 amended	56, s. 3 and Sch. II
1948	37	Census Act, 1948	Ss. 4, 5, 16 and 17 amen- ded.	56, s. 3 and Sch. II
1949	1	Indian Tariff (Amendment) Act, 1949.	Ss. 4, 5 amended	20, s. 20
1950	46	Army Act, 1950	Ss. 4, 6, 7 amended	56, s. 3 and Sch. II
1951	43	Representation of the People Act, 1951.	Ss. 77 amended w.e.f. 19-10-1974.	58, s. 2

Year of Act	No. of Act	Short title of Act	How affected	No. and section of 1974 Act by which affected
1	2	3	4	5
1951	65	Industries (Development and Regulation) Act, 1951.	Ss. 18A, 18FA amended w.e.f. 29-6-1974	32, s. 2
1952	12	Coal Mines (Conservation, Safety and Development) Act, 1952.	Repealed w.e.f. 1-4-1975	28, s. 19
1952	31	Presidential and Vice-Presid- ential Elections Act, 1952.	Ss. 2, 4, 6, 14, 18, 21 amended	5, ss. 2, 3, 5, 6, 7, 9
			S. 5 substituted	<i>Ibid.</i> , s. 4
			S. 20A inserted	<i>Ibid.</i> , s. 8
1952	37	Cinematograph Act, 1952	Ss. 2, 3, 4, 5A, 5B, 6, 6A, 7, 7A, 7C, 7D, 7E, 7F, 8, 9 amended w.e.f. date to be notified.	27, ss. 2, 3, 5, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20.
			Ss. 3A, 3B, 4A inserted w.e.f. date to be notified	<i>Ibid.</i> , ss. 4, 6
			Ss. 5, 5C, 5D substituted w.e.f. date to be notified	<i>Ibid.</i> , ss. 7, 10
1952	46	Criminal Law Amendment Act, 1952.	S. 8A amended w.e.f. 22-6-1974	30, s. 12
1954	30	Salaries and Allowances of Members of Parliament Act, 1954.	S. 4 amended	65, s. 2
1955	10	Essential Commodities Act, 1955.	Ss. 2, 3, 6A, 6B, 7, 10A, 12A amended w.e.f. 22-6-1974	30, ss. 2, 3, 4, 5, 6, 7, 10
			Ss. 10B, 10C, 12B inser- ted w.e.f. 22-6-1974	<i>Ibid.</i> , s. 8, 11
			S. 12 substituted w.e.f. 22-6-1974	<i>Ibid.</i> , s. 9
1955	45	Working Journalists (Con- ditions of Service and Miscellaneous Provisions) Act, 1955.	Ss. 1, 2, 19B, 20 amended	60, ss. 2, 3, 5, 6
			Chapter II A (ss. 13B to 13D) inserted	<i>Ibid.</i> , s. 4
1956	I	Companies Act, 1956	Ss. 2, 10E, 17, 18, 19, 43A, 73, 79, 141, 186, 192, 205, 209, 217, 224, 233B, 269, 297, 314, 408, 591, 600, 616, 619, 637A, 641, 642 amended w.e.f. 1-2-1975	41, ss. 2, 4, 5, 6, 8, 9, 13, 14, 16, 18, 20, 22, 23, 25, 26, 28, 29, 31, 32, 33, 34, 35, 37, 39, 40, 36, 58, 41
			Ss. 4A, 58A, 58B, 94A, 108A, 108B, 108C, 108D, 108E, 108F, 108G, 108H, 187C, 187D, 204A, 205A, 205B, 209A, 224A, 294AA, 283A, 619B, 637AA, Thirteenth Schedule inserted w.e.f. 1-2-1975	<i>Ibid.</i> , ss. 3, 7, 11, 12, 15, 17, 19, 21, 24, 27, 30, 36, 58, 41
			Ss. 90 substituted w.e.f. 1-2-1975	<i>Ibid.</i> , s. 10

Year of Act	No. of Act	Short title of Act	How affected	No. and section of 1974 Act by which affected
1	2	3	4	5
1956	80	Hindu Succession Act, 1956	S. 30 amended	56, s. 3 and Sch. II
1956	42	Securities Contracts (Regulation) Act, 1956.	S. 22 substituted w.e.f. 1-2-1975 S. 12 amended	41, s. 42 56, s. 3 and Sch. II
1957	27	Wealth Tax Act, 1957	Ss. 2, 5, Schedule amended w.e.f. 1-4-1975 S. 46 amended	20, s. 14 26, s. 17
1957	58	Additional Duties of Excise (Goods of Special Importance) Act, 1957	Long title, s. 6, Second Schedule amended w.e.f. 1-4-1974	22, ss. 2, 3, 4
1957	62	Navy Act, 1957	Throughout the Act for "seaman" substitute "sailor" Ss. 3, 7, 15, 41, 43, 51, 52, 55, 73, 94, 168, 184 amended	53, s. 2 <i>Ibid.</i> , ss. 3, 4, 5, 8, 10, 11, 12, 13, 15, 16, 17, 18
			Ss. 19A, 19B, 55A, 55B, 55C, 55D inserted	<i>Ibid.</i> , ss. 6, 14
			Ss. 34 to 37, 42, 185 substituted	<i>Ibid.</i> , ss. 7, 9, 19
1957	66	Delhi Municipal Corporation Act, 1957	Ss. 2, 3, 5, 11, 12, 14, 30, 33, 31, 90, 92, 96, 479, amended w.e.f. 10-1-1975	55, ss. 2, 3, 4, 6, 7, 8, 9, 10 11 <i>Ibid.</i> , s. 5
			S. 7 substituted w.e.f. 10-1-1975	
1958	18	Gift-tax Act, 1958	S. 17 amended w.e.f. 1-4-1963 S. 46 amended	26, s. 18 <i>Ibid.</i> , s. 19
1958	27	Mineral Products (Additional Duties of Excise and Cus- tom) Act, 1958.	S. 3 amended	20, s. 23 and Sch. III
1959	29	Public Wakfs (Extension of Limitation) Act, 1959 (as in force in the Union territory of Delhi).	S. 3 amended w.e.f. 1-1-1973	9, s. 2
1960	58	Repealing and Amending Act, 1960.	Repealed	56, s. 2 and Sch. I
1961	43	Income-tax Act, 1961	S. 10 amended (partly w.e.f. 1-6-1972, 1-6-1974, 1-4-1975 and partly retrospectively)	20, s. 3
			Ss. 46, 36, 74A, 80MM, 75, 77, 80, 80A, 139, 141A, 143, 155 and 157 amended w.e.f. 1-4-1975	20, ss. 4, 5, 6, 7, 10 and 13 (2)
			S. 80N amended partly, w.e.f. 1-4-1975 and partly w.e.f. 1-4-1969	<i>Ibid.</i> , s. 8
			S. 80O amended partly, w.e.f. 1-4-1972 and partly w.e.f. 1-4-1975	<i>Ibid.</i> , s. 9

(viii)

Year of Act	No. of Act	Short title of Act	How affected	No. and section of 1974 Act by which affected
1	2	3	4	5
1961	43	Income-tax Act, 1961— <i>contd.</i>	Ss. 209 and 155 amended 20. s.11, s. 13(i) w.e.f. 1-4-1974	
			Fourth Schedule amended <i>Ibid.</i> , s. 12 partly w.e.f. 1-4-74 and partly w.e.f. 1-4-1975	
			Ss. 10, 35B amended 26, ss. 2, 6 w.e.f. 1-4-1973	
			Ss. 32, 34 amended w.e.f. <i>Ibid.</i> , ss. 3, 4 1-4-1975	
			S. 35 amended partly <i>Ibid.</i> , s. 5 w.e.f. 1-4-1974 and partly w.e.f. 1-4-1975	
			Ss. 40A, 80A, 80J, 80P, <i>Ibid.</i> , ss. 7, 8, 10, 11, 12 80QQ amended w.e.f. 1-4-1974	
			S. 271 amended retrospectively <i>Ibid.</i> , s. 13	
			S. 295 amended <i>Ibid.</i> , s. 14	
			S. 80HH, Eighth Schedule inserted <i>Ibid.</i> , ss. 9, 15 w.e.f. 1-4-1974	
			Ninth Schedule inserted <i>Ibid.</i> , s. 16 w.e.f. 1-4-1975	
			Ss. 80T, 115 amended 31, s. 2 w.e.f. 1-4-1975	
1961	47	The Deposit Insurance Corporation Act, 1961.	S. 2 amended	56, s. 3 and Sch. II
1962	3	Union Duties of Excise (Distribution) Act, 1962.	Long title, ss. 2, 5 amended	23, ss. 2, 3, 5
			S. 3 substituted	<i>Ibid.</i> , s. 4
			S. 6 repealed	56, s. 2 and Sch. I
1962	6	State Financial Corporations (Amendment) Act, 1962.	Repealed	56, s. 2 and Sch. I
1962	7	Indian Railways (Amendment) Act, 1962.	Repealed	56, s. 2 and Sch. I
1962	8	Dock Workers (Regulation of Employment) Amendment Act, 1962.	Repealed	56, s. 2 and Sch. I
1962	9	Estate Duty (Distribution) Act, 1962.	Long title, ss. 3, 4 amended w.e.f. 1-4-1974	21, ss. 2, 3, 4
			S. 5 repealed	56, s. 2 and Sch. I
1963	10	Additional Duties of Excise (Goods of Special Importance) Amendment Act, 1962.	Repealed	56, s. 2 and Sch. I
1963	14	Advocates (Amendment) Act, 1962.	Repealed	56, s. 2 and Sch. I

Year of Act	No. of Act	Short title of Act	How affected	No. and section of 1974 Act by which affected
1	2	3	4	5
1962	15	Telegraph Wires (Unlawful Possession) Amendment Act, 1962.	Repealed	56, s. 2 and Sch. I
1962	16	Indian Succession (Amendment) Act, 1962.	Repealed	56, s. 2 and Sch. I
1962	17	Air Corporations (Amendment) Act, 1962.	Ss. 2 to 6 repealed	56, s. 2 and Sch. I
1962	21	Drugs (Amendment) Act, 1962.	Repealed	56, s. 2 and Sch. I
1962	24	President's Pension (Amendment) Act, 1962.	Repealed	56, s. 2 and Sch. I
1962	25	Advocates (Second Amendment) Act, 1962.	Repealed	56, s. 2 and Sch. I
1962	26	National Co-operative Development Corporation Act, 1962.	Long title substituted w.e.f. 1-4-1974	3, s. 2
			Ss. 2, 8, 22, 23 amended (partly w.e.f. 1-4-1974 and partly w.e.f. 7-4-1975)	Ibid., ss. 3, 7, 15, 16
			Ss. 3, 7, 18, 19 amended w.e.f. 7-4-1975	Ibid., ss. 4, 6, 13, 14
			Ss. 4, 9, 12, 13 amended w.e.f. 1-4-1974	Ibid., ss. 5, 8, 10, 12
			S. 10 substituted w.e.f. 7-4-1975	Ibid., s. 9
			S. 12A inserted w.e.f. 1-4-1974	Ibid., s. 11
1962	27	State of Nagaland Act, 1962	S. 33 repealed	56, s. 2 and Sch. I
1962	30	Assam Rifles (Amendment) Act, 1962.	Repealed	56, s. 2 and Sch. I
1962	31	Land Acquisition (Amendment) Act, 1962.	Ss. 2 to 6 repealed	56, s. 2 and Sch. I
1962	32	Advocates (Third Amendment) Act, 1962.	Repealed	56, s. 2 and Sch. I
1962	33	Atomic Energy Act, 1962	S. 32 repealed	56, s. 2 and Sch. I
1962	35	Reserve Bank of India (Amendment) Act, 1962.	Repealed	56, s. 2 and Sch. I
1962	36	Banking Companies (Amendment) Act, 1962.	Repealed	56, s. 2 and Sch. I
1962	37	Industries (Development and Regulation) Amendment Act, 1962.	Repealed	56, s. 2 and Sch. I
1962	38	Oil and Natural Gas Commission (Amendment) Act, 1962.	Repealed	56, s. 2 and Sch. I
1962	42	Foreigners Law (Application and Amendment) Act, 1962.	S. 3 repealed	56, s. 2 and Sch. I
1962	44	Electricity Supply (Amendment) Act, 1962.	Repealed	56, s. 2 and Sch. I
1962	45	Hindu Adoptions and Maintenance (Amendment) Act, 1962.	Repealed	56, s. 2 and Sch. I

Year of Act	No. of Act	Short title of Act	How affected	No. and section of 1974 Act by which affected
1	2	3	4	5
1962	46	Metal Tokens (Amendment) Repealed Act, 1962.		56, s. 2 and Sch. I
1962	47	Indian Tariff (Amendment); Repealed Act, 1962.		56, s. 2 and Sch. I
1962	48	Employees' Provident Funds Repealed (Amendment) Act, 1962.		56, s. 2 and Sch. I
1962	52	Customs Act, 1962	S. 18 amended	56, ss. 3 and Sch. II
1962	53	Gift-tax (Amendment) Act, 1962.	Repealed	56, s. 2 and Sch. I
1962	54	Taxation Laws (Amendment); Repealed Act, 1962.		56, s. 2 and Sch. I
1962	56	State Associated Banks (Mis- cellaneous Provisions) Act, 1962.	Ss. 2, 3, 4, 6, repealed	56, s. 2 and Sch. I
1962	60	Multi-unit Co-operative Societies (Amendment) Act, 1962.	Repealed	56, s. 2 and Sch. I
1962	61	Delimitation Commission Repealed Act, 1962.		56, s. 2 and Sch. I
1962	64	Workmen's Compensation Repealed (Amendment) Act, 1962.		56, s. 2 and Sch. I
1962	65	Working Journalists (Amend- ment) Act, 1962.	Repealed	56, s. 2 and Sch. I
1963	2	Representation of the People Repealed (Amendment) Act, 1963.		56, s. 2 and Sch. I
1963	3	Indian Tariff (Amendment) Repealed Act, 1963.		56, s. 2 and Sch. I
1963	4	Delhi Rent Control (Amend- ment) Act, 1963.	Repealed	56, s. 2 and Sch. I
1963	8	Central Sales Tax (Amend- ment) Act, 1963.	Repealed	56, s. 2 and Sch. I
1963	11	Marine Insurance Act, 1963	S. 9 repealed	56, s. 2 and Sch. I
1963	15	Bengal Finance (Sales-tax) (Delhi Amendment) Act, 1963.	Repealed	56, s. 2 and Sch. I
1963	23	Indian Emigration (Amend- ment) Act, 1963.	Repealed	56, s. 2 and Sch. I
1963	24	Iron Ore Mines Labour Wel- fare Cess (Amendment) Act, 1963.	Repealed	56, s. 2 and Sch. I
1963	26	Code of Civil Procedure Repealed (Amendment) Act, 1963.		56, s. 2 and Sch. I
1963	27	All-India Services (Amend- ment) Act, 1963.	Repealed	56, s. 2 and Sch. I
1963	28	Employees' Provident Funds Repealed (Amendment) Act, 1963.		56, s. 2 and Sch. I
1963	29	Institutes of Technology Ss. 2 to 6 repealed (Amendment) Act, 1963.		56, s. 2 and Sch. I

Year of Act	No. of Act	Short title of Act	How affected	No. and section of 1974 Act by which affected
1	2	3	4	5
1963	30	Customs and Central Excises (Amendment) Act, 1963.	Repealed	56, s. 2 and Sch. I
1963	32	Special Marriage (Amendment) Act, 1963.	Repealed	56, s. 2 and Sch. I
1963	33	Indian Sale of Goods (Amendment) Act, 1963.	Repealed	56, s. 2 and Sch. I
1963	34	Warehousing Corporations (Amendment) Act, 1963.	Repealed	56, s. 2 and Sch. I
1963	36	The Limitation Act, 1963.	Ss. 28, 32 repealed	56, s. 2 and Sch. I
1963	38	Major Port Trusts Act, 1963	Ss. 1, 2, 3, 4, 6, 8, 19, 29, 24, 25, 29, 32, 35, 8, 9, 10, 11, 13, 14, 36, 42, 43, 46, 59, 61, 15, 17, 18, 20, 62, 63, 75, 78, 82, 88, 21, 22, 23, 24, 27, 102, 116, 118, 122, 28, 29, 30, 31, 32, 123, 124, 133, 134 34, 35, 36, 37, 38, 39 amended w.e.f. 15-1-1975.	56, s. 2 and Sch. I
			Ss. 27, 65 substituted <i>Ibid.</i> , ss. 12, 25 w.e.f. 15-1-1975.	
			Ss. 35A, 74A, 74B, 117A <i>Ibid.</i> , ss. 16, 26, 33 inserted w.e.f. 15-1-1975.	
1963	39	Industrial Employment (Standing Orders) Amendment Act, 1963.	Repealed	56, s. 2 and Sch. I
1963	40	Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1963.	Repealed	56, s. 2 and Sch. I
1963	42	Drugs and Magic Remedies (Objectionable Advertisement) Amendment Act, 1963.	Repealed	56, s. 2 and Sch. I
1963	43	Income-tax (Amendment) Act, 1963.	Repealed	56, s. 2 and Sch. I
1963	47	Specific Relief Act, 1963.	Ss. 43, 44 repealed	56, s. 2 and Sch. I
1963	48	Requisitioning and Acquisition of Immoveable Property (Amendment) Act, 1963.	Repealed	56, s. 2 and Sch. I
1963	49	East Punjab Ayurvedic and Unani Practitioners (Delhi Amendment) Act, 1963.	Repealed	56, s. 2 and Sch. I
1963	50	Indian Tariff (Second Amendment) Act, 1963.	Repealed	56, s. 2 and Sch. I
1963	51	Preventive Detention (Continuance) Act, 1963.	Repealed	56, s. 2 and Sch. I
1963	52	Unit Trust of India Act, 1963.	S. 44 and Second Schedule repealed.	56, s. 2 and Sch. I
1963	54	Central Boards of Revenue Act, 1963.	S. 2 amended	45, s. 30

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1	2	3	4	5
1963	55	Banking Laws (Miscellaneous Provisions) Act, 1963.	Repealed	56, s. 2 and Sch. I
1963	56	Delhi Development (Amendment) Act, 1963.	Ss. 2 to 29 repealed	56, s. 2 and Sch. I
1964	7	Companies (Profits) Surtax Act, 1964.	Third Schedule amended w.e.f. 1-4-1975	20, s. 15
			S. 9 amended retrospectively	26, s. 20
			S. 25 amended	<i>Ibid.</i> , s. 21
1964	9	Armed Forces (Special Powers) Continuance Act, 1964.	Repealed	56, s. 2 and Sch. I
1964	10	Public Employment (Requirement as to Residence) Amendment Act, 1964	Ss. 2, 3 repealed	56, s. 2 and Sch. I
1964	12	Indian Railways (Amendment) Act, 1964.	Repealed	56, s. 2 and Sch. I
1964	13	Drugs and Cosmetics (Amendment) Act, 1964.	Repealed	56, s. 2 and Sch. I
1964	15	East Punjab Ayurvedic and Unani Practitioners (Delhi Amendment) Act, 1964.	Repealed	56, s. 2 and Sch. I
1964	17	Indian Coinage (Amendment) Act, 1964.	Repealed	56, s. 2 and Sch. I
1964	19	Oil and Natural Gas Commission (Amendment) Act, 1964.	Repealed	56, s. 2 and Sch. I
1964	20	Durgah Khawaja Saheb (Amendment) Act, 1964.	Repealed	56, s. 2 and Sch. I
1964	21	Advocates (Amendment) Act, 1964.	Repealed	56, s. 2 and Sch. I
1964	24	Indian Medical Council (Amendment) Act, 1964.	Repealed	56, s. 2 and Sch. I
1964	25	Coir Industry (Amendment) Act, 1964.	Repealed	56, s. 2 and Sch. I
1964	26	Salaries and Allowances of Members of Parliament (Amendment) Act, 1964.	Repealed	56, s. 2 and Sch. I
1964	27	High Court Judges (Conditions of Service) Amendment Act, 1964.	Repealed	56, s. 2 and Sch. I
1964	30	Kerala State Legislature (Delegation of Powers) Act, 1964.	Repealed	56, s. 2 and Sch. I
1964	31	Direct Taxes (Amendment) Act, 1964.	Repealed	56, s. 2 and Sch. I
1964	33	Representation of the People (Amendment) Act, 1964.	Repealed	56, s. 2 and Sch. I
1964	34	Wakf (Amendment) Act, 1964	Repealed	56, s. 2 and Sch. I

Year of Act	No. of Act	Short title of Act	How affected	No. and section of Act by which affected
1	2	3	4	5
1964	35	State Bank of India (Amendment) Act, 1964.	Repealed	56, s. 2 and Sch. I
1964	36	Industrial Disputes (Amendment) Act, 1964.	Repealed	56, s. 2 and Sch. I
1964	38	Indian Trade Unions (Amendment) Act, 1964.	Repealed	56, s. 2 and Sch. I
1964	40	Anti-Corruption Laws (Amendment) Act, 1964.	Repealed	56, s. 2 and Sch. I
1964	41	Mineral Oils (Additional Duties of Excise and Customs) Amendment Act, 1964.	Repealed	56, s. 2 and Sch. I
1964	43	Slum Areas (Improvement and Clearance) Amendment Act, 1964.	Repealed	56, s. 2 and Sch. I
1964	44	Hindu Marriage (Amendment) Act, 1964.	Repealed	56, s. 2 and Sch. I
1964	45	Provisional Collection of Taxes (Amendment) Act, 1964.	Repealed	56, s. 2 and Sch. I
1964	46	Wealth-tax (Amendment) Act, 1964.	Repealed	56, s. 2 and Sch. I
1964	47	Essential Commodities (Amendment) Act, 1964.	Repealed	56, s. 2 and Sch. I
1964	48	Official Trustees (Amendment) Act, 1964.	Repealed	56, s. 2 and Sch. I
1964	49	Prevention of Food Adulteration (Amendment) Act, 1964.	Repealed	56, s. 2 and Sch. I
1964	51	Indian Tariff (Amendment) Act, 1964.	Repealed	56, s. 2 and Sch. I
1964	52	Repealing and Amending Act, 1964.	Repealed	56, s. 2 and Sch. I
1964	53	Payment of Wages (Amendment) Act, 1964.	Repealed	56, s. 2 and Sch. I
1964	54	Standards of Weights and Measures (Amendment) Act, 1964.	Repealed	56, s. 2 and Sch. I
1964	55	Foreign Exchange Regulation (Amendment) Act, 1964.	Repealed	56, s. 2 and Sch. I
1965	1	Income-tax (Amendment) Act, 1965.	Ss. 2 to 5 repealed	56, s. 2 and Sch. I
1965	6	Industries (Development and Regulation) Amendment Act, 1965.	Repealed	56, s. 2 and Sch. I
1965	9	Armed Forces (Special Powers) Continuance Act, 1965.	Repealed	56, s. 2 and Sch. I
1965	12	Kerala State Legislature (Delegation of Powers) Act, 1965.	Repealed	56, s. 2 and Sch. I

Year of Act	No. of Act	Short title of Act	How affected	No. and section of 1974 Act by which affected
1	2	3	4	5
1965	14	Representation of the People (Amendment) Act, 1965.	Repealed	56, s. 2 and Sch. I
1965	16	Press and Registration of Books (Amendment) Act, 1965.	Repealed	56, s. 2 and Sch. I
1965	17	Representation of the People (Second Amendment) Act, 1965.	Repealed	56, s. 2 and Sch. I
1965	19	Aligarh Muslim University (Amendment) Act, 1965.	Repealed	56, s. 2 and Sch. I
1965	21	Payment of Bonus Act, 1965	Ss. 10, 18 amended	42, ss. 2, 3
1965	22	Employees' Provident Funds (Amendment) Act, 1965.	Repealed	56, s. 2 and Sch. I
1965	23	Banking Laws (Application to Co-operative Societies) Act, 1965.	Ss. 2 to 10, sub-section (1) of s. II, ss. 12 to 14 repealed	56, s. 2 and Sch. I
1965	32	Insurance (Amendment) Act, 1965.	Repealed	56, s. 2 and Sch. I
1965	33	Life Insurance Corporation (Amendment) Act, 1965.	Repealed	56, s. 2 and Sch. I
1965	34	The Press Council Act, 1965.	S. 5 amended (w.e.f. 28-6-1974) S. 22 amended	34, s. 2 <i>Ibid.</i> , s. 3
1965	35	Industrial Disputes (Amendment) Act, 1965.	Repealed	56, s. 2 and Sch. I
1965	36	Delhi Motor Vehicles Taxation (Amendment) Act, 1965.	Repealed	56, s. 2 and Sch. I
1965	38	Delhi Land Reforms (Amendment) Act, 1965.	Ss. 2 to 26 repealed	56, s. 2 and Sch. I
1965	39	Indian Works of Defence (Amendment) Act, 1965.	Repealed	56, s. 2 and Sch. I
1965	41	Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1965.	Ss. 2 to 7 repealed	56, s. 2 and Sch. I
1965	45	Coal Mines Provident Fund and Bonus Schemes (Amendment) Act, 1965.	Ss. 2 to 14 repealed	56, s. 2 and Sch. I
1965	46	Indian Tariff (Amendment) Act, 1965.	Repealed	56, s. 2 and Sch. I
1965	47	Union Duties of Excise (Distribution) Amendment Act, 1965.	Repealed	56, s. 2 and Sch. I
1965	48	Additional Duties of Excise (Goods of Special Importance) Amendment Act, 1965.	Repealed	56, s. 2 and Sch. I
1965	49	Union Territories (Direct Election to the House of the People) Act, 1965.	Ss. 4 and 5 repealed	56, s. 2 and Sch. I
1965	51	Estate Duty (Distribution) Amendment Act, 1965.	Repealed	56, s. 2 and Sch. I

Year of Act	No. of Act	Short title of Act	How affected	No. and section of 1974 Act by which affected
1	2	3	4	5
1966	1	Delhi Land Reforms (Amendment) Act, 1966.	Ss. 2 and 3 repealed	56, s. 2 and Sch. I
1966	2	Imports and Exports (Control) Amendment Act, 1966.	Repealed	56, s. 2 and Sch. I
1966	3	Indian Tariff (Amendment) Act, 1966. ³	Repealed	56, s. 2 and Sch. I
1966	9	Armed Forces (Special Powers) Amendment Act, 1966.	Repealed	56, s. 2 and Sch. I
1966	16	Orissa Legislative Assembly (Extension of Duration) Act, 1966.	Repealed	56, s. 2 and Sch. I
1966	17	Unit Trust of India (Amendment) Act, 1966.	Repealed	56, s. 2 and Sch. I
1966	19	Delhi Administration Act, 1966.	Ss. 35, 36 and 37 repealed.	56, s. 2 and Sch. I
1966	20	Customs (Amendment) Act, 1966.	Repealed	56, s. 2 and Sch. I
1966	21	Merchant Shipping (Amendment) Act, 1966.	Ss. 2 to 39 repealed	56, s. 2 and Sch. I
1966	22	Criminal Law Amendment (Amending) Act, 1966.	Ss. 2 and 3 repealed	56, s. 2 and Sch. I
1966	23	Advocates (Amendment) Act, 1966.	Repealed	56, s. 2 and Sch. I
1966	25	Essential Commodities (Amendment) Act, 1966.	Repealed	56, s. 2 and Sch. I
1966	26	Delhi High Court Act, 1966	S. 19 and Sch. repealed	56, s. 2 and Sch. I
1966	28	Punjab State Legislature (Delegation of Powers) Act, 1966.	Repealed	56, s. 2 and Sch. I
1966	30	Electricity (Supply) Amendment Act, 1966.	Ss. 2 to 23 repealed	56, s. 2 and Sch. I
1966	34	Companies (Amendment) Act, 1966.	Repealed	56, s. 2 and Sch. I
1966	44	Employees' State Insurance (Amendment) Act, 1966.	Ss. 2 to 42 repealed	56, s. 2 and Sch. I
1966	47	Representation of the People (Amendment) Act, 1966.	Ss. 2, 4 to 60 and 62 repealed	56, s. 2 and Sch. I
1966	48	Preventive Detention (Continuance) Act, 1966.	Repealed	56, s. 2 and Sch. I
1966	49	Produce Cess (Amendment) Act, 1966.	Repealed	56, s. 2 and Sch. I
1966	50	Indian Tariff (Second Amendment) Act, 1966.	Repealed	56, s. 2 and Sch. I
1967	9	Armed Forces (Special Powers) Continuance Act, 1967.	Repealed	56, s. 2 and Sch. I
1967	10	Representation of the People (Amendment) Act, 1967.	Repealed	56, s. 2 and Sch. I

Year of Act	No. of Act	Short title of Act	How affected	No. and section of 1974 Act by which affected
I	2	3	4	5
1967	II	Mineral Products (Additional Duties of Excise and Customs) Amendment Act, 1967.	Repealed	56, s. 2 and Sch. I
1967	13	Land Acquisition (Amendment and Validation) Act, 1967.	Ss. 2 and 3 repealed	56, s. 2 and Sch. I
1967	14	Essential Commodities (Amendment) Act, 1967.	Ss. 2 and 4 repealed	56, s. 2 and Sch. I
1967	17	Companies Tribunal (Abolition) Act, 1967.	Repealed	56, s. 2 and Sch. I
1967	21	Tea (Amendment) Act, 1967.	Repealed	56, s. 2 and Sch. I
1967	22	Public Walks (Extension of Limitation) Amendment Act, 1967.	Repealed	56, s. 2 and Sch. I
1967	24	Indian Official Secrets (Amendment) Act, 1967.	Repealed	56, s. 2 and Sch. I
1967	26	Cotton Fabrics (Additional Excise Duty) (Repeal) Act, 1967.	Repealed	56, s. 2 and Sch. I
1967	27	Taxation Laws (Amendment) Act, 1967.	Repealed	56, s. 2 and Sch. I
1967	30	Haryana State Legislature (Delegation of Powers) Act, 1967.	Repealed	56, s. 2 and Sch. I
1967	31	Indian Tariff (Amendment) Act, 1967.	Repealed	56, s. 2 and Sch. I
1967	36	Essential Commodities (Second Amendment) Act, 1967.	Repealed	56, s. 2 and Sch. I
1968	1	Official Languages (Amendment) Act, 1968.	Repealed	56, s. 2 and Sch. I
1968	2	Delhi Municipal Corporation (Amendment) Act, 1968.	Repealed	56, s. 2 and Sch. I
1968	6	West Bengal State Legislature (Delegation of Powers) Act, 1968.	Repealed	56, s. 2 and Sch. I
1968	7	Uttar Pradesh State Legislature (Delegation of Powers) Act, 1968.	Repealed	56, s. 2 and Sch. I
1968	10	Armed Forces (Special Powers) Continuance Act, 1968.	Repealed	56, s. 2 and Sch. I
1968	17	Displaced Persons (Compensation and Rehabilitation) Amendment Act, 1968.	Repealed	56, s. 2 and Sch. I
1968	22	Estate Duty (Amendment) Act, 1968.	Repealed	56, s. 2 and Sch. I
1968	28	Indian Coinage (Amendment) Act, 1968.	Repealed	56, s. 2 and Sch. I

Year of Act	No. of Act	Short title of Act	How affected	No. and section of 1974 Act by which affected
1	2	3	4	5
1968	29	Rice-Milling Industry (Regulation) Amendment Act, 1968.	Repealed	56, s. 2 and Sch. I
1968	30	Press and Registration of Books (Amendment) Act, 1968.	Repealed	56, s. 2 and Sch. I
1968	31	Requisitioning and Acquisition of Immovable Property (Amendment) Act, 1968.	Repealed	56, s. 2 and Sch. I
1968	32	Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1968.	Repealed	56, s. 2 and Sch. I
1968	33	Advocates (Amendment) Act, 1968.	Repealed	56, s. 2 and Sch. I
1968	35	Inter-State Water Disputes (Amendment) Act, 1968.	Repealed	56, s. 2 and Sch. I
1968	39	Bihar State Legislature (Delegation of Powers) Act, 1968.	Repealed	56, s. 2 and Sch. I
1968	44	Indian Patents and Designs (Amendment) Act, 1968.	Repealed	56, s. 2 and Sch. I
1968	48	Punjab State Legislature (Delegation of Powers) Act, 1968.	Repealed	56, s. 2 and Sch. I
1968	52	Indian Railways (Amendment) Act, 1968.	Repealed	56, s. 2 and Sch. I
1968	56	Deposit Insurance Corporation (Amendment) Act, 1968.	Ss. 2, 3, 4, 6 and 8 to 14 repealed.	56, s. 2 and Sch. I
1968	57	Food Corporations (Amendment) Act, 1968.	Repealed	56, s. 2 and Sch. I
1968	58	Banking Laws (Amendment) Act, 1968.	Repealed	56, s. 2 and Sch. I
1968	61	Legislative Assembly of Nagaland (Change in Representation) Act, 1968.	Ss. 3 and 4 repealed	56, s. 2 and Sch. I
1968	62	Insurance (Amendment) Act, 1968.	Ss. 2 to 13, 15 to 40 repealed.	56, s. 2 and Sch. I
1968	63	Indian Tariff (Amendment) Act, 1968.	Repealed	56, s. 2 and Sch. I
1969	1	Public Employment (Requirement as to Residence) Amendment Act, 1969.	Repealed	56, s. 2 and Sch. I.
1969	3	Armed Forces (Special Powers) Continuance Act, 1969.	Repealed	56, s. 2 and Sch. I
1969	8	Payment of Bonus (Amendment) Act, 1969.	Repealed	56, s. 2 and Sch. I
1969	9	Public Waqfs (Extension of Limitation) Amendment Act, 1969.	Repealed	56, s. 2 and Sch. I

(xviii)

Year of Act	No. of Act	Short title of Act	How affected	No. and section of 1974 Act by which affected
1	2	3	4	5
1969	10	Limitation (Amendment) Act, 1969.	Repealed	56, s. 2 and Sch. I
1969	11	Delhi Motor Vehicles Taxation (Amendment) Act, 1969.	Repealed	56, s. 2 and Sch. I
1969	12	Customs (Amendment) Act, 1969.	Repealed	56, s. 2 and Sch. I
1969	15	Estate Duty (Distribution) Amendment Act, 1969.	Repealed	56, s. 2 and Sch. I
1969	17	Companies (Amendment) Act, 1969	Ss. 3 to 5 repealed	56, s. 2 and Sch. I
1969	21	Indian Railways (Amendment) Act, 1969.	Repealed	56, s. 2 and Sch. I.
1969	23	Coal Bearing Areas (Acquisition and Development) Amendment Act, 1969.	S. 2 repealed	56, s. 2 and Sch. I
1969	24	Unlawful Activities (Prevention) Amendment Act, 1969.	Repealed	56, s. 2 and Sch. I
1969	25	Salaries and Allowances of Members of Parliament (Amendment) Act, 1969.	Repealed	56, s. 2 and Sch. I
1969	26	Gold (Control) Amendment Act, 1969.	Repealed	56, s. 2 and Sch. I
1969	27	Press Council (Amendment) Act, 1969.	Repealed	56, s. 2 and Sch. I
1969	28	Central Sales Tax (Amendment) Act, 1969.	Ss. 2 to 8 repealed	56, s. 2 and Sch. I
1969	32	Bihar State Legislature (Delegation of Powers) Act, 1969.	Repealed	56, s. 2 and Sch. I
1969	34	Banaras Hindu University (Amendment) Act, 1969.	Repealed	56, s. 2 and Sch. I
1969	35	Criminal and Election Laws (Amendment) Act, 1969.	Ss. 2 to 5 repealed	56, s. 2 and Sch. I
1969	36	Indian Penal Code (Amendment) Act, 1969.	Repealed	56, s. 2 and Sch. I
1969	37	Delhi High Court (Amendment) Act, 1969.	Ss. 2 to 5 repealed	56, s. 2 and Sch. I
1969	38	Wakf (Amendment) Act, 1969.	Ss. 2 to 9 repealed	56, s. 2 and Sch. I
1969	39	Oilfields (Regulation and Development) Amendment Act, 1969.	Repealed	56, s. 2 and Sch. I
1969	40	Foreign Exchange (Regulation) Amendment Act, 1969.	Repealed	56, s. 2 and Sch. I
1969	45	Indian Registration (Amendment) Act, 1969.	Repealed	56, s. 2 and Sch. I
1969	47	Salaries and Allowances of Ministers (Amendment) Act, 1969.	Repealed	56, s. 2 and Sch. I

Year of Act	No. of Act	Short title of Act	How affected	No. and section of 1974 Act by which affected
1	2	3	4	5
1969	53	Indian Tariff (Amendment) Act, 1969.	Repealed	56, s. 2 and Sch. I
1969	54	Monopolies and Restrictive Trade Practices Act, 1969.	S. 2 amended w.e.f. 41, s. 43 1-2-1975	
1969	56	Motor Vehicles (Amendment) Act, 1969.	Repealed	56, s. 2 and Sch. I
1970	1	Requisitioning and Acquisition of Immovable Property (Amendment) Act, 1970.	Repealed	56, s. 2 and Sch. I
1970	2	Union Duties of Excise (Distribution) Amendment Act, 1970.	Repealed	56, s. 2 and Sch. I
1970	3	Additional Duties of Excise (Goods of Special Importance) Amendment Act, 1970.	Repealed	56, s. 2 and Sch. I
1970	6	Press Council (Amendment) Act, 1970.	Repealed	56, s. 2 and Sch. I
1970	14	Essential Commodities (Amendment) Continuance Act, 1970.	Repealed	56, s. 2 and Sch. I
1970	15	Calcutta Port (Amendment) Act, 1970.	Repealed	56, s. 2 and Sch. I
1970	17	West Bengal Legislature (Delegation of Powers) Act, 1970.	Repealed	56, s. 2 and Sch. I
1970	20	Contingency Fund of India (Amendment) Act, 1970	Repealed	56, s. 2 and Sch. I
1970	21	Central Silk Board (Amendment) Act, 1970.	Repealed	56, s. 2 and Sch. I
1970	22	Tea (Amendment) Act, 1970.	Repealed	56, s. 2 and Sch. I
1970	23	Indian Soldiers (Litigation) Amendment Act, 1970.	Repealed	56, s. 2 and Sch. I
1970	25	Merchant Shipping (Amendment) Act, 1970.	Ss. 2 to 16, 18 and 19 56, s. 2 and Sch. I repealed	
1970	29	Special Marriage (Amendment) Act, 1970.	Repealed	56, s. 2 and Sch. I
1970	30	Army, Air Force and Naval Law (Amendment) Act, 1970.	Repealed	56, s. 2 and Sch. I
1970	31	Dock Workers (Regulation of Employment) Amendment Act, 1970.	Repealed	56, s. 2 and Sch. I
1970	33	Delhi Shops and Establishments (Amendment) Act, 1970.	Repealed	56, s. 2 and Sch. I
1970	34	Indian Post Office (Amendment) Act, 1970.	Repealed	56, s. 2 and Sch. I
1970	35	Delhi University (Amendment) Act, 1970.	Repealed	56, s. 2 and Sch. I

Year of Act	No. of Act	Short title of Act	How affected	No. and section of 1974 Act by which affected.
1	2	3	4	5
1970	39	Patents Act, 1970	S. 106 amended	56, s. 3 and Sch. II.
1970	40	Agricultural Produce Cess (Amendment) Act, 1970.	Repealed	56, s. 2 and Sch. I.
1970	42	Taxation Laws (Amendment) Act, 1970.	Repealed	56, s. 2 and Sch. I.
1970	43	Foreign Exchange Regulation (Amendment) Act, 1970.	Repealed	56, s. 2 and Sch. I.
1970	49	Salaries and Allowances of Officers of Parliament (Am- endment) Act, 1970.	Repealed	56, s. 2 and Sch. I.
1970	52	Coal Mines (Conservation and Safety) Amendment Act, 1970.	Repealed	56, s. 2 and Sch. I.
1971	52	Small Coins (Offences) Act, 1971.	S. 1 amended	49, s. 2
1971	81	North-Eastern Areas (Reorga- nisation) Act, 1971.	Ss. 53, 88 amended w.e.f. 19-1-1974.	8, ss. 2, 3
1971	82	Delhi Sikh Gurdwaras Act, 1971.	Ss. 10, 16, 39, 40, amended. S. 16A inserted S. 32 amended retro- spectively.	46, ss. 2, 3, 6, 7. <i>Ibid.</i> , s. 4 <i>Ibid.</i> , s. 5.
1972	50	Indian Iron and Steel Com- pany (Taking Over of Man- agement) Act, 1972.	Ss. 2, 3, 7, 9, 12, 13, 16 36, ss. 2, 3, 6, 7, 8, 9, 10 amended w.e.f. 28-6-74.	56, s. 3 and Sch. II
1973	46	Foreign Exchange Regula- tion Act, 1973.	S. 27 amended	56, s. 3 and Sch. II
1973	56	Alcock Ashdown Company Limited (Acquisition of Un- dertakings) Act, 1973.	S. 4 amended w.e.f. 14-12-1973.	33, s. 2
1974	2	Code of Criminal Procedure, 1973.	Supplemented w.e.f. 1-4-1974.	12, s. 2 and Sch.
1974	4	Esso (Acquisition of Under- takeings in India) Act, 1974.	Ss. 110, 347 amended	56, s. 3 and Sch. II.
1974	12	Economic Offences (Inapplic- ability of Limitation) Act, 1974.	Sch. amended	45, s. 30

PART II—CENTRAL ORDINANCES REPEALED

Year of Ordinance	No. of Ordinance	Short title of Ordinance	No. and section of Act by which repealed
1	2	3	4
1974	1	North-Eastern Areas (Reorganisation) (Amendment) Ordinance, 1974 (w.e.f. 19-1-1974).	8, s. 4
1974	2	Essential Commodities (Amendment) Ordinance, 1974 (w.e.f. 22-6-1974)	30, s. 14
1974	3	The Press Council (Amendment) Ordinance, 1974	34, s. 4
1974	4	Indian Iron and Steel Company (Taking Over of Management) Amendment Ordinance, 1974 (w.e.f. 28-6-1974).	36, s. 11
1974	5	Alcock Ashdown Company Limited (Acquisition of Undertakings) Amendment Ordinance, 1974. (w.e.f. 14-12-1973).	33, s. 3
1974	6	Industries (Development and Regulation) Amendment Ordinance, 1974 (w.e.f. 29-6-1974).	32, s. 3
1974	7	Companies (Temporary Restrictions on Dividends) Ordinance, 1974 (w.e.f. 6-7-1974).	35, s. 16
1974	8	Additional Emoluments (Compulsory Deposits) Ordinance, 1974 (w.e.f. 6-7-1974).	37, s. 27
1974	9	Companies (Temporary Restrictions on Dividends) Amendment Ordinance, 1974 (w.e.f. 6-7-1974).	35, s. 16
1974	10	Compulsory Deposit Scheme (Income-tax Payers) Ordinance, 1974 (w.e.f. 17-6-1974).	38, s. 21
1974	11	Maintenance of Internal Security (Amendment) Ordinance, 1974 (w.e.f. 19-12-1974).	52, s. 14
1974	12	Sick Textile Undertakings (Nationalisation) Ordinance, 1974 (w.e.f. 1-4-1974).	57, s. 40
1974	13	Representation of the People (Amendment) Ordinance, 1974 (w.e.f. 19-10-1974).	58, s. 3

PART III—STATE ACTS AMENDED OR OTHERWISE
AFFECTION

Year of Enactment	No. of Enactment	Short title of Enactment	How affected	No. and section of 1974 Act by which affected
1	2	3	4	5
1949	East Punjab 3	East Punjab Urban Rent Restriction Act, 1949.	Extended to Chandigarh w.e.f. 4-II-1972.	54, ss. 2, 3 and Sch.
1911	Punjab 3	Punjab Municipal Act, 1911 as applied to the Union territory of Chandigarh.	Ss. 188, 199 amended.	59, ss. 2, 3

PART IV—CONSTITUTION OF INDIA AMENDED

How affected	No. and section of 1974 Act by which affected
I	2
Article 371, Seventh Schedule amended (w.e.f. 1-7-1974).	Constitution (Thirty-second Amendment) Act, 1973— ss. 2, 4.
Article 371D, 371E inserted	<i>Ibid.</i> , s. 3
Article 101, 190 amended	Constitution (Thirty-third Amendment) Act, 1974— ss. 2, 3.
Ninth Schedule amended	Constitution (Thirty-fourth Amendment) Act, 1974— ss. 2.
Sixth Schedule amended	. 56, s. 4.

THE DELHI URBAN ART COMMISSION ACT, 1973

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

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

CHAPTER II

ESTABLISHMENT OF THE COMMISSION

3. Establishment of the Commission.
4. Composition of the Commission.
5. Terms and conditions of service of members.
6. Meetings of the Commission.
7. Vacancies amongst members or defect in constitution not to invalidate acts or proceedings of the Commission.
8. Temporary association of persons with the Commission for particular purposes.
9. Appointment of staff of the Commission.
10. Authentication of orders and other instruments of the Commission.

CHAPTER III

FUNCTIONS AND POWERS OF THE COMMISSION

11. Functions of the Commission.
12. Duty of local bodies to refer development proposals, etc. to the Commission.
13. Appeal to the Central Government in certain cases.
14. Power to revise decision in certain cases.
15. Powers of the Commission.

CHAPTER IV

FUND, ACCOUNTS AND AUDIT

16. Payment to the Commission.
17. Fund of the Commission.

SECTIONS

18. Budget.
19. Annual report.
20. Accounts and audit.

CHAPTER V**MISCELLANEOUS**

21. Returns and information.
22. Power to exempt.
23. Delegation of powers.
24. Members and officers of the Commission to be public servants.
25. Protection of action taken in good faith.
26. Power to make rules.
27. Power to make regulations.

THE DELHI URBAN ART COMMISSION ACT, 1973

No. I OF 1974

[1st January, 1974.]

An Act to provide for the establishment of the Delhi Urban Art Commission with a view to preserving, developing and maintaining the aesthetic quality of urban and environmental design within Delhi.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Delhi Urban Art Commission Act, Short title, extent and commencement.
1973.
- (2) It extends to the whole of the Union territory of Delhi.
- (3) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

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

(a) “building” includes any structure or erection or part of a structure or erection which is intended to be used for residential, industrial, commercial or other purposes, whether in actual use or not;

(b) “building operations” includes rebuilding operations, structural alterations of, or additions to, buildings and other operations normally undertaken in connection with the construction of buildings;

(c) “Commission” means the Delhi Urban Art Commission established under section 3;

¹I-5-1974; Vide Notification No. G.S.R. 189 (E), dated the 27th April, 1974.

- (d) "Delhi" means the Union territory of Delhi;
- (e) "development" with its grammatical variations means the carrying out of building, engineering, mining or other operations in, on, over or under, land or the making of any material change in any building or land and includes re-development;
- (f) "engineering operations" includes the formation or laying out of means of access to a road or the laying out of means of water supply;
- (g) "local body" means the Delhi Municipal Corporation established under the Delhi Municipal Corporation Act, 1957, the New Delhi Municipal Committee constituted under the Punjab Municipal Act, 1911, as in force in Delhi, the Delhi Development Authority constituted under the Delhi Development Act, 1957, or any other local authority concerned with urban development of Delhi;
- (h) "member" means a member of the Commission and includes its Chairman;
- (i) "public amenity" includes road, water supply, street lighting, drainage, sewerage, public works and such other convenience as the Central Government may, by notification in the Official Gazette, specify to be a public amenity for the purposes of this Act;
- (j) "regulation" means a regulation made under this Act by the Commission;
- (k) "rule" means a rule made under this Act by the Central Government.

CHAPTER II

ESTABLISHMENT OF THE COMMISSION

Establishment of the Commission.

3. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established a Commission by the name of the Delhi Urban Art Commission.

(2) The Commission shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property and to contract and shall by the said name sue or be sued.

Composition of the Commission.

4. The Commission shall consist of a Chairman and such number of other members, being not less than two and not more than four as the Central Government may, by notification in the Official Gazette, appoint from amongst persons who, in the opinion of the Central Government, have sensibility and interest in the plastic and visual arts and urban environment, or possess special knowledge or practical experience in respect of architecture or art.

5. (1) A member shall, unless his appointment is terminated earlier by the Central Government, hold office for a term of three years from the date of his appointment.

Terms
and
conditions
of
service
of
members.

(2) A person who holds, or who has held, office as Chairman or member shall be eligible for re-appointment to that office once, but only once.

(3) A member may resign his office by writing under his hand addressed to the Central Government, but he shall continue in office until his resignation is accepted by the Central Government.

(4) A casual vacancy caused by the resignation of a member under sub-section (3) or for any other reason, shall be filled by fresh appointment.

(5) A member may be appointed either as a whole-time or part-time member as the Central Government thinks fit.

(6) Subject to the foregoing provisions, the terms and conditions of service of the Chairman and other members shall be such as may be prescribed by rules.

6. The Commission 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 by regulations.

Meetings
of the
Commis-
sion.

7. No act or proceeding of the Commission shall be deemed to be invalid by reason merely of any vacancy in, or any defect in the constitution of, the Commission.

Vacan-
cies
amongst
members
or defect
in consti-
tution not
to invali-
date acts
or pro-
ceedings
of the
Commis-
sion.

1. (1) The Commission may associate with itself, in such manner and for such purposes as may be determined by regulations, any person whose assistance or advice it may desire in carrying out any of the provisions of this Act.

Temporary
associa-
tion of
persons
with the
Commis-
sion for
particular
purposes.

(2) A person associated with it by the Commission under sub-section (1) for any purpose shall have a right to take part in the discussions relevant to that purpose, but shall not have a right to vote at a meeting of the Commission, and shall not be a member for any other purpose.

9. (1) The Central Government shall, in consultation with the Commission, appoint a Secretary of the Commission who shall hold office during the pleasure of the Central Government:

Appoint-
ment of
staff of
the
Commis-
sion.

Provided that the first appointment of the Secretary may be made by the Central Government without consultation with the Commission.

(2) The terms and conditions of service of the Secretary shall be such as may be prescribed by rules.

(3) Subject to any rules, the Commission may appoint such other employees as it may think necessary for the efficient performance of its functions under this Act, and the terms and conditions of service of the employees so appointed shall be such as may be determined by regulations.

10. All orders and decisions and other instruments of the Commission shall be authenticated by the signature of the Secretary or any other officer of the Commission duly authorised by it in this behalf.

Authentication of orders and other instrument of the Commission.

CHAPTER III

FUNCTIONS AND POWERS OF THE COMMISSION

11. (1) It shall be the general duty of the Commission to advise the Central Government in the matter of preserving, developing and maintaining the aesthetic quality of urban and environmental design within Delhi and to provide advice and guidance to any local body in respect of any project of building operations or engineering operations or any development proposal which affects or is likely to affect the sky-line or the aesthetic quality of surroundings or any public amenity provided therein.

Functions of the Commission.

(2) Subject to the provisions of sub-section (1), it shall be the duty of the Commission to scrutinise, approve, reject or modify proposals in respect of the following matters, namely:—

(a) development of district centres, civic centres, areas earmarked for Government administrative buildings and for residential complexes, public parks and public gardens;

(b) re-development of the area within the jurisdiction of New Delhi Municipal Committee including Connaught Place Complex and its environs, Central Vista, the entire bungalow area of Lutyen's New Delhi, and such other areas as the Central Government may, by notification in the Official Gazette, specify;

(c) plans, architectural expressions and visual appearance of new buildings in the centres, areas, parks and gardens specified in clauses (a) and (b) including selections of models for statues and fountains therein;

(d) re-development of areas in the vicinity of Jama Masjid, Red Fort, Qutab, Humayun's Tomb, Old Fort, Tuglakabad and of such other places of historical importance as the Central Government may, by notification in the Official Gazette, specify;

(e) conservation, preservation and beautification of monumental buildings, public parks and public gardens including location or installation of statues or fountains therein;

(f) under passes, over-passes and regulations of street furniture and hoardings;

(g) location and plans of power houses, water towers, television and other communication towers and other allied structures;

(h) any other projects or lay-out which is calculated to beautify Delhi or to add to its cultural vitality or to enhance the quality of the surroundings thereof;

(i) such other matters as may be prescribed by rules.

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

(i) “civic centre” means the headquarters of a local body comprising therein its office buildings and buildings intended for cultural activities;

(ii) “Connaught Place Complex” means the area comprising Connaught Place and its extension measuring approximately 140 hectares, being the area described as Zone D-I (Revised) in the Delhi Master Plan;

(iii) “district centre” means a self-contained unit created in the Delhi Master Plan comprising areas for retail shopping, general business, commercial and professional offices, forwarding, booking and Government offices, cinemas, restaurants and other places of entertainment.

(3) Without prejudice to the provisions contained in sub-section (1) and sub-section (2), the Commission may *suo motu* promote and secure the development, re-development or beautification of any areas in Delhi in respect of which no proposals in that behalf have been received from any local body.

12. Notwithstanding anything contained in any other law for the time being in force, every local body shall, before according approval in respect of any building operations, engineering operations or development proposals referred to in sub-section (1) of section 11 or intended to be undertaken in any area or locality specified in sub-section (2) of that section, refer the same to the Commission for scrutiny and the decision of the Commission in respect thereof shall be binding on such local body.

Duty of local bodies to refer development proposals, etc., to the Commission.

13. If any local body is aggrieved by a decision of the Commission in respect of any building operation, engineering operation or development proposal intended to be undertaken or notified, as the case may be, by that local body and referred to the Commission under section 12, the local body may, within sixty days from the date of such decision, prefer an appeal to the Central Government, and the Central Government may pass such order thereon as it deems fit.

Appeal to the Central Government in certain cases.

14. Nothing contained in this Act shall preclude the Central Government from calling for and examining, on its own motion, if it considers it necessary so to do in the public interest, any case in which a decision has been made by the Commission under section 12 but no appeal lies thereto, and passing such order thereon as it thinks fit:

Power to revise decision in certain cases.

Provided that no such order shall be made prejudicially affecting any person except after giving him an opportunity of making a representation in the matter.

Powers of
the Com-
mission.

15. for the purpose of performing its functions under this Act, the 5 of 1908. Commission shall have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him;
- (b) requiring discovery and production of any documents;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copies thereof from any office;
- (e) any other matter which may be prescribed by rules.

CHAPTER IV

FUND, ACCOUNTS AND AUDIT

Payment
to the
Com-
mission.

16. The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Commission in each financial year such sums as the Central Government may consider necessary for the performance of the functions of the Commission under this Act.

Fund of
the Com-
mission.

17. (1) The Commission shall have its own fund, and all sums which may, from time to time, be paid to it by the Central Government shall be carried to the fund of the Commission and all payments by the Commission shall be made therefrom.

Budget.

(2) The Commission may spend such sums as it thinks fit for performing its functions under this Act, and such sums shall be treated as expenditure payable out of the fund of the Commission.

(3) All moneys in the fund shall be deposited in such bank or invested in such manner as may, subject to the approval of the Central Government, be decided by the Commission.

Annual
report.

18. The Commission shall prepare, in such form and within such time, each year as may be prescribed by rules, a budget in respect of the financial year next ensuing showing the estimated receipts and expenditure, and copies thereof shall be forwarded to the Central Government.

Accounts
and audit.

19. The Commission shall prepare once every year, in such form and within such time as may be prescribed by rules, an annual report giving a true and full account of its activities during the previous year, and copies thereof shall be forwarded to the Central Government, and the Central Government shall cause every such report to be laid before both Houses of Parliament.

20. (1) The Commission shall cause to be maintained such books of accounts and other books in relation to its accounts in such form and in such manner as may, in consultation with the Comptroller and Auditor-General of India, be prescribed by rules.

(2) The Commission shall, as soon as may be after closing its annual accounts, prepare a statement of accounts in such form as may be prescribed by rules, and forward the same to the Comptroller and Auditor-General of India by such date, as the Central Government may, in consultation with the Comptroller and Auditor-General of India, determine,

(3) The accounts of the Commission shall be audited by the Comptroller and Auditor-General of India at such times and in such manner as he thinks fit.

(4) The annual accounts of the Commission together with the audit report thereon shall be forwarded to the Central Government, and the Central Government shall cause the same to be laid before both Houses of Parliament and shall also forward a copy of the audit report to the Commission for taking appropriate action on the matters arising out of the audit report.

CHAPTER V

MISCELLANEOUS

21. The Commission shall furnish to the Central Government such returns or other information with respect to its fund or activities as the Central Government may, from time to time, require. Returns and information.

22. The Central Government may, subject to such conditions as may be prescribed by rules in this behalf, exempt any building, building operation or engineering operation which has been designed as a result of an architectural competition, from the operation of all or any of the provisions of this Act. Power to exempt.

23. The Commission may, by general or special order in writing, delegate to the Chairman or any other member or any officer of the Commission, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act as it may deem necessary for the efficient running of the day-to-day administration of the Commission. Delegation of powers.

24. All members and officers of the Commission shall, when acting or purporting to act in pursuance of any of the provisions of this Act, be deemed to be public servants within the meaning of section 21 of the 45 of 1860 Indian Penal Code. Members and officers of the Commission to be public servants.

25. No suit or other legal proceeding shall lie against any member or officer of the Commission in respect of anything which is in good faith done or intended to be done in pursuance of this Act. Protection of action taken in good faith.

26. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act. Power to make rules.

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

(a) the salaries, if any, allowances and other emoluments and conditions of service of members of the Commission;

- (b) the terms and conditions of service of the Secretary of the Commission;
- (c) the matters in respect of which the Commission may tender advice to the Central Government under clause (i) of sub-section (2) of section 11;
- (d) the form in which, and the time within which, the budget and annual report of the Commission may be prepared and forwarded to the Central Government;
- (e) the form and manner in which the accounts of the Commission may be maintained, and the time at which, and the manner in which, such accounts may be audited;
- (f) the returns and information which the Commission may be required to furnish to the Central Government;
- (g) the conditions subject to which any building, building operation or engineering operation, designed as a result of an architectural competition, may be exempted;
- (h) any other matter which has to be or may be prescribed by rules.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

**Power
to make
regula-
tions.**

27. The Commission may, 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 for—
- (a) regulating the meetings of the Commission and the procedure for conducting business thereat;
 - (b) regulating the manner in which and the purposes for which persons may be associated with the Commission under section 8;
 - (c) determining the terms and conditions of service of persons appointed by the Commission under sub-section (3) of section 9;
 - (d) any other matter which has to be or may be prescribed by regulations.

THE CODE OF CRIMINAL PROCEDURE, 1973

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title, extent and commencement.
2. Definitions.
3. Construction of references.
4. Trial of offences under the Indian Penal Code and other laws.
5. Saving.

CHAPTER II

CONSTITUTION OF CRIMINAL COURTS AND OFFICES

6. Classes of Criminal Courts.
7. Territorial divisions.
8. Metropolitan areas.
9. Court of Session.
10. Subordination of Assistant Sessions Judges.
11. Courts of Judicial Magistrates.
12. Chief Judicial Magistrate and Additional Chief Judicial Magistrate, etc.
13. Special Judicial Magistrates.
14. Local jurisdiction of Judicial Magistrates.
15. Subordination of Judicial Magistrates.
16. Courts of Metropolitan Magistrates.
17. Chief Metropolitan Magistrate and Additional Chief Metropolitan Magistrate.
18. Special Metropolitan Magistrates.
19. Subordination of Metropolitan Magistrates.
20. Executive Magistrates.
21. Special Executive Magistrates.
22. Local jurisdiction of Executive Magistrates.

SECTIONS

23. Subordination of Executive Magistrates.
24. Public Prosecutors.
25. Assistant Public Prosecutors.

CHAPTER III

POWER OF COURTS

26. Courts by which offences are triable.
27. Jurisdiction in the case of juveniles.
28. Sentences which High Courts and Sessions Judges may pass.
29. Sentences which Magistrates may pass.
30. Sentence of imprisonment in default of fine.
31. Sentence in cases of conviction of several offences at one trial.
32. Mode of conferring powers.
33. Powers of officers appointed.
34. Withdrawal of powers.
35. Powers of Judges and Magistrates exercisable by their successors-in-office.

CHAPTER IV

A.—POWERS OF SUPERIOR OFFICERS OF POLICE

36. Powers of superior officers of police.

B.—AID TO THE MAGISTRATES AND THE POLICE

37. Public when to assist Magistrates and police.
38. Aid to person, other than police officer, executing warrant.
39. Public to give information of certain offences.
40. Duty of officers employed in connection with the affairs of a village to make certain report.

CHAPTER V

ARREST OF PERSONS

41. When police may arrest without warrant.
42. Arrest on refusal to give name and residence.
43. Arrest by private person and procedure on such arrest.
44. Arrest by Magistrate.
45. Protection of members of the Armed Forces from arrest.
46. Arrest how made.
47. Search of place entered by person sought to be arrested.
48. Pursuit of offenders into other jurisdictions.
49. No unnecessary restraint.
50. Person arrested to be informed of grounds of arrest and of right to bail,

SECTIONS

51. Search of arrested person.
52. Power to seize offensive weapons.
53. Examination of accused by medical practitioner at the request of police officer.
54. Examination of arrested person by medical practitioner at the request of the arrested person.
55. Procedure when police officer deputes subordinate to arrest without warrant.
56. Person arrested to be taken before Magistrate or officer in charge of police station.
57. Person arrested not to be detained more than twenty-four hours.
58. Police to report apprehensions.
59. Discharge of person apprehended.
60. Power, on escape, to pursue and re-take.

CHAPTER VI**PROCESSES TO COMPEL APPEARANCE****A.—Summons**

61. Form of summons.
62. Summons how served.
63. Service of summons on corporate bodies and societies.
64. Service when persons summoned cannot be found.
65. Procedure when service cannot be effected as before provided.
66. Service on Government servant.
67. Service of summons outside local limits.
68. Proof of service in such cases and when serving officer not present.
69. Service of summons on witness by post.

B.—Warrant of arrest

70. Form of warrant of arrest and duration.
71. Power to direct security to be taken.
72. Warrants to whom directed.
73. Warrant may be directed to any person.
74. Warrant directed to police officer.
75. Notification of substance of warrant.
76. Person arrested to be brought before Court without delay.
77. Where warrant may be executed.
78. Warrant forwarded for execution outside jurisdiction.
79. Warrant directed to police officer for execution outside jurisdiction.
80. Procedure on arrest of person against whom warrant issued.

SECTIONS

81. Procedure by Magistrate before whom such person arrested is brought.

C.—Proclamation and attachment

82. Proclamation for person absconding.
 83. Attachment of property of person absconding.
 84. Claims and objections to attachment.
 85. Release, sale and restoration of attached property.
 86. Appeal from order rejecting application for restoration of attached property.

D.—Other rules regarding processes

87. Issue of warrant in lieu of, or in addition to, summons.
 88. Power to take bond for appearance.
 89. Arrest on breach of bond for appearance.
 90. Provisions of this Chapter generally applicable to summonses and warrants of arrest.

CHAPTER VII

PROCESSES TO COMPEL THE PRODUCTION OF THINGS

A.—Summons to produce

91. Summons to produce document or other thing.
 92. Procedure as to letters and telegrams.

B.—Search-warrants

93. When search-warrant may be issued.
 94. Search of place suspected to contain stolen property, forged documents, etc.
 95. Power to declare certain publications forfeited and to issue search-warrants for the same.
 96. Application to High Court to set aside declaration of forfeiture.
 97. Search for persons wrongfully confined.
 98. Power to compel restoration of abducted females.

C.—General provisions relating to searches

99. Direction, etc., of search-warrants.
 100. Persons in charge of closed place to allow search.
 101. Disposal of things found in search beyond jurisdiction.

D.—Miscellaneous

102. Power of police officer to seize certain property.

SECTIONS

103. Magistrate may direct search in his presence.
104. Power to impound document, etc., produced.
105. Reciprocal arrangements regarding processes.

CHAPTER VIII**SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR**

106. Security for keeping the peace on conviction.
107. Security for keeping the peace in other cases.
108. Security for good behaviour from persons disseminating seditious matters.
109. Security for good behaviour from suspected persons.
110. Security for good behaviour from habitual offenders.
111. Order to be made.
112. Procedure in respect of person present in Court.
113. Summons or warrant in case of person not so present.
114. Copy of order to accompany summons or warrant.
115. Power to dispense with personal attendance.
116. Inquiry as to truth of information.
117. Order to give security.
118. Discharge of person informed against.
119. Commencement of period for which security is required.
120. Contents of bond.
121. Power to reject sureties.
122. Imprisonment in default of security.
123. Power to release persons imprisoned for failing to give security.
124. Security for unexpired period of bond.

CHAPTER IX**ORDER FOR MAINTENANCE OF WIVES, CHILDREN AND PARENTS**

125. Order for maintenance of wives, children and parents.
126. Procedure.
127. Alteration in allowance.
128. Enforcement of order of maintenance.

CHAPTER X**MAINTENANCE OF PUBLIC ORDER AND TRANQUILLITY****A.—Unlawful assemblies**

129. Dispersal of assembly by use of civil force.

SECTIONS

- 130. Use of armed forces to disperse assembly.
- 131. Power of certain armed force officers to disperse assembly.
- 132. Protection against prosecution for acts done under preceding sections.

B.—*Public nuisances*

- 133. Conditional order for removal of nuisance.
- 134. Service or notification of order.
- 135. Person to whom order is addressed to obey or show cause.
- 136. Consequences of his failing to do so.
- 137. Procedure where existence of public right is denied.
- 138. Procedure where he appears to show cause.
- 139. Power of Magistrate to direct local investigation and examination of an expert.
- 140. Power of Magistrate to furnish written instructions, etc.
- 141. Procedure on order being made absolute and consequences of disobedience.
- 142. Injunction pending inquiry.
- 143. Magistrate may prohibit repetition or continuance of public nuisance.

C.—*Urgent cases of nuisance or apprehended danger*

- 144. Power to issue order in urgent cases of nuisance or apprehended danger.

D.—*Disputes as to immovable property*

- 145. Procedure where dispute concerning land or water is likely to cause breach of peace.
- 146. Power to attach subject of dispute and to appoint receiver.
- 147. Dispute concerning right of use of land or water.
- 148. Local inquiry.

CHAPTER XI

PREVENTIVE ACTION OF THE POLICE

- 149. Police to prevent cognizable offences.
- 150. Information of design to commit cognizable offences.
- 151. Arrest to prevent the commission of cognizable offences.
- 152. Prevention of injury to public property.
- 153. Inspection of weights and measures.

CHAPTER XII

INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE

- 154. Information in cognizable cases.
- 155. Information as to non-cognizable cases and investigation of such cases.

SECTIONS

156. Police officer's power to investigate cognizable case.
157. Procedure for investigation.
158. Report how submitted.
159. Power to hold investigation or preliminary inquiry.
160. Police officer's power to require attendance of witnesses.
161. Examination of witnesses by police.
162. Statements to police not to be signed: Use of statements in evidence.
163. No inducement to be offered.
164. Recording of confessions and statements.
165. Search by police officer.
166. When officer in charge of police station may require another to issue search-warrant.
167. Procedure when investigation cannot be completed in twenty-four hours.
168. Report of investigation by subordinate police officer.
169. Release of accused when evidence deficient.
170. Cases to be sent to Magistrate when evidence is sufficient.
171. Complainant and witnesses not to be required to accompany police officer and not to be subjected to restraint.
172. Diary of proceedings in investigation.
173. Report of police officer on completion of investigation.
174. Police to enquire and report on suicide, etc.
175. Power to summon persons.
176. Inquiry by Magistrate into cause of death.

CHAPTER XIII

JURISDICTION OF THE CRIMINAL COURTS IN
INQUIRIES AND TRIALS

177. Ordinary place of inquiry and trial.
178. Place of inquiry or trial.
179. Offence triable where act is done or consequence ensues.
180. Place of trial where act is offence by reason of relation to other offence.
181. Place of trial in case of certain offences.
182. Offences committed by letters, etc.
183. Offence committed on journey or voyage.
184. Place of trial for offences triable together.
185. Power to order cases to be tried in different sessions divisions.
186. High Court to decide, in case of doubt, district where inquiry or trial shall take place.
187. Power to issue summons or warrant for offence committed beyond local jurisdiction.
188. Offence committed outside India.
189. Receipt of evidence relating to offences committed outside India,

CHAPTER XIV

SECTIONS

CONDITIONS REQUISITE FOR INITIATION OF PROCEEDINGS

190. Cognizance of offences by Magistrates.
191. Transfer on application of the accused.
192. Making over of cases to Magistrates.
193. Cognizance of offences by Courts of Session.
194. Additional and Assistant Sessions Judges to try cases made over to them.
195. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.
196. Prosecution for offences against the State and for Criminal conspiracy to commit such offence.
197. Prosecution of Judges and public servants.
198. Prosecution for offences against marriage.
199. Prosecution for defamation.

CHAPTER XV

COMPLAINTS TO MAGISTRATES

200. Examination of complainant.
201. Procedure by Magistrate not competent to take cognizance of the case.
202. Postponement of issue of process.
203. Dismissal of complaint.

CHAPTER XVI

COMMENCEMENT OF PROCEEDINGS BEFORE MAGISTRATES

204. Issue of process.
205. Magistrate may dispense with personal attendance of accused.
206. Special summons in cases of petty offence.
207. Supply to the accused of copy of police report and other documents.
208. Supply of copies of statements and documents to accused in other cases triable by Court of Session.
209. Commitment of case to Court of Session when offence is triable exclusively by it.
210. Procedure to be followed when there is a complaint case and police investigation in respect of the same offence.

CHAPTER XVII

THE CHARGE

A.—Form of charges

211. Contents of charge.
212. Particulars as to time, place and person.

SECTIONS

- 213. When manner of committing offence must be stated.
- 214. Words in charge taken in sense of law under which offence is punishable.
- 215. Effect of errors.
- 216. Court may alter charge.
- 217. Recall of witnesses when charge altered.

B.—*Joinder of charges*

- 218. Separate charges for distinct offences.
- 219. Three offences of same kind within year may be charged together.
- 220. Trial for more than one offence.
- 221. Where it is doubtful what offence has been committed.
- 222. When offence proved included in offence charged.
- 223. What persons may be charged jointly.
- 224. Withdrawal of remaining charges on conviction on one of several charges.

CHAPTER XVIII

TRIAL BEFORE A COURT OF SESSION

- 225. Trial to be conducted by Public Prosecutor.
- 226. Opening case for prosecution.
- 227. Discharge.
- 228. Framing of charge.
- 229. Conviction on plea of guilty.
- 230. Date for prosecution evidence.
- 231. Evidence for prosecution.
- 232. Acquittal.
- 233. Entering upon defence.
- 234. Arguments.
- 235. Judgment of acquittal or conviction.
- 236. Previous conviction.
- 237. Procedure in cases instituted under section 199(2).

CHAPTER XIX

TRIAL OF WARRANT-CASES BY MAGISTRATES

A.—*Cases instituted on a police report*

- 238. Compliance with section 207.
- 239. When accused shall be discharged.
- 240. Framing of charge.
- 241. Conviction on plea of guilty.

SECTIONS

- 242. Evidence for prosecution.
- 243. Evidence for defence.

B.—Cases instituted otherwise than on police report

- 244. Evidence for prosecution.
- 245. When accused shall be discharged.
- 246. Procedure where accused is not discharged.
- 247. Evidence for defence.

C.—Conclusion of trial

- 248. Acquittal or conviction.
- 249. Absence of complainant.
- 250. Compensation for accusation without reasonable cause.

CHAPTER XX

TRIAL OF SUMMONS-CASES BY MAGISTRATES

- 251. Substance of accusation to be stated.
- 252. Conviction on plea of guilty.
- 253. Conviction on plea of guilty in absence of accused in petty cases.
- 254. Procedure when not convicted.
- 255. Acquittal or conviction.
- 256. Non-appearance or death of complainant.
- 257. Withdrawal of complaint.
- 258. Power to stop proceedings in certain cases.
- 259. Power of Court to convert summons-cases into warrant-cases.

CHAPTER XXI

SUMMARY TRIALS

- 260. Power to try summarily.
- 261. Summary trial by Magistrate of the second class.
- 262. Procedure for summary trials.
- 263. Record in summary trials.
- 264. Judgment in cases tried summarily.
- 265. Language of record and judgment.

CHAPTER XXII

ATTENDANCE OF PERSONS CONFINED OR DETAINED IN PRISONS

- 266. Definitions.

SECTIONS

- 267. Power to require attendance of prisoners.
- 268. Power of State Government to exclude certain persons from operation of section 267.
- 269. Officer in charge of prison to abstain from carrying out order in certain contingencies.
- 270. Prisoner to be brought to Court in custody.
- 271. Power to issue commission for examination of witness in prison.

CHAPTER XXII

EVIDENCE IN INQUIRIES AND TRIALS

A.—Mode of taking and recording evidence

- 272. Language of Courts.
- 273. Evidence to be taken in presence of accused.
- 274. Record in summons-cases and inquiries.
- 275. Record in warrant-cases.
- 276. Record in trial before Court of Session.
- 277. Language of record of evidence.
- 278. Procedure in regard to such evidence when completed.
- 279. Interpretation of evidence to accused or his pleader.
- 280. Remarks respecting demeanour of witness.
- 281. Record of examination of accused.
- 282. Interpreter to be bound to interpret truthfully.
- 283. Record in High Court.

B.—Commissions for the examination of witnesses

- 284. When attendance of witness may be dispensed with and commission issued.
- 285. Commission to whom to be issued.
- 286. Execution of commissions.
- 287. Parties may examine witnesses.
- 288. Return of commission.
- 289. Adjournment of proceeding.
- 290. Execution of foreign commissions.
- 291. Deposition of medical witness.
- 292. Evidence of officers of the Mint.
- 293. Reports of certain Government scientific experts.
- 294. No formal proof of certain documents.
- 295. Affidavit in proof of conduct of public servants.
- 296. Evidence of formal character on affidavit.

SECTIONS

- 297. Authorities before whom affidavits may be sworn.
- 298. Previous conviction or acquittal how proved.
- 299. Record of evidence in absence of accused.

CHAPTER XXIV

GENERAL PROVISIONS AS TO INQUIRIES AND TRIALS

- 300. Person once convicted or acquitted not to be tried for same offence.
- 301. Appearance by Public Prosecutors.
- 302. Permission to conduct prosecution.
- 303. Right of person against whom proceedings are instituted to be defended.
- 304. Legal aid to accused at State expense in certain cases.
- 305. Procedure when corporation or registered society is an accused.
- 306. Tender of pardon to accomplice.
- 307. Power to direct tender of pardon.
- 308. Trial of person not complying with conditions of pardon.
- 309. Power to postpone or adjourn proceedings.
- 310. Local inspection.
- 311. Power to summon material witness, or examine person present.
- 312. Expenses of complainants and witnesses.
- 313. Power to examine the accused.
- 314. Oral arguments and memorandum of arguments.
- 315. Accused person to be competent witness.
- 316. No influence to be used to induce disclosure.
- 317. Provision for inquiries and trial being held in the absence of accused in certain cases.
- 318. Procedure where accused does not understand proceedings.
- 319. Power to proceed against other persons appearing to be guilty of offence.
- 320. Compounding of offences.
- 321. Withdrawal from prosecution.
- 322. Procedure in cases which Magistrate cannot dispose of.
- 323. Procedure when, after commencement of inquiry or trial, Magistrate finds case should be committed.
- 324. Trial of persons previously convicted of offences against coinage, stamp-law or property.
- 325. Procedure when Magistrate cannot pass sentence sufficiently severe.
- 326. Conviction or commitment on evidence partly recorded by one Magistrate and partly by another.
- 327. Court to be open.

CHAPTER XXV

PROVISIONS AS TO ACCUSED PERSONS OF UNSOUND MIND

SECTIONS

328. Procedure in case of accused being lunatic.
329. Procedure in case of person of unsound mind tried before Court.
330. Release of lunatic pending investigation or trial.
331. Resumption of inquiry or trial.
332. Procedure on accused appearing before Magistrate or Court.
333. When accused appears to have been of sound mind.
334. Judgment of acquittal on ground of unsoundness of mind.
335. Person acquitted on such ground to be detained in safe custody.
336. Power of State Government to empower officer in charge to discharge.
337. Procedure where lunatic prisoner is reported capable of making his defence.
338. Procedure where lunatic detained is declared fit to be released.
339. Delivery of lunatic to care of relative or friend.

CHAPTER XXVI

PROVISIONS AS TO OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE

340. Procedure in cases mentioned in section 195.
341. Appeal.
342. Power to order costs.
343. Procedure of Magistrate taking cognizance.
344. Summary procedure for trial for giving false evidence.
345. Procedure in certain cases of contempt.
346. Procedure where Court considers that case should not be dealt with under section 345.
347. When Registrar or Sub-Registrar to be deemed a Civil Court.
348. Discharge of offender on submission of apology.
349. Imprisonment or committal of person refusing to answer or produce document.
350. Summary procedure for punishment for non-attendance by a witness in obedience to summons.
351. Appeals from convictions under sections 344, 345, 349 and 350.
352. Certain Judges and Magistrates not to try certain offences when committed before themselves.

CHAPTER XXVII

THE JUDGMENT

353. Judgment.
354. Language and contents of judgment.

SECTIONS

- 355. Metropolitan Magistrate's judgment.
- 356. Order for notifying address of previously convicted offender.
- 357. Order to pay compensation.
- 358. Compensation to persons groundlessly arrested.
- 359. Order to pay costs in non-cognizable cases.
- 360. Order to release on probation of good conduct or after admonition.
- 361. Special reasons to be recorded in certain cases.
- 362. Court not to alter judgment.
- 363. Copy of judgment to be given to the accused and other persons.
- 364. Judgment when to be translated.
- 365. Court of Session to send copy of finding and sentence to District Magistrate.

CHAPTER XXVIII

SUBMISSION OF DEATH SENTENCES FOR CONFIRMATION

- 366. Sentence of death to be submitted by Court of Session for confirmation.
- 367. Power to direct further inquiry to be made or additional evidence to be taken.
- 368. Power of High Court to confirm sentence or annual conviction.
- 369. Confirmation or new sentence to be signed by two Judges.
- 370. Procedure in case of difference of opinion.
- 371. Procedure in cases submitted to High Court for confirmation.

CHAPTER XXIX

APPEALS

- 372. No appeal to lie unless otherwise provided.
- 373. Appeal from orders requiring security or refusal to accept or rejecting surety for keeping peace or good behaviour.
- 374. Appeals from convictions.
- 375. No appeal in certain cases when accused pleads guilty.
- 376. No appeal in petty cases.
- 377. Appeal by the State Government against sentence.
- 378. Appeal in case of acquittal.
- 379. Appeal against conviction by High Court in certain cases.
- 380. Special right of appeal in certain cases.
- 381. Appeal to Court of Session how heard.
- 382. Petition of appeal.
- 383. Procedure when appellant in jail.
- 384. Summary dismissal of appeal.

SECTIONS

- 385. Procedure for hearing appeals not dismissed summarily.
- 386. Powers of the Appellate Court.
- 387. Judgments of subordinate Appellate Court.
- 388. Order of High Court on appeal to be certified to lower Court.
- 389. Suspension of sentence pending the appeal release of appellant on bail.
- 390. Arrest of accused in appeal from acquittal.
- 391. Appellate Court may take further evidence or direct it to be taken.
- 392. Procedure where Judges of Court of Appeal are equally divided.
- 393. Finality of judgments and orders on appeal.
- 394. Abatement of appeals.

CHAPTER XXX

REFERENCE AND REVISION

- 395. Reference to High Court.
- 396. Disposal of case according to decision of High Court.
- 397. Calling for records to exercise powers of revision.
- 398. Power to order inquiry.
- 399. Sessions Judge's powers of revision.
- 400. Power of Additional Sessions Judge.
- 401. High Court's powers of revision.
- 402. Power of High Court to withdraw or transfer revision cases.
- 403. Option of Court to hear parties.
- 404. Statement by Metropolitan Magistrate of grounds of his decision to be considered by High Court.
- 405. High Court's order to be certified to lower Court.

CHAPTER XXXI

TRANSFER OF CRIMINAL CASES

- 406. Power of Supreme Court to transfer cases and appeals.
- 407. Power of High Court to transfer cases and appeals.
- 408. Power of Sessions Judge to transfer cases and appeals.
- 409. Withdrawal of cases and appeals by Sessions Judges.
- 410. Withdrawal of cases by Judicial Magistrates.
- 411. Making over or withdrawal of cases by Executive Magistrates.
- 412. Reasons to be recorded.

CHAPTER XXXII

EXECUTION, SUSPENSION, REMISSION AND COMMUTATION OF SENTENCES

A.—*Death sentences*

- 413. Execution of order passed under section 368.

SECTIONS

- 414. Execution of sentence of death passed by High Court.
- 415. Postponement of execution of sentence of death in case of appeal to Supreme Court.
- 416. Postponement of capital sentence on pregnant woman.

B.—*Imprisonment*

- 417. Power to appoint place of imprisonment.
- 418. Execution of sentence of imprisonment.
- 419. Direction of warrant for execution.
- 420. Warrant with whom to be lodged.

C.—*Levy of fine*

- 421. Warrant for levy of fine.
- 422. Effect of such warrant.
- 423. Warrant for levy of fine issued by a Court in any territory to which this Code does not extend.
- 424. Suspension of execution of sentence of imprisonment.

D.—*General provisions regarding execution*

- 425. Who may issue warrant.
- 426. Sentence on escaped convict when to take effect.
- 427. Sentence on offender already sentenced for another offence.
- 428. Period of detention undergone by the accused to be set off against the sentence of imprisonment.
- 429. Saving.
- 430. Return of warrant on execution of sentence.
- 431. Money ordered to be paid recoverable as a fine.

E.—*Suspension, remission and commutation of sentences*

- 432. Power to suspend or remit sentences.
- 433. Power to commute sentence.
Under restrictions on powers of suspension or commutation in certain cases.
- 434. Concurrent power of Central Government in case of death sentences.
- 435. State Government to act after consultation with Central Government in certain cases.

CHAPTER XXXIII

PROVISIONS AS TO BAIL AND BONDS

- 436. In what cases bail to be taken.
- 437. When bail may be taken in case of non-bailable offence.
- 438. Direction for grant of bail to person apprehending arrest.
- 439. Special powers of High Court or Court of Session regarding bail.

SECTIONS

440. Amount of bond and reduction thereof.
441. Bond of accused and sureties.
442. Discharge from custody.
443. Power to order sufficient bail when that first taken is insufficient.
444. Discharge of sureties.
445. Deposit instead of recognizance.
446. Procedure when bond has been forfeited.
447. Procedure in case of insolvency or death of surety or when a bond is forfeited.
448. Bond required from minor.
449. Appeal from orders under section 446.
450. Power to direct levy of amount due on certain recognizances.

CHAPTER XXXIV

DISPOSAL OF PROPERTY

451. Order for custody and disposal of property pending trial in certain cases.
452. Order for disposal of property at conclusion of trial.
453. Payment to innocent purchaser of money found on accused.
454. Appeal against orders under section 452 or section 453.
455. Destruction of libellous and other matter.
456. Power to restore possession of immovable property.
457. Procedure by police upon seizure of property.
458. Procedure where no claimant appears within six months.
459. Power to sell perishable property.

CHAPTER XXXV

IRREGULAR PROCEEDINGS

460. Irregularities which do not vitiate proceedings.
461. Irregularities which vitiate proceedings.
462. Proceedings in wrong place.
463. Non-compliance with provisions of section 164 or section 281.
464. Effect of omission to frame, or absence of, or error in, charge.
465. Finding or sentence when reversible by reason of error, omission or irregularity.
466. Defect or error not to make attachment unlawful.

CHAPTER XXXVI

LIMITATION FOR TAKING COGNIZANCE OF CERTAIN OFFENCES

467. Definitions.
468. Bar to taking cognizance after lapse of the period of limitation.

SECTIONS

469. Commencement of the period of limitation.
470. Exclusion of time in certain cases.
471. Exclusion of date on which Court is closed.
472. Continuing offence.
473. Extension of period of limitation in certain cases.

CHAPTER XXXVII**MISCELLANEOUS**

474. Trials before High Courts.
475. Delivery to commanding officers of persons liable to be tried by Court-martial.
476. Forms.
477. Power of High Court to make rules.
478. Power to alter functions allocated to Judicial and Executive Magistrates in certain cases.
479. Case in which Judge or Magistrate is personally interested.
480. Practising pleader not to sit as Magistrate in certain Courts.
481. Public servant concerned in sale not to purchase or bid for property.
482. Saving of inherent powers of High Court.
483. Duty of High Court to exercise continuous superintendence over Courts of Judicial Magistrates.
484. Repeal and savings.

THE FIRST SCHEDULE—CLASSIFICATION OF OFFENCES.

THE SECOND SCHEDULE—FORMS.

THE CODE OF CRIMINAL PROCEDURE ACT, 1973

NO. 2 OF 1974

[25th January, 1974.]

An Act to consolidate and amend the law relating to Criminal Procedure.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Code of Criminal Procedure, 1973. Short title, extent and commencement,
- (2) It extends to the whole of India except the State of Jammu and Kashmir:

Provided that the provisions of this Code, other than those relating to Chapters VIII, X and XI thereof, shall not apply—

- (a) to the State of Nagaland,
- (b) to the tribal areas,

but the concerned State Government may, by notification, apply such provisions or any of them to the whole or part of the State of Nagaland or such tribal areas, as the case may be, with such supplemental, incidental or consequential modifications, as may be specified in the notification.

Explanation.—In this section, “tribal areas” means the territories which immediately before the 21st day of January, 1972, were included in the tribal areas of Assam, as referred to in paragraph 20 of the Sixth Schedule to the Constitution, other than those within the local limits of the municipality of Shillong.

- (3) It shall come into force on the 1st day of April, 1974.

Definitions. 2. In this Code, unless the context otherwise requires,—

- (a) "bailable offence" means an offence which is shown as bailable in the First Schedule, or which is made bailable by any other law for the time being in force; and "non-bailable offence" means any other offence;
- (b) "charge" includes any head of charge when the charge contains more heads than one;
- (c) "cognizable offence" means an offence for which, and "cognizable case" means a case in which, a police officer may, in accordance with the First Schedule or under any other law for the time being in force, arrest without warrant;
- (d) "complaint" means any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence, but does not include a police report.

Explanation.—A report made by a police officer in a case which discloses, after investigation, the commission of a non-cognizable offence shall be deemed to be a complaint; and the police officer by whom such report is made shall be deemed to be the complainant;

- (e) "High Court" means,—
 - (i) in relation to any State, the High Court for that State;
 - (ii) in relation to a Union territory to which the jurisdiction of the High Court for a State has been extended by law, that High Court;
 - (iii) in relation to any other Union territory, the highest Court of criminal appeal for that territory other than the Supreme Court of India;
- (f) "India" means the territories to which this Code extends;
- (g) "inquiry" means every inquiry, other than a trial, conducted under this Code by a Magistrate or Court;
- (h) "investigation" includes all the proceedings under this Code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorised by a Magistrate in this behalf;
 - (i) "judicial proceeding" includes any proceeding in the course of which evidence is or may be legally taken on oath;
 - (j) "local jurisdiction", in relation to a Court or Magistrate, means the local area within which the Court or Magistrate may exercise all or any of its or his powers under this Code;
 - (k) "metropolitan area" means the area declared, or deemed to be declared, under section 8, to be a metropolitan area;
 - (l) "non-cognizable offence" means an offence for which, and "non-cognizable case" means a case in which, a police officer has no authority to arrest without warrant;

1. Ins. by Act 10 of 1978, S. 2.

1 of 1871.

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

(n) "offence" means any act or omission made punishable by any law for the time being in force and includes any act in respect of which a complaint may be made under section 20 of the Cattle-trespass Act, 1871;

(o) "officer in charge of a police station" includes, when the officer in charge of the police station is absent from the station-house or unable from illness or other cause to perform his duties, the police officer present at the station-house who is next in rank to such officer and is above the rank of constable or, when the State Government so directs, any other police officer so present;

(p) "place" includes a house, building, tent, vehicle and vessel;

(q) "pleader", when used with reference to any proceeding in any Court, means a person authorised by or under any law for the time being in force, to practise in such Court, and includes any other person appointed with the permission of the Court to act in such proceeding;

(r) "police report" means a report forwarded by a police officer to a Magistrate under sub-section (2) of section 173;

(s) "police report" means a report forwarded by a police officer or specially by the State Government, to be a police station, and includes any local area specified by the State Government in this behalf;

(t) "prescribed" means prescribed by rules made under this Code;

(u) "Public Prosecutor" means any person appointed under section 24, and includes any person acting under the directions of a Public Prosecutor;

(v) "sub-division" means a sub-division of a district;

(w) "summons-case" means a case relating to an offence, and not being a warrant-case;

(x) "warrant-case" means a case relating to an offence punishable with death, imprisonment for life or imprisonment for a term exceeding two years;

45 of 1860.

(y) words and expressions used herein and not defined but defined in the Indian Penal Code have the meanings respectively assigned to them in that Code.

3. (1) In this Code,—

(a) any reference, without any qualifying words, to a Magistrate, shall be construed, unless the context otherwise requires,—

Construction of references.

(i) in relation to an area outside a metropolitan area, as a reference to a Judicial Magistrate;

(ii) in relation to a metropolitan area, as a reference to a Metropolitan Magistrate;

(b) any reference to a Magistrate of the second class shall, in relation to an area outside a metropolitan area, be construed as a reference to a Judicial Magistrate of the second class, and, in relation to a metropolitan area, as a reference to a Metropolitan Magistrate;

(c) any reference to a Magistrate of the first class shall,—

(i) in relation to a metropolitan area, be construed as a reference to a Metropolitan Magistrate exercising jurisdiction in that area,

(ii) in relation to any other area, be construed as a reference to a Judicial Magistrate of the first class exercising jurisdiction in that area;

(d) any reference to the Chief Judicial Magistrate shall, in relation to a metropolitan area, be construed as a reference to the Chief Metropolitan Magistrate exercising jurisdiction in that area.

(2) In this Code, unless the context otherwise requires, any reference to the Court of a Judicial Magistrate shall, in relation to a metropolitan area, be construed as a reference to the Court of the Metropolitan Magistrate for that area.

(3) Unless the context otherwise requires, any reference in any enactment passed before the commencement of this Code,—

(a) to a Magistrate of the first class, shall be construed as a reference to a Judicial Magistrate of the first class;

(b) to a Magistrate of the second class or of the third class, shall be construed as a reference to a Judicial Magistrate of the second class;

(c) to a Presidency Magistrate or Chief Presidency Magistrate, shall be construed as a reference, respectively, to a Metropolitan Magistrate or the Chief Metropolitan Magistrate;

(d) to any area which is included in a metropolitan area, as a reference to such metropolitan area, and any reference to a Magistrate of the first class or of the second class in relation to such area, shall be construed as a reference to the Metropolitan Magistrate exercising jurisdiction in such area.

(4) Where, under any law, other than this Code, the functions exercisable by a Magistrate relate to matters—

(a) which involve the appreciation or sifting of evidence or the formulation of any decision which exposes any person to any punishment or penalty or detention in custody pending investigation, inquiry or trial or would have the effect of sending him for trial before any Court, they shall, subject to the provisions of this Code, be exercisable by a Judicial Magistrate; or

(b) which are administrative or executive in nature, such as, the granting of a licence, the suspension or cancellation of a licence, sanctioning a prosecution or withdrawing from a prosecution, they shall, subject as aforesaid, be exercisable by an Executive Magistrate.

45 of 1860.

4. (1) All offences under the Indian Penal Code shall be investigated, inquired into, tried, and otherwise dealt with according to the provisions hereinafter contained.

(2) All offences under any other law shall be investigated, inquired into, tried, and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences.

5. Nothing contained in this Code shall, in the absence of a specific provision to the contrary, affect any special or local law for the time being in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law for the time being in force.

Trial of
offences
under the
Indian
Penal
Code and
other
laws.

Saving.

CHAPTER II

CONSTITUTION OF CRIMINAL COURTS AND OFFICES

6. Besides the High Courts and the Courts constituted under any law, other than this Code, there shall be, in every State, the following classes of Criminal Courts, namely:—

Classes of
Criminal
Courts.

- (i) Courts of Session;
- (ii) Judicial Magistrates of the first class and, in any metropolitan area, Metropolitan Magistrates;
- (iii) Judicial Magistrates of the second class; and
- (iv) Executive Magistrates.

7. (1) Every State shall be a sessions division or shall consist of sessions divisions; and every sessions division shall, for the purposes of this Code, be a district or consist of districts:

Territo-
rial divi-
sions.

Provided that every metropolitan area shall, for the said purposes, be a separate sessions division and district.

(2) The State Government may, after consultation with the High Court, alter the limits or the number of such divisions and districts.

(3) The State Government may, after consultation with the High Court, divide any district into sub-divisions and may alter the limits or the number of such sub-divisions.

(4) The sessions divisions, districts and sub-divisions existing in a State at the commencement of this Code, shall be deemed to have been formed under this section.

8. (1) The State Government may, by notification, declare that, as from such date as may be specified in the notification, any area in the State comprising a city or town whose population exceeds one million shall be a metropolitan area for the purposes of this Code.

Metropoli-
tan areas.

(2) As from the commencement of this Code, each of the Presidency-towns of Bombay, Calcutta and Madras and the city of Ahmedabad shall be deemed to be declared under sub-section (1) to be a metropolitan area.

(3) The State Government may, by notification, extend, reduce or alter the limits of a metropolitan area but the reduction or alteration shall not be so made as to reduce the population of such area to less than one million.

(4) Where, after an area has been declared, or deemed to have been declared to be, a metropolitan area, the population of such area falls below one million, such area shall, on and from such date as the State Government may, by notification, specify in this behalf, cease to be a

metropolitan area; but notwithstanding such cesser, any inquiry, trial or appeal pending immediately before such cesser before any Court or Magistrate in such area shall continue to be dealt with under this Code, as if such cesser had not taken place.

(5) Where the State Government reduces or alters, under sub-section (3), the limits of any metropolitan area, such reduction or alteration shall not affect any inquiry, trial or appeal pending immediately before such reduction or alteration before any Court or Magistrate, and every such inquiry, trial or appeal shall continue to be dealt with under this Code as if such reduction or alteration had not taken place.

Explanation.—In this section, the expression “population” means the population as ascertained at the last preceding census of which the relevant figures have been published.

Court of Session.

9. (1) The State Government shall establish a Court of Session for every sessions division.

(2) Every Court of Session shall be presided over by a Judge, to be appointed by the High Court.

(3) The High Court may also appoint Additional Sessions Judges and Assistant Sessions Judges to exercise jurisdiction in a Court of Session.

(4) The Sessions Judge of one sessions division may be appointed by the High Court to be also an Additional Sessions Judge of another division, and in such case he may sit for the disposal of cases at such place or places in the other division as the High Court may direct.

(5) Where the office of the Sessions Judge is vacant, the High Court may make arrangements for the disposal of any urgent application which is, or may be, made or pending before such Court of Session by an Additional or Assistant Sessions Judge, or, if there be no Additional or Assistant Sessions Judge, by a Chief Judicial Magistrate, in the sessions division; and every such Judge or Magistrate shall have jurisdiction to deal with any such application.

(6) The Court of Session shall ordinarily hold its sitting at such place or places as the High Court may, by notification, specify; but, if, in any particular case, the Court of Session is of opinion that it will tend to the general convenience of the parties and witnesses to hold its sittings at any other place in the sessions division, it may, with the consent of the prosecution and the accused, sit at that place for the disposal of the case or the examination of any witness or witnesses therein.

Explanation.—For the purposes of this Code, “appointment” does not include the first appointment, posting or promotion of a person by the Government to any Service, or post in connection with the affairs of the Union or of a State, where under any law, such appointment, posting or promotion is required to be made by Government.

Subordination of Assistant Sessions Judges.

10. (1) All Assistant Sessions Judges shall be subordinate to the Sessions Judge in whose Court they exercise jurisdiction.

(2) The Sessions Judge may, from time to time, make rules consistent with this Code, as to the distribution of business among such Assistant Sessions Judges.

(3) The Sessions Judge may also make provision for the disposal of any urgent application, in the event of his absence or inability to act, by an Additional or Assistant Sessions Judge, or, if there be no Additional

or Assistant Sessions Judge, by the Chief Judicial Magistrate, and every such Judge or Magistrate shall be deemed to have jurisdiction to deal with any such application.

11. (1) In every district (not being a metropolitan area), there shall be established as many Courts of Judicial Magistrates of the first class and of the second class, and at such places, as the State Government may, after consultation with the High Court, by notification, specify: Courts of Judicial Magistrates.

(2) The presiding officers of such Courts shall be appointed by the High Court.

(3) The High Court may, whenever it appears to it to be expedient or necessary, confer the powers of a Judicial Magistrate of the first class or of the second class on any member of the Judicial Service of the State, functioning as a Judge in a Civil Court.

12. (1) In every district (not being a metropolitan area), the High Court shall appoint a Judicial Magistrate of the first class to be the Chief Judicial Magistrate. Chief Judicial Magistrate and Additional Chief Judicial Magistrate, etc.

(2) The High Court may appoint any Judicial Magistrate of the first class to be an Additional Chief Judicial Magistrate, and such Magistrate shall have all or any of the powers of a Chief Judicial Magistrate under this Code or under any other law for the time being in force as the High Court may direct.

(3) (a) The High Court may designate any Judicial Magistrate of the first class in any sub-division as the Sub-divisional Judicial Magistrate and relieve him of the responsibilities specified in this section as occasion requires.

(b) Subject to the general control of the Chief Judicial Magistrate, every Sub-divisional Judicial Magistrate shall also have and exercise, such powers of supervision and control over the work of the Judicial Magistrates (other than Additional Chief Judicial Magistrates) in the sub-division as the High Court may, by general or special order, specify in this behalf.

13. (1) The High Court may, if requested by the Central or State Government so to do, confer upon any person who holds or has held any post under the Government, all or any of the powers conferred or conferrable by or under this Code on a Judicial Magistrate of the second class, in respect to particular cases or to particular classes of cases or to cases generally, in any district, not being a metropolitan area: Special Judicial Magistrates.

Provided that no such power shall be conferred on a person unless he possesses such qualification or experience in relation to legal affairs as the High Court may, by rules, specify.

(2) Such Magistrates shall be called Special Judicial Magistrates and shall be appointed for such term, not exceeding one year at a time, as the High Court may, by general or special order, direct.

14. (1) Subject to the control of the High Court, the Chief Judicial Magistrate may, from time to time, define the local limits of the areas within which the Magistrates appointed under section 11 or under section 13 may exercise all or any of the powers with which they may respectively be invested under this Code. Local jurisdiction of Judicial Magistrates.

(2) Except as otherwise provided by such definition, the jurisdiction and powers of every such Magistrate shall extend throughout the district.

*1. Added by Act No. 1970, S. 3.
2. Subs. by S. 4, ibid.
3. Added by S. 5, ibid.*

Subordination of
Judicial
Magis-
trates.

15. (1) Every Chief Judicial Magistrate shall be subordinate to the Sessions Judge; and every other Judicial Magistrate shall, subject to the general control of the Sessions Judge, be subordinate to the Chief Judicial Magistrate.

(2) The Chief Judicial Magistrate may, from time to time, make rules or give special orders, consistent with this Code, as to the distribution of business among the Judicial Magistrates subordinate to him.

Courts of
Metropoli-
tan Magis-
trates.

16. (1) In every metropolitan area, there shall be established as many Courts of Metropolitan Magistrates, and at such places, as the State Government may, after consultation with the High Court, by notification, specify.

(2) The presiding officers of such Courts shall be appointed by the High Court.

(3) The jurisdiction and powers of every Metropolitan Magistrate shall extend throughout the metropolitan area.

Chief
Metro-
politan
Magis-
trate and
Additional
Chief
Metropoli-
tan Magis-
trates.

17. (1) The High Court shall, in relation to every metropolitan area within its local jurisdiction, appoint a Metropolitan Magistrate to be the Chief Metropolitan Magistrate for such metropolitan area.

(2) The High Court may appoint any Metropolitan Magistrate to be an Additional Chief Metropolitan Magistrate, and such Magistrate shall have all or any of the powers of a Chief Metropolitan Magistrate under this Code or under any other law for the time being in force as the High Court may direct.

Special
Metropoli-
tan Magis-
trates.

18. (1) The High Court may, if requested by the Central or State Government so to do, confer upon any person who holds or has held any post under the Government, all or any of the powers conferred or conferrable by or under this Code on a Metropolitan Magistrate, in respect to particular cases or to particular classes of cases or to cases generally, in any metropolitan area within its local jurisdiction: *(✓ x xx)*

Provided that no such power shall be conferred on a person unless he possesses such qualification or experience in relation to legal affairs as the High Court may, by rules, specify.

(2) Such Magistrates shall be called Special Metropolitan Magistrates and shall be appointed for such term, not exceeding one year at a time, as the High Court may, by general or special order, direct.

(3) Notwithstanding anything contained elsewhere in this Code, a Special Metropolitan Magistrate shall not impose a sentence which a Judicial Magistrate of the second class is not competent to impose outside the Metropolitan area. *se*

Subordi-
nation of
Metro-
politan
Magis-
trates.

19. (1) The Chief Metropolitan Magistrate and every Additional Chief Metropolitan Magistrate shall be subordinate to the Sessions Judge; and every other Metropolitan Magistrate shall, subject to the general control of the Sessions Judge, be subordinate to the Chief Metropolitan Magistrate.

(2) The High Court may, for the purposes of this Code, define the extent of the subordination, if any, of the Additional Chief Metropolitan Magistrates to the Chief Metropolitan Magistrate.

I, Omitted & Sub. by Act 45 of 1878, S. 6.

(3) The Chief Metropolitan Magistrate may, from time to time, make rules or give special orders, consistent with this Code, as to the distribution of business among the Metropolitan Magistrates and as to the allocation of business to an Additional Chief Metropolitan Magistrate.

20. (1) In every district and in every metropolitan area, the State Government may appoint as many persons as it thinks fit to be Executive Magistrates and shall appoint one of them to be the District Magistrate.

Executive
Magis-
trates.

(2) The State Government may appoint any Executive Magistrate to be an Additional District Magistrate, and such Magistrate shall have all or any of the powers of a District Magistrate under this Code or under any other law for the time being in force.
[Queried]

(3) Whenever, in consequence of the office of a District Magistrate becoming vacant, any officer succeeds temporarily to the executive administration of the district, such officer shall, pending the orders of the State Government, exercise all the powers and perform all the duties respectively conferred and imposed by this Code on the District Magistrate.

(4) The State Government may place an Executive Magistrate in charge of a sub-division and may relieve him of the charge as occasion requires; and the Magistrate so placed in charge of a sub-division shall be called the Sub-divisional Magistrate.

(5) Nothing in this section shall preclude the State Government from conferring, under any law for the time being in force, on a Commissioner of Police, all or any of the powers of an Executive Magistrate in relation to a metropolitan area.

21. The State Government may appoint, for such term as it may think fit, Executive Magistrates, to be known as Special Executive Magistrates for particular areas or for the performance of particular functions and confer on such Special Executive Magistrates such of the powers as are conferrable under this Code on Executive Magistrates, as it may deem fit.

Special
Executive
Magis-
trates.

22. (1) Subject to the control of the State Government, the District Magistrate may, from time to time, define the local limits of the areas within which the Executive Magistrates may exercise all or any of the powers with which they may be invested under this Code.

Local
jurisdi-
ction of
Execu-
tive Ma-
gistrates.

(2) Except as otherwise provided by such definition, the jurisdiction and powers of every such Magistrate shall extend throughout the district.

23. (1) All Executive Magistrates, other than the Additional District Magistrate, shall be subordinate to the District Magistrate, and every Executive Magistrate (other than the Sub-divisional Magistrate) exercising powers in a sub-division shall also be subordinate to the Sub-divisional Magistrate, subject, however, to the general control of the District Magistrate.

Subordi-
nation of
Execu-
tive
Magis-
trates.

(2) The District Magistrate may, from time to time, make rules or give special orders, consistent with this Code, as to the distribution of business among the Executive Magistrates subordinate to him and as to the allocation of business to an Additional District Magistrate.

✓ Sh. & S. by per 45 of 1978, S. 7.

Public
Prosecu-
tors.

24. (1) For every High Court, the Central Government or the State Government shall, after consultation with the High Court, appoint a Public Prosecutor for conducting, in such Court, any prosecution, appeal or other proceeding on behalf of the Central or State Government, as the case may be.
- (2) For every district the State Government shall appoint a Public Prosecutor and may also appoint one or more Additional Public Prosecutors for the district.
- (3) The District Magistrate shall, in consultation with the Sessions Judge, prepare a panel of names of persons who are, in his opinion, fit to be appointed as the Public Prosecutor or Additional Public Prosecutor for the district.
- (4) No person shall be appointed by the State Government as the Public Prosecutor or Additional Public Prosecutor for the district unless his name appears on the panel of names prepared by the District Magistrate under sub-section (3).
- (5) A person shall only be eligible to be appointed as a Public Prosecutor or an Additional Public Prosecutor under sub-section (1) or sub-section (2), if he has been in practice as an advocate for not less than seven years.
- (6) The Central Government or the State Government may appoint, for the purposes of any case or class of cases, an advocate who has been in practice for not less than ten years, as a Special Public Prosecutor.

Assistant
Public
Prosecu-
tors.

25. (1) The State Government shall appoint in every district one or more Assistant Public Prosecutors for conducting prosecutions in the Courts of Magistrates.
- (2) Save as otherwise provided in sub-section (3), no police officer shall be eligible to be appointed as an Assistant Public Prosecutor.
- (3) Where no Assistant Public Prosecutor is available for the purposes of any particular case, the District Magistrate may appoint any other person to be the Assistant Public Prosecutor in charge of that case:

Provided that a police officer shall not be so appointed—

- (a) if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted; or
- (b) if he is below the rank of Inspector.

CHAPTER III

POWER OF COURTS

Courts by
which
offences
are
triable.

26. Subject to the other provisions of this Code.—

- (a) any offence under the Indian Penal Code may be tried by—
- (i) the High Court, or
 - (ii) the Court of Session, or
 - (iii) any other Court by which such offence is shown in the First Schedule to be triable;

*1. Subs. by Act 45 of 1969, S. 8.
2. Ins. by S. 9, 1969.*

(b) any offence under any other law shall, when any Court is mentioned in this behalf in such law, be tried by such Court and when no Court is so mentioned, may be tried by—

(i) the High Court, or

(ii) any other Court by which such offence is shown in the First Schedule to be triable.

27. Any offence not punishable with death or imprisonment for life, committed by any person who at the date when he appears or is brought before the Court is under the age of sixteen years, may be tried by the Court of a Chief Judicial Magistrate, or by any Court specially empowered under the Children Act, 1960, or any other law for the time being in force providing for the treatment, training and rehabilitation of youthful offenders.

Jurisdiction in the case of juveniles.

60 of 1960.

28. (1) A High Court may pass any sentence authorised by law.

Sentences which High Courts and Sessions Judges may pass.

(2) A Sessions Judge or Additional Sessions Judge may pass any sentence authorised by law; but any sentence of death passed by any such Judge shall be subject to confirmation by the High Court.

(3) An Assistant Sessions Judge may pass any sentence authorised by law except a sentence of death or of imprisonment for life or of imprisonment for a term exceeding ten years.

Sentences which Magistrates may pass.

29. (1) The Court of a Chief Judicial Magistrate may pass any sentence authorised by law except a sentence of death or of imprisonment for life or of imprisonment for a term exceeding seven years.

(2) The Court of a Magistrate of the first class may pass a sentence of imprisonment for a term not exceeding three years, or of fine not exceeding five thousand rupees, or of both.

(3) The Court of a Magistrate of the second class may pass a sentence of imprisonment for a term not exceeding one year, or of fine not exceeding one thousand rupees, or of both.

(4) The Court of a Chief Metropolitan Magistrate shall have the powers of the Court of a Chief Judicial Magistrate and that of a Metropolitan Magistrate, the powers of the Court of a Magistrate of the first class.

30. (1) The Court of a Magistrate may award such term of imprisonment in default of payment of fine as is authorised by law:

Provided that the term—

(a) is not in excess of the powers of the Magistrate under section 29;

(b) shall not, where imprisonment has been awarded as part of the substantive sentence, exceed one-fourth of the term of imprisonment which the Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

(2) The imprisonment awarded under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the Magistrate under section 29.

Sentence of imprisonment in default of fine.

45 of 1860.

31. (1) When a person is convicted at one trial of two or more offences, the Court may, subject to the provisions of section 71 of the Indian Penal Code, sentence him for such offences, to the several punishments prescribed therefor which such Court is competent to inflict; such punishments when consisting of imprisonment to commence the one after the

Sentence in cases of conviction of several offences at one trial.

expiration of the other in such order as the Court may direct, unless the Court directs that such punishments shall run concurrently.

(2) In the case of consecutive sentences, it shall not be necessary for the Court by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court:

Provided that—

(a) in no case shall such person be sentenced to imprisonment for a longer period than fourteen years;

(b) the aggregate punishment shall not exceed twice the amount of punishment which the Court is competent to inflict for a single offence.

(3) For the purpose of appeal by a convicted person, the aggregate of the consecutive sentences passed against him under this section shall be deemed to be a single sentence.

Mode of conferring powers.

32. (1) In conferring powers under this Code, the High Court or the State Government, as the case may be, may, by order, empower persons specially by name or in virtue of their offices or classes of officials generally by their official titles.

(2) Every such order shall take effect from the date on which it is communicated to the person so empowered.

Powers of officers appointed.

33. Whenever any person holding an office in the service of Government who has been invested by the High Court or the State Government with any powers under this Code throughout any local area is appointed to an equal or higher office of the same nature, within a like local area under the same State Government, he shall, unless the High Court or the State Government, as the case may be, otherwise directs, or has otherwise directed, exercise the same powers in the local area in which he is so appointed.

With-
drawal of
powers.

34. (1) The High Court or the State Government, as the case may be, may withdraw all or any of the powers conferred by it under this Code on any person or by any officer subordinate to it.

(2) Any powers conferred by the Chief Judicial Magistrate or by the District Magistrate may be withdrawn by the respective Magistrate by whom such powers were conferred.

Powers of Judges and Magistrates exercisable by their successors-in-office.

35. (1) Subject to the other provisions of this Code, the powers and duties of a Judge or Magistrate may be exercised or performed by his successor-in-office.

(2) When there is any doubt as to who is the successor-in-office of any Additional or Assistant Sessions Judge, the Sessions Judge shall determine by order in writing the Judge who shall, for the purposes of this Code or of any proceedings or order thereunder, be deemed to be the successor-in-office of such Additional or Assistant Sessions Judge.

(3) When there is any doubt as to who is the successor-in-office of any Magistrate, the Chief Judicial Magistrate, or the District Magistrate,

as the case may be, shall determine by order in writing the Magistrate who shall, for the purpose of this Code or of any proceedings or order thereunder, be deemed to be the successor-in-office of such Magistrate.

CHAPTER IV

A.—POWERS OF SUPERIOR OFFICERS OF POLICE

36. Police officers superior in rank to an officer in charge of a police station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such officer within the limits of his station.

Powers of superior officers of police.

B.—AID TO THE MAGISTRATES AND THE POLICE

37. Every person is bound to assist a Magistrate or police officer reasonably demanding his aid—

Public when to assist Magistrates and police.

(a) in the taking or preventing the escape of any other person whom such Magistrate or police officer is authorised to arrest; or

(b) in the prevention or suppression of a breach of the peace; or

(c) in the prevention of any injury attempted to be committed to any railway, canal, telegraph or public property.

38. When a warrant is directed to a person other than a police officer, any other person may aid in the execution of such warrant, if the person to whom the warrant is directed be near at hand and acting in the execution of the warrant.

Aid to person, other than police officer, executing warrant.

39. (1) Every person, aware of the commission of, or of the intention of any other person to commit, any offence punishable under any of the following sections of the Indian Penal Code, namely:—

Public to give information of certain offences.

(i) sections 121 to 126, both inclusive, and section 130 (that is to say, offences against the State specified in Chapter VI of the said Code);

(ii) sections 143, 144, 145, 147 and 148 (that is to say, offences against the public tranquillity specified in Chapter VIII of the said Code);

(iii) sections 161 to 165A, both inclusive (that is to say, offences relating to illegal gratification);

(iv) sections 272 to 278, both inclusive (that is to say, offences relating to adulteration of food and drugs, etc.);

(v) sections 302, 303 and 304 (that is to say, offences affecting life);

(vi) section 382 (that is to say, offence of theft after preparation made for causing death, hurt or restraint in order to the committing of the theft);

(vii) sections 392 to 399, both inclusive, and section 402 (that is to say, offences of robbery and dacoity);

(viii) section 409 (that is to say, offence relating to criminal breach of trust by public servant, etc.);

(ix) sections 431 to 439, both inclusive (that is to say, offences of mischief against property);

(x) sections 449 and 450 (that is to say, offence of house-trespass);

(xi) sections 456 to 460, both inclusive (that is to say, offences of lurking house-trespass); and

(xii) sections 489A to 489E, both inclusive (that is to say, offences relating to currency notes and bank notes),

shall, in the absence of any reasonable excuse, the burden of proving which excuse shall lie upon the person so aware, forthwith give information to the nearest Magistrate or police officer of such commission or intention.

(2) For the purposes of this section, the term "offence" includes any act committed at any place out of India which would constitute an offence if committed in India.

Duty of officers employed in connection with the affairs of a village to make certain report.

40. (1) Every officer employed in connection with the affairs of a village and every person residing in a village shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police station, whichever is nearer, any information which he may possess respecting—

(a) the permanent or temporary residence of any notorious receiver or vendor of stolen property in or near such village;

(b) the resort to any place within, or the passage through, such village of any person whom he knows, or reasonably suspects, to be a thug, robber, escaped convict or proclaimed offender;

(c) the commission of, or intention to commit, in or near such village any non-bailable offence or any offence punishable under section 143, section 144, section 145, section 147, or section 148 of the Indian Penal Code;

(d) the occurrence in or near such village of any sudden or unnatural death or of any death under suspicious circumstances or the discovery in or near such village of any corpse or part of a corpse, in circumstances which lead to a reasonable suspicion that such a death has occurred or the disappearance from such village of any person in circumstances which lead to a reasonable suspicion that a non-bailable offence has been committed in respect of such person;

(e) the commission of, or intention to commit, at any place out of India near such village any act which, if committed in India, would be an offence punishable under any of the following sections of the Indian Penal Code, namely, 231 to 238 (both inclusive), 302, 304, 382, 392 to 399 (both inclusive), 402, 435, 436, 449, 450, 457 to 460 (both inclusive), 489A, 489B, 489C and 489D;

(f) any matter likely to affect the maintenance of order or the prevention of crime or the safety of person or property respecting which the District Magistrate, by general or special order made with the previous sanction of the State Government, has directed him to communicate information.

45 of 1860.

(2) In this section,—

- (i) "village" includes village-lands;
- (ii) the expression "proclaimed offender" includes any person proclaimed as an offender by any Court or authority in any territory in India to which this Code does not extend, in respect of any act which if committed in the territories to which this Code extends, would be an offence punishable under any of the following sections of the Indian Penal Code, namely, 302, 304, 382, 392 to 399 (both inclusive), 402, 435, 436, 449, 450 and 457 to 460 (both inclusive);
- (iii) the words "officer employed in connection with the affairs of the village" means a member of the panchayat of the village and includes the headman and every officer or other person appointed to perform any function connected with the administration of the village.

CHAPTER V

ARREST OF PERSONS

41. (1) Any police officer may without an order from a Magistrate and without a warrant, arrest any person—

- | | |
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| <ul style="list-style-type: none"> (a) who has been concerned in any cognizable offence, or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been so concerned; or (b) who has in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking; or (c) who has been proclaimed as an offender either under this Code or by order of the State Government; or (d) in whose possession anything is found which may reasonably be suspected to be stolen property and who may reasonably be suspected of having committed an offence with reference to such thing; or (e) who obstructs a police officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody; or (f) who is reasonably suspected of being a deserter from any of the Armed Forces of the Union; or (g) who has been concerned in, or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been concerned in, any act committed at any place out of India, which, if committed in India, would have been punishable as an offence, and for which he is, under any law relating to extradition, or otherwise, liable to be apprehended or detained in custody in India; or (h) who, being a released convict, commits a breach of any rule made under sub-section (5) of section 356; or (i) for whose arrest any requisition, whether written or oral, has been received from another police officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition. | <i>When
police
may
arrest
without
warrant.</i> |
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(2) Any officer in charge of a police station may, in like manner, arrest or cause to be arrested any person, belonging to one or more of the categories of persons specified in section 109 or section 110.

Arrest on refusal to give name and residence.

42. (1) When any person who, in the presence of a police officer, has committed or has been accused of committing a non-cognizable offence refuses, on demand of such officer, to give his name and residence or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained.

(2) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required:

Provided that, if such person is not resident in India, the bond shall be secured by a surety or sureties resident in India.

(3) Should the true name and residence of such person not be ascertained within twenty-four hours from the time of arrest or should he fail to execute the bond, or, if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

Arrest by Private person and procedure on such arrest.

43. (1) Any private person may arrest or cause to be arrested any person who in his presence commits a non-bailable and cognizable offence, or any proclaimed offender, and, without unnecessary delay, shall make over or cause to be made over any person so arrested to a police officer, or, in the absence of a police officer, take such person or cause him to be taken in custody to the nearest police station.

(2) If there is reason to believe that such person comes under the provisions of section 41, a police officer shall re-arrest him.

(3) If there is reason to believe that he has committed a non-cognizable offence, and he refuses on the demand of a police officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions of section 42; but if there is no sufficient reason to believe that he has committed any offence, he shall be at once released.

Arrest by Magistrate.

44. (1) When any offence is committed in the presence of a Magistrate, whether Executive or Judicial, within his local jurisdiction, he may himself arrest or order any person to arrest the offender, and may thereupon, subject to the provisions herein contained as to bail, commit the offender to custody.

(2) Any Magistrate, whether Executive or Judicial, may at any time arrest or direct the arrest, in his presence, within his local jurisdiction, of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant.

Protection of members of the Armed Forces from arrest.

45. (1) Notwithstanding anything contained in sections 41 to 44 (both inclusive), no member of the Armed Forces of the Union shall be arrested for anything done or purported to be done by him in the discharge of his official duties except after obtaining the consent of the Central Government.

(2) The State Government may, by notification, direct that the provisions of sub-section (1) shall apply to such class or category of the members of the Force charged with the maintenance of public order as may be specified therein, wherever they may be serving, and thereupon the provisions of that sub-section shall apply as if for the expression "Central Government" occurring therein, the expression "State Government" were substituted.

46. (1) In making an arrest the police officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

Arrest
how made.

(2) If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such police officer or other person may use all means necessary to effect the arrest.

(3) Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death or with imprisonment for life.

47. (1) If any person acting under a warrant of arrest, or any police officer having authority to arrest, has reason to believe that the person to be arrested has entered into, or is within, any place, any person residing in, or being in charge of, such place shall, on demand of such person acting as aforesaid or such police officer, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

Search
of place
entered
by person
sought to
be arrest-
ed.

(2) If ingress to such place cannot be obtained under sub-section (1), it shall be lawful in any case for a person acting under a warrant and in any case in which a warrant may issue, but cannot be obtained without affording the person to be arrested an opportunity of escape, for a police officer to enter such place and search therein, and in order to effect an entrance into such place, to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person, if after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance;

Provided that, if any such place is an apartment in the actual occupancy of a female (not being the person to be arrested) who, according to custom, does not appear in public, such person or police officer shall, before entering such apartment, give notice to such female that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it.

(3) Any police officer or other person authorised to make an arrest may break open any outer or inner door or window of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

48. A police officer may, for the purpose of arresting without warrant any person whom he is authorised to arrest, pursue such person into any place in India.

Pursuit of
offenders
into
other
jurisdi-
ctions.

49. The Person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

No un-
necessary
restraint.

Person arrested to be informed of grounds of arrest and of right to bail.

Search of arrested person.

Power to seize offensive weapons.

Examination of accused by medical practitioner at the request of police officer.

50. (1) Every police officer or other person arresting any person without warrant shall forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest.

(2) Where a police officer arrests without warrant any person other than a person accused of a non-bailable offence, he shall inform the person arrested that he is entitled to be released on bail and that he may arrange for sureties on his behalf.

51. (1) Whenever a person is arrested by a police officer under a warrant which does not provide for the taking of bail, or under a warrant which provides for the taking of bail but the person arrested cannot furnish bail, and

whenever a person is arrested without warrant, or by a private person under a warrant, and cannot legally be admitted to bail, or is unable to furnish bail,

the officer making the arrest or, when the arrest is made by a private person, the police officer to whom he makes over the person arrested, may search such person, and place in safe custody all articles, other, than necessary wearing-apparel, found upon him and where any article is seized from the arrested person, a receipt showing the articles taken in possession by the police officer shall be given to such person.

(2) Whenever it is necessary to cause a female to be searched, the search shall be made by another female with strict regard to decency.

52. The officer or other person making any arrest under this Code may take from the person arrested any offensive weapons which he has about his person, and shall deliver all weapons so taken to the Court or officer before which or whom the officer or person making the arrest is required by this Code to produce the person arrested.

53. (1) When a person is arrested on a charge of committing an offence of such a nature and alleged to have been committed under such circumstances that there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of an offence, it shall be lawful for a registered medical practitioner, acting at the request of a police officer not below the rank of sub-inspector, and for any person acting in good faith in his aid and under his direction, to make such an examination of the person arrested as is reasonably necessary in order to ascertain the facts which may afford such evidence, and to use such force as is reasonably necessary for that purpose.

(2) Whenever the person of a female is to be examined under this section, the examination shall be made only by, or under the supervision of, a female registered medical practitioner.

Explanation.—In this section and in section 54, “registered medical practitioner” means a medical practitioner who possesses any recognized medical qualification as defined in clause (h) of section 2 of the Indian Medical Council Act, 1956, and whose name has been entered in a State Medical Register.

54. When a person who is arrested, whether on a charge or otherwise, alleges, at the time when he is produced before a Magistrate or at any time during the period of his detention in custody that the examination of his body will afford evidence which will disprove the commission by him of any offence or which will establish the commission by any other person of any offence against his body, the Magistrate shall, if requested by the arrested person so to do direct the examination of the body of such person by a registered medical practitioner unless the Magistrate considers that the request is made for the purpose of vexation or delay or for defeating the ends of justice.

Examination of arrested person by medical practitioner at the request of the arrested person.

55. (1) When any officer in charge of a police station or any police officer making an investigation under Chapter XII requires any officer subordinate to him to arrest without a warrant (otherwise than in his presence) any person who may lawfully be arrested without a warrant, he shall deliver to the officer required to make the arrest an order in writing, specifying the person to be arrested and the offence or other cause for which the arrest is to be made and the officer so required shall, before making the arrest, notify to the person to be arrested the substance of the order and, if so required by such person, shall show him the order.

Procedure when police officer deputes subordinate to arrest without warrant.

(2) Nothing in sub-section (1) shall affect the power of a police officer to arrest a person under section 41.

56. A police officer making an arrest without warrant shall, without unnecessary delay and subject to the provisions herein contained as to bail, take or send the person arrested before a Magistrate having jurisdiction in the case, or before the officer in charge of a police station.

Person arrested to be taken before Magistrate or officer in charge of police station.

57. No police officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 167, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

Person arrested not to be detained more than twenty-four hours.

58. Officers in charge of police stations shall report to the District Magistrate, or, if he so directs, to the Sub-divisional Magistrate, the cases of all persons arrested without warrant, within the limits of their respective stations, whether such persons have been admitted to bail or otherwise.

Police to report apprehensions.

59. No person who has been arrested by a police officer shall be discharged except on his own bond, or on bail, or under the special order of a Magistrate.

Discharge of person apprehended.

60. (1) If a person in lawful custody escapes or is rescued, the person from whose custody he escaped or was rescued may immediately pursue and arrest him in any place in India.

Power, on escape, to pursue and re-take.

(2) The provisions of section 47 shall apply to arrests under subsection (1) although the person making any such arrest is not acting under a warrant and is not a police officer having authority to arrest.

CHAPTER VI

PROCESSES TO COMPEL APPEARANCE

A.—Summons

Form of summons.

61. Every summons issued by a Court under this Code shall be in writing, in duplicate, signed by the presiding officer of such Court or by such other officer as the High Court may, from time to time, by rule direct, and shall bear the seal of the Court.

Summons how served.

62. (1) Every summons shall be served by a police officer, or subject to such rules as the State Government may make in this behalf, by an officer of the Court issuing it or other public servant.

(2) The summons shall, if practicable, be served personally on the person summoned, by delivering or tendering to him one of the duplicates of the summons.

(3) Every person on whom a summons is so served shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

Service of summons on corporate bodies and societies.

63. Service of a summons on a corporation may be effected by serving it on the secretary, local manager or other principal officer of the corporation, or by letter sent by registered post, addressed to the chief officer of the corporation in India, in which case the service shall be deemed to have been effected when the letter would arrive in ordinary course of post.

Explanation.—In this section, “corporation” means an incorporated company or other body corporate and includes a society registered under the Societies Registration Act, 1860.

21 of 1860.

Service when persons summoned cannot be found.

64. Where the person summoned cannot, by the exercise of due diligence, be found, the summons may be served by leaving one of the duplicates for him with some adult male member of his family residing with him, and the person with whom the summons is so left shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

Explanation.—A servant is not a member of the family within the meaning of this section.

Procedure when service cannot be effected as before provided.

65. If service cannot by the exercise of due diligence be effected as provided in section 62, section 63 or section 64, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides; and thereupon the Court, after making such inquiries as it thinks fit, may either declare that the summons has been duly served or order fresh service in such manner as it considers proper.

66. (1) Where the person summoned is in the active service of the Government, the Court issuing the summons shall ordinarily send it in duplicate to the head of the office in which such person is employed; and such head shall thereupon cause the summons to be served in the manner provided by section 62, and shall return it to the Court under his signature with the endorsement required by that section.

Service
on Gov-
ernment
servant.

(2) Such signature shall be evidence of due service.

67. When a Court desires that a summons issued by it shall be served at any place outside its local jurisdiction, it shall ordinarily send such summons in duplicate to a Magistrate within whose local jurisdiction the person summoned resides, or is, to be there served. "

Service
of sum-
mons
outside
local
limits.

68. (1) When a summons issued by a Court is served outside its local jurisdiction, and in any case where the officer who has served a summons is not present at the hearing of the case, an affidavit, purporting to be made before a Magistrate, that such summons has been served, and a duplicate of the summons purporting to be endorsed (in the manner provided by section 62 or section 64) by the person to whom it was delivered or tendered or with whom it was left, shall be admissible in evidence, and the statements made therein shall be deemed to be correct unless and until the contrary is proved.

Proof of
service in
such cases
and when
serving
officer not
present.

(2) The affidavit mentioned in this section may be attached to the duplicate of the summons and returned to the Court.

69. (1) Notwithstanding anything contained in the preceding sections of this Chapter, a Court issuing a summons to a witness may, in addition to and simultaneously with the issue of such summons, direct a copy of the summons to be served by registered post addressed to the witness at the place where he ordinarily resides or carries on business or personally works for gain.

Service
of sum-
mons on
witness
by post.

(2) When an acknowledgment purporting to be signed by the witness or an endorsement purporting to be made by a postal employee that the witness refused to take delivery of the summons has been received, the Court issuing the summons may declare that the summons has been duly served.

B.—Warrant of arrest

70. (1) Every warrant of arrest issued by a Court under this Code shall be in writing, signed by the presiding officer of such Court and shall bear the seal of the Court.

Form of
warrant of
arrest and
duration.

(2) Every such warrant shall remain in force until it is cancelled by the Court which issued it, or until it is executed.

71. (1) Any Court issuing a warrant for the arrest of any person may in its discretion direct by endorsement on the warrant that, if such person executes a bond with sufficient sureties for his attendance before the Court at a specified time and thereafter until otherwise directed by the Court, the officer to whom the warrant is directed shall take such security and shall release such person from custody.

Power to
direct
security
to be
taken.

(2) The endorsement shall state—

(a) the number of sureties;

(b) the amount in which they and the person for whose arrest the warrant is issued, are to be respectively bound;

(c) the time at which he is to attend before the Court.

(3) Whenever security is taken under this section, the officer to whom the warrant is directed shall forward the bond to the Court.

**Warrants
to whom
directed.**

72. (1) A warrant of arrest shall ordinarily be directed to one or more police officers; but the Court issuing such a warrant may, if its immediate execution is necessary and no police officer is immediately available, direct it to any other person or persons, and such person or persons shall execute the same.

(2) When a warrant is directed to more officers or persons than one, it may be executed by all, or by any one or more of them.

**Warrant
may be
directed
to any
person.**

73. (1) The Chief Judicial Magistrate or a Magistrate of the first class may direct a warrant to any person within his local jurisdiction for the arrest of any escaped convict, proclaimed offender or of any person who is accused of a non-bailable offence and is evading arrest.

(2) Such person shall acknowledge in writing the receipt of the warrant, and shall execute it if the person for whose arrest it was issued, is in, or enters on, any land or other property under his charge.

(3) When the person against whom such warrant is issued is arrested, he shall be made over with the warrant to the nearest police officer, who shall cause him to be taken before a Magistrate having jurisdiction in the case, unless security is taken under section 71.

**Warrant
directed
to police
officer.**

74. A warrant directed to any police officer may also be executed by any other police officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed.

**Notifica-
tion of
substance
of warrant.**

75. The police officer or other person executing a warrant of arrest shall notify the substance thereof to the person to be arrested, and, if so required, shall show him the warrant.

**Person
arrested
to be
brought
before
Court
without
delay.**

76. The police officer or other person executing a warrant of arrest shall (subject to the provisions of section 71 as to security) without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person:

Provided that such delay shall not, in any case, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

**Where
warrant
may be
executed.**

77. A warrant of arrest may be executed at any place in India.

78. (1) When a warrant is to be executed outside the local jurisdiction of the Court issuing it, such Court may, instead of directing the warrant to a police officer within its jurisdiction, forward it by post or otherwise to any Executive Magistrate or District Superintendent of Police or Commissioner of Police within the local limits of whose jurisdiction it is to be executed; and the Executive Magistrate or District Superintendent or Commissioner shall endorse his name thereon, and if practicable, cause it to be executed in the manner hereinbefore provided.

Warrant forwarded for execution outside jurisdiction.

(2) The Court issuing a warrant under sub-section (1) shall forward, along with the warrant, the substance of the information against the person to be arrested together with such documents, if any, as may be sufficient to enable the Court acting under section 81 to decide whether bail should or should not be granted to the person.

79. (1) When a warrant directed to a police officer is to be executed beyond the local jurisdiction of the Court issuing the same, he shall ordinarily take it for endorsement either to an Executive Magistrate or to a police officer not below the rank of an officer in charge of a police station, within the local limits of whose jurisdiction the warrant is to be executed.

Warrant directed to police officer for execution outside jurisdiction.

(2) Such Magistrate or police officer shall endorse his name thereon and such endorsement shall be sufficient authority to the police officer to whom the warrant is directed to execute the same, and the local police shall, if so required, assist such officer in executing such warrant.

(3) Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate or police officer within whose local jurisdiction the warrant is to be executed will prevent such execution, the police officer to whom it is directed may execute the same without such endorsement in any place beyond the local jurisdiction of the Court which issued it.

80. When a warrant of arrest is executed outside the district in which it was issued, the person arrested shall, unless the Court which issued the warrant is within thirty kilometres of the place of arrest or is nearer than the Executive Magistrate or District Superintendent of Police or Commissioner of Police within the local limits of whose jurisdiction the arrest was made, or unless security is taken under section 71, be taken before such Magistrate or District Superintendent or Commissioner.

Procedure on arrest of person against whom warrant issued.

81. (1) The Executive Magistrate or District Superintendent of Police or Commissioner of Police shall, if the person arrested appears to be the person intended by the Court which issued the warrant, direct his removal in custody to such Court:

Procedure by Magistrate before whom such person arrested is brought.

Provided that, if the offence is bailable, and such person is ready and willing to give bail to the satisfaction of such Magistrate, District Superintendent or Commissioner, or a direction has been endorsed under section 71 on the warrant and such person is ready and willing to give the security required by such direction, the Magistrate, District Superintendent or Commissioner shall take such bail or security, as the case may be, and forward the bond, to the Court which issued the warrant:

Provided further that if the offence is a non-bailable one, it shall be lawful for the Chief Judicial Magistrate (subject to the provisions of section 437), or the Sessions Judge, of the district in which the arrest is made on consideration of the information and the documents referred to in sub-section (2) of section 78, to release such person on bail.

(2) Nothing in this section shall be deemed to prevent a police officer from taking security under section 71.

C.—Proclamation and attachment

**Proclama-
tion for
person
abscond-
ing.**

82. (1) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.

(2) The proclamation shall be published as follows:—

(i) (a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;

(b) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village;

(c) a copy thereof shall be affixed to some conspicuous part of the Court-house;

(ii) the Court may also, if it thinks fit, direct a copy of the proclamation to be published in a daily newspaper circulating in the place in which such person ordinarily resides.

(3) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day, in the manner specified in clause (i) of sub-section (2), shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.

**Attach-
ment of
property
of per-
son abs-
conding.**

83. (1) The Court issuing a proclamation under section 82 may, for reasons to be recorded in writing, at any time after the issue of the proclamation, order the attachment of any property, movable or immovable, or both, belonging to the proclaimed person:

Provided that where at the time of the issue of the proclamation the Court is satisfied, by affidavit or otherwise, that the person in relation to whom the proclamation is to be issued,—

(a) is about to dispose of the whole or any part of his property, or

(b) is about to remove the whole or any part of his property from the local jurisdiction of the Court,

it may order the attachment simultaneously with the issue of the proclamation.

(2) Such order shall authorise the attachment of any property belonging to such person within the district in which it is made; and it shall authorise the attachment of any property belonging to such person without such district when endorsed by the District Magistrate within whose district such property is situate.

(3) If the property ordered to be attached is a debt or other movable property, the attachment under this section shall be made—

(a) by seizure; or

(b) by the appointment of a receiver; or

(c) by an order in writing prohibiting the delivery of such property to the proclaimed person or to any one on his behalf; or

(d) by all or any two of such methods, as the Court thinks fit.

(4) If the property ordered to be attached is immovable, the attachment under this section shall, in the case of land paying revenue to the State Government, be made through the Collector of the district in which the land is situate, and in all other cases—

(a) by taking possession; or

(b) by the appointment of a receiver; or

(c) by an order in writing prohibiting the payment of rent on delivery of property to the proclaimed person or to any one on his behalf; or

(d) by all or any two of such methods, as the Court thinks fit.

(5) If the property ordered to be attached consists of live-stock or is of a perishable nature, the Court may, if it thinks it expedient, order immediate sale thereof, and in such case the proceeds of the sale shall abide the order of the Court.

(6) The powers, duties and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed under the Code of Civil Procedure, 1908.

5 of 1908.

84. (1) If any claim is preferred to, or objection made to the attachment of, any property attached under section 83, within six months from the date of such attachment, by any person other than the proclaimed person, on the ground that the claimant or objector has an interest in such property, and that such interest is not liable to attachment under section 83, the claim or objection shall be inquired into, and may be allowed or disallowed in whole or in part:

Claims
and ob-
jections
to
attach-
ment.

Provided that any claim preferred or objection made within the period allowed by this sub-section may, in the event of the death of the claimant or objector, be continued by his legal representative.

(2) Claims or objections under sub-section (1) may be preferred or made in the Court by which the order of attachment is issued, or, if the claim or objection is in respect of property attached under an order endorsed under sub-section (2) of section 83, in the Court of the Chief Judicial Magistrate of the district in which the attachment is made,

(3) Every such claim or objection shall be inquired into by the Court in which it is preferred or made:

Provided that, if it is preferred or made in the Court of a Chief Judicial Magistrate, he may make it over for disposal to any Magistrate subordinate to him.

(4) Any person whose claim or objection has been disallowed in whole or in part by an order under sub-section (1) may, within a period of one year from the date of such order, institute a suit to establish the right which he claims in respect of the property in dispute; but subject to the result of such suit, if any, the order shall be conclusive.

Release,
sale and
restora-
tion of
attached
property.

85. (1) If the proclaimed person appears within the time specified in the proclamation, the Court shall make an order releasing the property from the attachment.

(2) If the proclaimed person does not appear within the time specified in the proclamation, the property under the attachment shall be at the disposal of the State Government; but it shall not be sold until the expiration of six months from the date of the attachment and until any claim preferred or objection made under section 84 has been disposed of under that section, unless it is subject to speedy and natural decay, or the Court considers that the sale would be for the benefit of the owner; in either of which cases the Court may cause it to be sold whenever it thinks fit.

(3) If, within two years from the date of the attachment, any person whose property is or has been at the disposal of the State Government, under sub-section (2), appears voluntarily or is apprehended and brought before the Court by whose order the property was attached, or the Court to which such Court is subordinate, and proves to the satisfaction of such Court that he did not abscond or conceal himself for the purpose of avoiding execution of the warrant, and that he had not such notice of the proclamation as to enable him to attend within the time specified therein such property, or, if the same has been sold, the net proceeds of the sale, or, if part only thereof has been sold, the net proceeds of the sale, and the residue of the property, shall, after satisfying therefrom all costs incurred in consequence of the attachment, be delivered to him.

Appeal
from order
rejecting
application
for res-
toration of
attached
property.

Issue of
warrant
in lieu of,
or in addi-
tion to,
summons.

86. Any person referred to in sub-section (3) of section 85, who is aggrieved by any refusal to deliver property or the proceeds of the sale thereof may appeal to the Court to which appeals ordinarily lie from the sentences of the first-mentioned Court.

D.—Other rules regarding processes

87. A Court may, in any case in which it is empowered by this Code to issue a summons for the appearance of any person, issue, after recording its reasons in writing, a warrant for his arrest—

(a) if, either before the issue of such summons, or after the issue of the same but before the time fixed for his appearance, the Court sees reason to believe that he has absconded or will not obey the summons; or

(b) if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure.

88. When any person for whose appearance or arrest the officer presiding in any Court is empowered to issue a summons or warrant, is present in such Court, such officer may require such person to execute a bond, with or without sureties, for his appearance in such Court, or any other Court to which the case may be transferred for trial.

Power to take bond for appearance.

89. When any person who is bound by any bond taken under this Code to appear before a Court, does not appear, the officer presiding in such Court may issue a warrant directing that such person be arrested and produced before him.

Arrest on breach of bond for appearance.

90. The provisions contained in this Chapter relating to a summons and warrant, and their issue, service and execution, shall, so far as may be, apply to every summons and every warrant of arrest issued under this Code.

Provisions of this Chapter generally applicable to summonses and warrants of arrest.

CHAPTER VII

PROCESSES TO COMPEL THE PRODUCTION OF THINGS

A.—Summons to produce

91. (1) Whenever any Court or any officer in charge of a police station considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order.

Summons to produce document or other thing.

(2) Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition if he causes such document or thing to be produced instead of attending personally to produce the same.

(3) Nothing in this section shall be deemed—

(a) to affect sections 123 and 124 of the Indian Evidence Act, 1872, or the Bankers' Books Evidence Act, 1891, or

(b) to apply to a letter, postcard, telegram or other document or any parcel or thing in the custody of the postal or telegraph authority.

Procedure as to letters and telegrams.

92. (1) If any document, parcel or thing in the custody of a postal or telegraph authority is, in the opinion of the District Magistrate, Chief Judicial Magistrate, Court of Session or High Court wanted for the purpose of any investigation, inquiry, trial or other proceeding under this Code, such Magistrate or Court may require the postal or telegraph authority, as the case may be, to deliver the document, parcel or thing to such person as the Magistrate or Court directs.

(2) If any such document, parcel or thing is, in the opinion of any other Magistrate, whether Executive or Judicial, or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the postal or telegraph authority, as the case may be, to cause search to be made for and to detain such document, parcel or thing pending the order of a District Magistrate, Chief Judicial Magistrate or Court under sub-section (1).

B.—Search-warrants

When search warrant may be issued.

93. (1) (a) Where any Court has reason to believe that a person to whom a summons or order under section 91 or a requisition under sub-section (1) of section 92 has been, or might be, addressed, will not or would not produce the document or thing as required by such summons or requisition, or

(b) where such document or thing is not known to the Court to be in the possession of any person, or

(c) where the Court considers that the purposes of any inquiry, trial or other proceeding under this Code will be served by a general search or inspection,

it may issue a search-warrant; and the person to whom such warrant is directed, may search or inspect in accordance therewith and the provisions hereinafter contained.

(2) The Court may, if it thinks fit, specify in the warrant the particular place or part thereof to which only the search or inspection shall extend; and the person charged with the execution of such warrant shall then search or inspect only the place or part so specified.

(3) Nothing contained in this section shall authorise any Magistrate other than a District Magistrate or Chief Judicial Magistrate to grant a warrant to search for a document, parcel or other thing in the custody of the postal or telegraph authority.

Search of place suspected to contain stolen property forged documents, etc.

94. (1) If a District Magistrate, Sub-divisional Magistrate or Magistrate of the first class, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property, or for the deposit, sale or production of any objectionable article to which this section applies, or that any such objectionable article is deposited in any place, he may by warrant authorise any police officer above the rank of a constable—

(a) to enter, with such assistance as may be required, such place,

(b) to search the same in the manner specified in the warrant,

(c) to take possession of any property or article therein found which he reasonably suspects to be stolen property or objectionable article to which this section applies,

(d) to convey such property or article before a Magistrate, or to guard the same on the spot until the offender is taken before a Magistrate, or otherwise to dispose of it in some place of safety,

(e) to take into custody and carry before a Magistrate every person found in such place who appears to have been privy to the deposit, sale or production of any such property or article knowing or having reasonable cause to suspect it to be stolen property or, as the case may be, objectionable article to which this section applies.

(2) The objectionable articles to which this section applies are—

(a) counterfeit coin;

1 of 1889.
52 of 1962.

(b) pieces of metal made in contravention of the Metal Tokens Act, 1889, or brought into India in contravention of any notification for the time being in force under section 11 of the Customs Act, 1962;

(c) counterfeit currency note; counterfeit stamps;

(d) forged documents;

(e) false seals;

45 of 1860.

(f) obscene objects referred to in section 292 of the Indian Penal Code;

(g) instruments or materials used for the production of any of the articles mentioned in clauses (a) to (f).

95. (1) Where—

(a) any newspaper, or book, or

(b) any document,

45 of 1860.

wherever printed, appears to the State Government to contain any matter the publication of which is punishable under section 124A or section 153A or section 153B or section 292 or section 293 or section 295A of the Indian Penal Code, the State Government may, by notification, stating the grounds of its opinion, declare every copy of the issue of the newspaper containing such matter, and every copy of such book or other document to be forfeited to Government, and thereupon any police officer may seize the same wherever found in India and any Magistrate may by warrant authorise any police officer not below the rank of sub-inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be.

Power to
declare
certain
publica-
tions
forfeited
and to
issue
search-
warrants
for the
same.

(2) In this section and in section 96,—

25 of 1867.

(a) "newspaper" and "book" have the same meaning as in the Press and Registration of Books Act, 1867;

(b) "document" includes any painting, drawing or photograph, or other visible representation.

(3) No order passed or action taken under this section shall be called in question in any Court otherwise than in accordance with the provisions of section 96.

Application to High Court to set aside declaration of forfeiture.

96. (1) Any person having any interest in any newspaper, book or other document, in respect of which a declaration of forfeiture has been made under section 95, may, within two months from the date of publication in the Official Gazette of such declaration, apply to the High Court to set aside such declaration on the ground that the issue of the newspaper, or the book or other document, in respect of which the declaration was made, did not contain any such matter as is referred to in sub-section (1) of section 95.

(2) Every such application shall, where the High Court consists of three or more Judges, be heard and determined by a Special Bench of the High Court composed of three Judges and where the High Court consists of less than three Judges, such Special Bench shall be composed of all the Judges of that High Court.

(3) On the hearing of any such application with reference to any newspaper, any copy of such newspaper may be given in evidence in aid of the proof of the nature or tendency of the words, signs or visible representations contained in such newspaper, in respect of which the declaration of forfeiture was made.

(4) The High Court shall, if it is not satisfied that the issue of the newspaper, or the book or other document, in respect of which the application has been made, contained any such matter as is referred to in sub-section (1) of section 95, set aside the declaration of forfeiture.

(5) Where there is a difference of opinion among the Judges forming the Special Bench, the decision shall be in accordance with the opinion of the majority of those Judges.

Search for persons wrongfully confined.

97. If any District Magistrate, Sub-divisional Magistrate or Magistrate of the first class has reason to believe that any person is confined under such circumstances that the confinement amounts to an offence, he may issue a search-warrant, and the person to whom such warrant is directed may search for the person so confined; and such search shall be made in accordance therewith, and the person, if found, shall be immediately taken before a Magistrate, who shall make such order as in the circumstances of the case seems proper.

Power to compel restoration of abducted females.

98. Upon complaint made on oath of the abduction or unlawful detention of a woman, or a female child under the age of eighteen years, for any unlawful purpose, a District Magistrate, Sub-divisional Magistrate or Magistrate of the first class may make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, parent, guardian or other person having the lawful charge of such child, and may compel compliance with such order, using such force as may be necessary.

C.—General provisions relating to searches

Direction, etc., of search-warrants.

99. The provisions of sections 38, 70, 72, 74, 77, 78 and 79 shall, so far as may be, apply to all search-warrants issued under section 93, section 94, section 95 or section 97.

100. (1) Whenever any place liable to search or inspection under this Chapter is closed, any person residing in, or being in charge of, such place, shall, on demand of the officer or other person executing the warrant, and on production of the warrant, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

Persons
in charge
of closed
place to
allow
search.

(2) If ingress into such place cannot be so obtained, the officer or other person executing the warrant may proceed in the manner provided by sub-section (2) of section 47.

(3) Where any person in or about such place is reasonably suspected of concealing about his person any article for which search should be made, such person may be searched and if such person is a woman, the search shall be made by another woman with strict regard to decency.

(4) Before making a search under this Chapter, the officer or other person about to make it shall call upon two or more independent and respectable inhabitants of the locality in which the place to be searched is situate or of any other locality if no such inhabitant of the said locality is available or is willing to be a witness to the search, to attend and witness the search and may issue an order in writing to them or any of them so to do.

(5) The search shall be made in their presence, and a list of all things seized in the course of such search and of the places in which they are respectively found shall be prepared by such officer or other person and signed by such witnesses; but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.

(6) The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search, and a copy of the list prepared under this section, signed by the said witnesses, shall be delivered to such occupant or person.

(7) When any person is searched under sub-section (3), a list of all things taken possession of shall be prepared, and a copy thereof shall be delivered to such person.

(8) Any person who, without reasonable cause, refuses or neglects to attend and witness a search under this section, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under section 187 of the Indian Penal Code.

45 of 1860.

101. When, in the execution of a search-warrant at any place beyond the local jurisdiction of the Court which issued the same, any of the things for which search is made, are found, such things, together with the list of the same prepared under the provisions hereinafter contained, shall be immediately taken before the Court issuing the warrant, unless such place is nearer to the Magistrate having jurisdiction therein than to such Court, in which case the list and things shall be immediately taken before such Magistrate; and, unless there be good cause to the contrary, such Magistrate shall make an order authorising them to be taken to such Court.

Disposal
of things
found in
search
beyond
jurisdi-
ction.

D.—Miscellaneous

Power of police officer to seize certain property.

102. (1) Any police officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence.

(2) Such police officer, if subordinate to the officer in charge of a police station, shall forthwith report the seizure to that officer.

Magistrate may direct search in his presence.

103. [Every police officer acting under sub-section (1) shall forthwith report the seizure to the Magistrate having jurisdiction and where the property seized is such that it cannot be conveniently transported to the Court, he may give custody thereof to any person on his executing a bond undertaking to produce the property before the Court as and when required and to give effect to the further orders of the Court as to the disposal of the same.]

Power to impound document, etc., produced.

104. [produced

Reciprocal arrangements regarding processes.

105. (1) Where a Court in the territories to which this Code extends (hereafter in this section referred to as the said territories) desires that—

(a) a summons to an accused person, or

(b) a warrant for the arrest of an accused person, or

(c) a summons to any person requiring him to attend and produce a document or other thing, or to produce it, or

(d) a search-warrant,

issued by it shall be served or executed at any place within the local jurisdiction of a Court in any State or area in India outside the said territories, it may send such summons or warrant in duplicate by post or otherwise, to the presiding officer of that Court to be served or executed; and where any summons referred to in clause (a) or clause (c) has been so served, the provisions of section 68 shall apply in relation to such summons as if the presiding officer of the Court to whom it is sent were a Magistrate in the said territories.

(2) Where a Court in the said territories has received for service or execution—

(a) a summons to an accused person, or

(b) a warrant for the arrest of an accused person, or

(c) a summons to any person requiring him to attend and produce a document or other thing or to produce it, or

(d) a search-warrant,

issued by a Court in any State or area in India outside the said territories, it shall cause the same to be served or executed as if it were a summons or warrant received by it from another Court in the said territories for service or execution within its local jurisdiction; and where—

(i) a warrant of arrest has been executed, the person arrested shall, so far as possible, be dealt with in accordance with the procedure prescribed by sections 80 and 81,

4. Dated by Act 45 of 1978, S. 10.

(ii) a search-warrant has been executed, the things found in the search shall, so far as possible, be dealt with in accordance with the procedure prescribed by section 101.

CHAPTER VIII

SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR

106. (1) When a Court of Session or Court of a Magistrate of the first class convicts a person of any of the offences specified in sub-section (2) or of abetting any such offence and is of opinion that it is necessary to take security from such person for keeping the peace, the Court may, at the time of passing sentence on such person, order him to execute a bond, with or without sureties, for keeping the peace for such period, not exceeding three years, as it thinks fit.

Security
for
keeping
the peace
on conviction.

(2) The offences referred to in sub-section (1) are—

(a) any offence punishable under Chapter VIII of the Indian Penal Code, other than an offence punishable under section 153A or section 153B or section 154 thereof;

(b) any offence which consists of, or includes, assault or using criminal force or committing mischief;

(c) any offence of criminal intimidation;

(d) any other offence which caused, or was intended or known to be likely to cause, a breach of the peace.

(3) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

(4) An order under this section may also be made by an Appellate Court or by a Court when exercising its powers of revision.

107. (1) When an Executive Magistrate receives information that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity and is of opinion that there is sufficient ground for proceeding, he may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond for keeping the peace for such period, not exceeding one year, as the Magistrate thinks fit.

Security
for
keeping
the peace
in other
cases.

[with or
without
sureties]

(2) Proceedings under this section may be taken before any Executive Magistrate when either the place where the breach of the peace or disturbance is apprehended is within his local jurisdiction or there is within such jurisdiction a person who is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act as aforesaid beyond such jurisdiction.

108. (1) When a Judicial Magistrate of the first class receives information that there is within his local jurisdiction any person who, within or without such jurisdiction,—

(i) either orally or in writing or in any other manner, intentionally disseminates or attempts to disseminate or abets the dissemination of,—

(a) any matter the publication of which is punishable under section 124A or section 153A or section 153B or section 295A of the Indian Penal Code, or

Security
for good
behaviour
from
persons
disseminating
seditious
matters.

(b) any matter concerning a Judge acting or purporting to act in the discharge of his official duties which amounts to criminal intimidation or defamation under the Indian Penal Code,

45 of 186

(ii) makes, produces, publishes or keeps for sale, imports, exports, conveys, sells, lets to hire, distributes, publicly exhibits or in any other manner puts into circulation any obscene matter such as is referred to in section 292 of the Indian Penal Code,

45 of 186

and the Magistrate is of opinion that there is sufficient ground for proceeding, the Magistrate may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit.

(2) No proceedings shall be taken under this section against the editor, proprietor, printer or publisher of any publication registered under, and edited, printed and published in conformity with, the rules laid down in the Press and Registration of Books Act, 1867, with reference to any matter contained in such publication except by the order or under the authority of the State Government or some officer empowered by the State Government in this behalf.

25 of 18

**Security
for good
behaviour
from
suspected
persons.**

109. When a Judicial Magistrate of the first class receives information that there is within his local jurisdiction a person taking precautions to conceal his presence and that there is reason to believe that he is doing so with a view to committing a cognizable offence, the Magistrate may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit.

**Security
for good
behaviour
from
habitual
offenders.**

110. When a Judicial Magistrate of the first class receives information that there is within his local jurisdiction a person who—

(a) is by habit a robber, house-breaker, thief, or forger, or

(b) is by habit a receiver of stolen property knowing the same to have been stolen, or

(c) habitually protects or harbours thieves, or aids in the concealment or disposal of stolen property, or

(d) habitually commits, or attempts to commit, or abets the commission of, the offence of kidnapping, abduction, extortion, cheating or mischief, or any offence punishable under Chapter XII of the Indian Penal Code, or under section 489A, section 489B, section 489C or section 489D of that Code, or

(e) habitually commits, or attempts to commit, or abets the commission of, offences involving a breach of the peace, or

(f) habitually commits, or attempts to commit, or abets the commission of—

(i) any offence under one or more of the following Acts, namely:—

(a) the Drugs and Cosmetics Act, 1940;

45 of 1860

23 of 194

7 of 1973.**19 of 1952.****37 of 1954.****10 of 1955.****22 of 1955.****52 of 1962.**

- [**(b) the Foreign Exchange Regulation Act, 1973;**]
 (c) the Employees' Provident Funds and Family Pension Fund Act, 1952;
 (d) the Prevention of Food Adulteration Act, 1954;
 (e) the Essential Commodities Act, 1955;
 (f) the Untouchability (Offences) Act, 1955;
 (g) the Customs Act, 1962; or

(ii) any offence punishable under any other law providing for the prevention of hoarding or profiteering or of adulteration of food or drugs or of corruption, or

(g) is so desperate and dangerous as to render his being at large without security hazardous to the community,

such Magistrate may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding three years, as the Magistrate thinks fit.

111. When a Magistrate acting under section 107, section 108, section 109 or section 110, deems it necessary to require any person to show cause under such section, he shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force, and the number, character and class of sureties (if any) required.

112. If the person in respect of whom such order is made is present in Court, it shall be read over to him, or, if he so desires, the substance thereof shall be explained to him.

113. If such person is not present in Court, the Magistrate shall issue a summons requiring him to appear, or, when such person is in custody, a warrant directing the officer in whose custody he is to bring him before the Court.

Provided that whenever it appears to such Magistrate, upon the report of a police officer or upon other information (the substance of which report or information shall be recorded by the Magistrate), that there is reason to fear the commission of a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by the immediate arrest of such person, the Magistrate may at any time issue a warrant for his arrest.

114. Every summons or warrant issued under section 113 shall be accompanied by a copy of the order made under section 111, and such copy shall be delivered by the officer serving or executing such summons or warrant to the person served with, or arrested under, the same.

115. The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of any person called upon to show cause why he should not be ordered to execute a bond for keeping the peace or for good behaviour and may permit him to appear by a pleader.

Inquiry as
to truth
of infor-
mation.

116. (1) When an order under section 111 has been read or explained under section 112 to a person present in Court, or when any person appears or is brought before a Magistrate in compliance with, or in execution of, a summons or warrant, issued under section 113, the Magistrate shall proceed to inquire into the truth of the information upon which action has been taken, and to take such further evidence as may appear necessary.

(2) Such inquiry shall be made, as nearly as may be practicable, in the manner hereinafter prescribed for conducting trial and recording evidence in summons-cases.

(3) After the commencement, and before the completion, of the inquiry under sub-section (1), the Magistrate, if he considers that immediate measures are necessary for the prevention of a breach of the peace or disturbance of the public tranquillity or the commission of any offence or for the public safety, may, for reasons to be recorded in writing, direct the person in respect of whom the order under section 111 has been made to execute a bond, with or without sureties, for keeping the peace or maintaining good behaviour until the conclusion of the inquiry, and may detain him in custody until such bond is executed or, in default of execution, until the inquiry is concluded:

Provided that—

(a) no person against whom proceedings are not being taken under section 108, section 109, or section 110 shall be directed to execute a bond for maintaining good behaviour;

(b) the conditions of such bond, whether as to the amount thereof or as to the provision of sureties or the number thereof or the pecuniary extent of their liability, shall not be more onerous than those specified in the order under section 111.

(4) For the purposes of this section the fact that a person is an habitual offender or is so desperate and dangerous as to render his being at large without security hazardous to the community may be proved by evidence of general repute or otherwise.

(5) Where two or more persons have been associated together in the matter under inquiry, they may be dealt with in the same or separate inquiries as the Magistrate shall think just.

(6) The inquiry under this section shall be completed within a period of six months from the date of its commencement, and if such inquiry is not so completed, the proceedings under this Chapter shall, on the expiry of the said period, stand terminated unless, for special reasons to be recorded in writing, the Magistrate otherwise directs:

Provided that where any person has been kept in detention pending such inquiry, the proceeding against that person, unless terminated earlier, shall stand terminated on the expiry of a period of six months of such detention.

(7) Where any direction is made under sub-section (6) permitting the continuance of proceedings, the Sessions Judge may, on an application made to him by the aggrieved party, vacate such direction if he is satisfied that it was not based on any special reason or was perverse.

Order to
give
security.

117. If, upon such inquiry, it is proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond, with or without sureties, the Magistrate shall make an order accordingly:

Provided that—

(a) no person shall be ordered to give security of a nature different from, or of an amount larger than, or for a period longer than, that specified in the order made under section 111;

(b) the amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive;

(c) when the person in respect of whom the inquiry is made is a minor, the bond shall be executed only by his sureties.

118. If, on an inquiry under section 116, it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made, should execute a bond, the Magistrate shall make an entry on the record to that effect, and if such person is in custody only for the purposes of the inquiry, shall release him, or, if such person is not in custody, shall discharge him.

Discharge
of person
informed
against.

119. (1) If any person, in respect of whom an order requiring security is made under section 106 or section 117, is, at the time such order is made, sentenced to, or undergoing a sentence of, imprisonment, the period for which such security is required shall commence on the expiration of such sentence.

Commencement
of period
for which
security
is required.

(2) In other cases such period shall commence on the date of such order unless the Magistrate, for sufficient reason, fixes a later date.

Contents
of bond.

120. The bond to be executed by any such person shall bind him to keep the peace or to be of good behaviour, as the case may be, and in the latter case the commission or attempt to commit, or the abetment of, any offence punishable with imprisonment, wherever it may be committed, is a breach of the bond.

121. (1) A Magistrate may refuse to accept any surety offered, or may reject any surety previously accepted by him or his predecessor under this Chapter on the ground that such surety is an unfit person for the purposes of the bond:

Power to
reject
sureties.

Provided that, before so refusing to accept or rejecting any such surety, he shall either himself hold an inquiry on oath into the fitness of the surety, or cause such inquiry to be held and a report to be made thereon by a Magistrate subordinate to him.

(2) Such Magistrate shall, before holding the inquiry, give reasonable notice to the surety and to the person by whom the surety was offered and shall, in making the inquiry, record the substance of the evidence adduced before him.

(3) If the Magistrate is satisfied, after considering the evidence so adduced either before him or before a Magistrate deputed under sub-section (1), and the report of such Magistrate (if any), that the surety is an unfit person for the purposes of the bond, he shall make an order refusing to accept or rejecting, as the case may be, such surety and recording his reasons for so doing:

Provided that, before making an order rejecting any surety who has previously been accepted, the Magistrate shall issue his summons or warrant, as he thinks fit, and cause the person for whom the surety is bound to appear or to be brought before him.

122. (1) (a) If any person ordered to give security under section 106 or section 117 does not give such security on or before the date on which the period for which such security is to be given commences, he shall, except in the case next hereinafter mentioned, be committed to prison,

Imprison-
ment in
default of
security.

or, if he is already in prison, be detained in prison until such period expires or until within such period he gives the security to the Court or Magistrate who made the order requiring it.

(b) If any person after having executed a bond without sureties for keeping the peace in pursuance of an order of a Magistrate under section 117, is proved, to the satisfaction of such Magistrate or his successor-in-office, to have committed breach of the bond, such Magistrate or successor-in-office may, after recording the grounds of such proof, order that the person be arrested and detained in prison until the expiry of the period of the bond and such order shall be without prejudice to any other punishment or forfeiture to which the said person may be liable in accordance with law.

(2) When such person has been ordered by a Magistrate to give security for a period exceeding one year, such Magistrate shall, if such person does not give such security as aforesaid, issue a warrant directing him to be detained in prison pending the orders of the Sessions Judge and the proceedings shall be laid, as soon as conveniently may be, before such Court.

(3) Such Court, after examining such proceedings and requiring from the Magistrate any further information or evidence which it thinks necessary, and after giving the concerned person a reasonable opportunity of being heard, may pass such order on the case as it thinks fit:

Provided that the period (if any) for which any person is imprisoned for failure to give security shall not exceed three years.

(4) If security has been required in the course of the same proceeding from two or more persons in respect of any one of whom the proceedings are referred to the Sessions Judge under sub-section (2), such reference shall also include the case of any other of such persons who has been ordered to give security, and the provisions of sub-sections (2) and (3) shall, in that event, apply to the case of such other person also, except that the period (if any) for which he may be imprisoned, shall not exceed the period for which he was ordered to give security.

(5) A Sessions Judge may in his discretion transfer any proceedings laid before him under sub-section (2) or sub-section (4) to an Additional Sessions Judge or Assistant Sessions Judge and upon such transfer, such Additional Sessions Judge or Assistant Sessions Judge may exercise the powers of a Sessions Judge under this section in respect of such proceedings.

(6) If the security is tendered to the officer in charge of the jail, he shall forthwith refer the matter to the Court or Magistrate who made the order, and shall await the orders of such Court or Magistrate.

(7) Imprisonment for failure to give security for keeping the peace shall be simple.

(8) Imprisonment for failure to give security for good behaviour shall, where the proceedings have been taken under section 108, be simple, and, where the proceedings have been taken under section 109 or section 110, be rigorous or simple as the Court or Magistrate in each case directs.

Power to release persons imprisoned for failing to give security.

123. (1) Whenever the Chief Judicial Magistrate is of opinion that any person imprisoned for failing to give security under this Chapter may be released without hazard to the community or to any other person, he may order such person to be discharged.

↓ Subs. by Act 45 of 1978, S. 12.

(2) Whenever any person has been imprisoned for failing to give security under this Chapter, the High Court or Court of Session, or, where the order was made by any other Court, the Chief Judicial Magistrate, may make an order reducing the amount of the security or the number of sureties or the time for which security has been required.

(3) An order under sub-section (1) may direct the discharge of such person either without conditions or upon any conditions which such person accepts:

Provided that any condition imposed shall cease to be operative when the period for which such person was ordered to give security has expired.

(4) The State Government may prescribe the conditions upon which a conditional discharge may be made.

(5) If any condition upon which any person has been discharged is, in the opinion of the Chief Judicial Magistrate by whom the order of discharge was made or of his successor, not fulfilled, he may cancel the same.

(6) When a conditional order of discharge has been cancelled under sub-section (5), such person may be arrested by any police officer without warrant, and shall thereupon be produced before the Chief Judicial Magistrate.

(7) Unless such person gives security in accordance with the terms of the original order for the unexpired portion of the term for which he was in the first instance committed or ordered to be detained (such portion being deemed to be a period equal to the period between the date of the breach of the conditions of discharge and the date on which, except for such conditional discharge, he would have been entitled to release), the Chief Judicial Magistrate may remand such person to prison to undergo such unexpired portion.

(8) A person remanded to prison under sub-section (7) shall, subject to the provisions of section 122, be released at any time on giving security in accordance with the terms of the original order for the unexpired portion aforesaid to the Court or Magistrate by whom such order was made, or to its or his successor.

(9) The High Court or Court of Session may at any time, for sufficient reasons to be recorded in writing, cancel any bond for keeping the peace or for good behaviour executed under this Chapter by any order made by it, and the Chief Judicial Magistrate may make such cancellation where such bond was executed under his order or under the order of any other Court in his district.

(10) Any surety for the peaceable conduct or good behaviour of another person ordered to execute a bond under this Chapter may at any time apply to the Court making such order to cancel the bond and on such application being made, the Court shall issue a summons or warrant, as it thinks fit, requiring the person for whom such surety is bound to appear or to be brought before it.

124. (1) When a person for whose appearance a summons or warrant has been issued under the proviso to sub-section (3) of section 121 or under sub-section (10) of section 123, appears or is brought before the Magistrate or Court, the Magistrate or Court shall cancel the bond

Security
for un-
expired
period of
bond.

✓ Extra by Act 45 of 1978, S. 12.

executed by such person and shall order such person to give, for the unexpired portion of the term of such bond, fresh security of the same description as the original security.

(2) Every such order shall, for the purposes of sections 120 to 123 (both inclusive), be deemed to be an order made under section 106 or section 117, as the case may be.

CHAPTER IX

ORDER FOR MAINTENANCE OF WIVES, CHILDREN AND PARENTS

Order for maintenance of wives, children and parents.

125. (1) If any person having sufficient means neglects or refuses to maintain—

(a) his wife, unable to maintain herself, or

(b) his legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or

(c) his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself, or

(d) his father or mother, unable to maintain himself or herself,

a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother, at such monthly rate not exceeding five hundred rupees in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate may from time to time direct:

Provided that the Magistrate may order the father of a minor female child referred to in clause (b) to make such allowance, until she attains her majority, if the Magistrate is satisfied that the husband of such minor female child, if married, is not possessed of sufficient means.

Explanation.—For the purposes of this Chapter,—

(a) "minor" means a person who, under the provisions of the Indian Majority Act, 1875 is deemed not to have attained his majority;

(b) "wife" includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not remarried.

(2) Such allowance shall be payable from the date of the order, or, if so ordered, from the date of the application for maintenance,

(3) If any person so ordered fails without sufficient cause to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person, for the whole or any part of each month's allowance remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made:

Provided that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due:

Provided further that if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing.

Explanation.—If a husband has contracted marriage with another woman or keeps a mistress, it shall be considered to be just ground for his wife's refusal to live with him.

(4) No wife shall be entitled to receive an allowance from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

(5) On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuses to live with her husband, or that they are living separately by mutual consent, the Magistrate shall cancel the order.

126. (1) Proceedings under section 125 may be taken against any person in any district—

- (a) where he is, or
- (b) where he or his wife resides, or
- (c) where he last resided with his wife, or as the case may be, with the mother of the illegitimate child.

(2) All evidence in such proceedings shall be taken in the presence of the person against whom an order for payment of maintenance is proposed to be made, or, when his personal attendance is dispensed with in the presence of his pleader, and shall be recorded in the manner prescribed for summons-cases:

Provided that if the Magistrate is satisfied that the person against whom an order for payment of maintenance is proposed to be made is wilfully avoiding service, or wilfully neglecting to attend the Court, the Magistrate may proceed to hear and determine the case *ex parte* and any order so made may be set aside for good cause shown on an application made within three months from the date thereof subject to such terms including terms as to payment of costs to the opposite party as the Magistrate may think just and proper.

(3) The Court in dealing with applications under section 125 shall have power to make such order as to costs as may be just.

**Alteration
in allow-
ance.**

127. (1) On proof of a change in the circumstances of any person, receiving, under section 125 a monthly allowance, or ordered under the same section to pay a monthly allowance to his wife, child, father or mother, as the case may be, the Magistrate may make such alteration in the allowance as he thinks fit:

Provided that if he increases the allowance, the monthly rate of five hundred rupees in the whole shall not be exceeded.

(2) Where it appears to the Magistrate that, in consequence of any decision of a competent Civil Court, any order made under section 125 should be cancelled or varied, he shall cancel the order or, as the case may be, vary the same accordingly.

(3) Where any order has been made under section 125 in favour of a woman who has been divorced by, or has obtained a divorce from, her husband, the Magistrate shall, if he is satisfied that—

(a) the woman has, after the date of such divorce, remarried, cancel such order as from the date of her remarriage;

(b) the woman has been divorced by her husband and that she has received, whether before or after the date of the said order, the whole of the sum which, under any customary or personal law applicable to the parties, was payable on such divorce, cancel such order,—

(i) in the case where such sum was paid before such order, from the date on which such order was made,

(ii) in any other case, from the date of expiry of the period, if any, for which maintenance has been actually paid by the husband to the woman;

(c) the woman has obtained a divorce from her husband and that she had voluntarily surrendered her rights to maintenance after her divorce, cancel the order from the date thereof.

(4) At the time of making any decree for the recovery of any maintenance or dowry by any person, to whom a monthly allowance has been ordered to be paid under section 125, the Civil Court shall take into account the sum which has been paid to, or recovered by, such person as monthly allowance in pursuance of the said order.

**Enforce-
ment of
order of
main-
tenance.**

128. A copy of the order of maintenance shall be given without payment to the person in whose favour it is made, or to his guardian, if any, or to the person to whom the allowance is to be paid; and such order may be enforced by any Magistrate in any place where the person against whom it is made may be, on such Magistrate being satisfied as to the identity of the parties and the non-payment of the allowance due.

CHAPTER X

MAINTENANCE OF PUBLIC ORDER AND TRANQUILLITY

A.—Unlawful assemblies

**Dispersal
of assem-
bly by
use of
civil
force.**

129. (1) Any Executive Magistrate or officer incharge of a police station or, in the absence of such officer incharge, any police officer, not below the rank of a sub-inspector, may command any unlawful assembly, or any assembly of five or more persons likely to cause a disturbance of the public peace, to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

(2) If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any Executive Magistrate or police officer referred to in sub-section (1), may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer or member of the armed forces and acting as such, for the purpose of dispersing such assembly, and, if necessary, arresting and confining the persons who form part of it, in order to disperse such assembly or that they may be punished according to law.

130. (1) If any such assembly cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed, the Executive Magistrate of the highest rank who is present may cause it to be dispersed by the armed forces.

Use of
armed
forces to
disperse
assembly.

(2) Such Magistrate may require any officer in command of any group of persons belonging to the armed forces to disperse the assembly with the help of the armed forces under his command, and to arrest and confine such persons forming part of it as the Magistrate may direct, or as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law.

(3) Every such officer of the armed forces shall obey such requisition in such manner as he thinks fit, but in so doing he shall use as little force, and do as little injury to person and property, as may be consistent with dispersing the assembly and arresting and detaining such persons.

131. When the public security is manifestly endangered by any such assembly and no Executive Magistrate can be communicated with, any commissioned or gazetted officer of the armed forces may disperse such assembly with the help of the armed forces under his command, and may arrest and confine any persons forming part of it, in order to disperse such assembly or that they may be punished according to law; but if, while he is acting under this section, it becomes practicable for him to communicate with an Executive Magistrate, he shall do so, and shall thenceforward obey the instructions of the Magistrate, as to whether he shall or shall not continue such action.

Power of
certain
armed
force
officers
to dis-
perse
assembly.

132. (1) No prosecution against any person for any act purporting to be done under section 129, section 130 or section 131 shall be instituted in any Criminal Court except—

Protection
against
prosecu-
tion for
acts done
under
preceding
sections.

(a) with the sanction of the Central Government where such person is an officer or member of the armed forces;

(b) with the sanction of the State Government in any other case.

(2) (a) No Executive Magistrate or police officer acting under any of the said sections in good faith;

(b) no person doing any act in good faith in compliance with a requisition under section 129 or section 130;

(c) no officer of the armed forces acting under section 131 in good faith;

(d) no member of the armed forces doing any act in obedience to any order which he was bound to obey,

shall be deemed to have thereby committed an offence.

(3) In this section and in the preceding sections of this Chapter,—

(a) the expression "armed forces" means the military, naval and air forces, operating as land forces and includes any other Armed Forces of the Union so operating;

(b) "officer", in relation to the armed forces, means a person commissioned, gazetted or in pay as an officer of the armed forces and includes a junior commissioned officer, a warrant officer, a petty officer, a non-commissioned officer and a non-gazetted officer;

(c) "member", in relation to the armed forces, means a person in the armed forces other than an officer.

B.—Public nuisances

Conditional
order for
removal
of
nuisance.

133. (1) Whenever a District Magistrate or a Sub-divisional Magistrate or any other Executive Magistrate specially empowered in this behalf by the State Government, on receiving the report of a police officer or other information and on taking such evidence (if any) as he thinks fit, considers—

(a) that any unlawful obstruction or nuisance should be removed from any public place or from any way, river or channel which is or may be lawfully used by the public; or

(b) that the conduct of any trade or occupation, or the keeping of any goods or merchandise, is injurious to the health or physical comfort of the community, and that in consequence such trade or occupation should be prohibited or regulated or such goods or merchandise should be removed or the keeping thereof regulated; or

(c) that the construction of any building, or, the disposal of any substance, as is likely to occasion conflagration or explosion, should be prevented or stopped; or

(d) that any building, tent or structure, or any tree is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that in consequence the removal, repair or support of such building, tent or structure, or the removal or support of such tree, is necessary; or

(e) that any tank, well or excavation adjacent to any such way or public place should be fenced in such manner as to prevent danger arising to the public; or

(f) that any dangerous animal should be destroyed, confined or otherwise disposed of,

such Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such building, tent, structure, substance, tank, well or

excavation, or owning or possessing such animal or tree, within a time to be fixed in the order—

- (i) to remove such obstruction or nuisance; or
- (ii) to desist from carrying on, or to remove or regulate in such manner as may be directed, such trade or occupation, or to remove such goods or merchandise, or to regulate the keeping thereof in such manner as may be directed; or
- (iii) to prevent or stop the construction of such building, or to alter the disposal of such substance; or
- (iv) to remove, repair or support such building, tent or structure, or to remove or support such trees; or
- (v) to fence such tank, well or excavation; or
- (vi) to destroy, confine or dispose of such dangerous animal in the manner provided in the said order;

or, if he objects so to do, to appear before himself or some other Executive Magistrate subordinate to him at a time and place to be fixed by the order, and show cause, in the manner hereinafter provided, why the order should not be made absolute.

(2) No order duly made by a Magistrate under this section shall be called in question in any Civil Court.

Explanation.—A “public place” includes also property belonging to the State, camping grounds and grounds left unoccupied for sanitary or recreative purposes.

134. (1) The order shall, if practicable, be served on the person against whom it is made, in the manner herein provided for service of a summons.

(2) If such order cannot be so served, it shall be notified by proclamation, published in such manner as the State Government may, by rules, direct, and a copy thereof shall be stuck up at such place or places as may be fittest for conveying the information to such person.

135. The person against whom such order is made shall—

- (a) perform, within the time and in the manner specified in the order, the act directed thereby; or
- (b) appear in accordance with such order and show cause against the same.

136. If such person does not perform such act or appear and show cause, he shall be liable to the penalty prescribed in that behalf in section 188 of the Indian Penal Code, and the order shall be made absolute.

137. (1) Where an order is made under section 133 for the purpose of preventing obstruction, nuisance or danger to the public in the use of any way, river, channel or place, the Magistrate shall, on the appearance before him of the person against whom the order was made, question him as to whether he denies the existence of any public right in respect of the way, river, channel or place, and if he does so, the Magistrate shall, before proceeding under section 138, inquire into the matter.

Service or
notifica-
tion of
order.

Person to
whom or-
der is ad-
dressed to
obey or
show
cause.

Conse-
quences
of his
failing to
do so.

Proce-
dure
where
existence
of public
right is
denied.

(2) If in such inquiry the Magistrate finds that there is any reliable evidence in support of such denial, he shall stay the proceedings until the matter of the existence of such right has been decided by a competent Court; and, if he finds that there is no such evidence, he shall proceed as laid down in section 138.

(3) A person who has, on being questioned by the Magistrate under sub-section (1), failed to deny the existence of a public right of the nature therein referred to, or who, having made such denial, has failed to adduce reliable evidence in support thereof, shall not in the subsequent proceedings be permitted to make any such denial.

**Proce-
dure
where he
appears to
show
cause.**

138. (1) If the person against whom an order under section 133 is made appears and shows cause against the order, the Magistrate shall take evidence in the matter as in a summons-case.

(2) If the Magistrate is satisfied that the order, either as originally made or subject to such modification as he considers necessary, is reasonable and proper, the order shall be made absolute without modification or, as the case may be, with such modification.

(3) If the Magistrate is not so satisfied, no further proceedings shall be taken in the case.

**Power of
Magis-
trate to
direct
local in-
vestiga-
tion and
examina-
tion of
an expert.**

139. The Magistrate may, for the purposes of an inquiry under section 137 or section 138—

(a) direct a local investigation to be made by such person as he thinks fit; or

(b) summon and examine an expert.

**Power of
Magis-
trate to
furnish
written
instruc-
tions, etc.**

140. (1) Where the Magistrate directs a local investigation by any person under section 139, the Magistrate may—

(a) furnish such person with such written instructions as may seem necessary for his guidance;

(b) declare by whom the whole or any part of the necessary expenses of the local investigation shall be paid.

(2) The report of such person may be read as evidence in the case.

(3) Where the Magistrate summons and examines an expert under section 139, the Magistrate may direct by whom the costs of such summoning and examination shall be paid.

**Proce-
dure on
order
being
made
absolute
and
conse-
quences
of disobe-
dience.**

141. (1) When an order has been made absolute under section 136 or section 138, the Magistrate shall give notice of the same to the person against whom the order was made, and shall further require him to perform the act directed by the order within a time to be fixed in the notice, and inform him that, in case of disobedience, he will be liable to the penalty provided by section 188 of the Indian Penal Code.

(2) If such act is not performed within the time fixed, the Magistrate may cause it to be performed, and may recover the costs of performing it, either by the sale of any building, goods or other property removed by his order, or by the distress and sale of any other movable property of such person within or without such Magistrate's local jurisdiction and if such other property is without such jurisdiction, the order shall authorise

its attachment and sale when endorsed by the Magistrate within whose local jurisdiction the property to be attached is found.

(3) No suit shall lie in respect of anything done in good faith under this section.

142. (1) If a Magistrate making an order under section 133 considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public, he may issue such an injunction to the person against whom the order was made, as is required to obviate or prevent such danger or injury pending the determination of the matter.

Injunction pending inquiry.

(2) In default of such person forthwith obeying such injunction, the Magistrate may himself use, or cause to be used, such means as he thinks fit to obviate such danger or to prevent such injury.

(3) No suit shall lie in respect of anything done in good faith by a Magistrate under this section.

143. A District Magistrate or Sub-divisional Magistrate, or any other Executive Magistrate empowered by the State Government or the District Magistrate in this behalf, may order any person not to repeat or continue a public nuisance, as defined in the Indian Penal Code, or any special or local law.

Magistrate may prohibit repetition or continuance of public nuisance

45 of 1860.

C.—Urgent cases of nuisance or apprehended danger

144. (1) In cases where, in the opinion of a District Magistrate, a Sub-divisional Magistrate or any other Executive Magistrate specially empowered by the State Government in this behalf, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable, such Magistrate may, by a written order stating the material facts of the case and served in the manner provided by section 134, direct any person to abstain from a certain act or to take certain order with respect to certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquillity, or a riot, or an affray.

Power to issue order in urgent cases of nuisance or apprehended danger.

(2) An order under this section may, in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed, be passed *ex parte*.

(3) An order under this section may be directed to a particular individual, or to persons residing in a particular place or area, or to the public generally when frequenting or visiting a particular place or area.

(4) No order under this section shall remain in force for more than two months from the making thereof:

Provided that, if the State Government considers it necessary so to do for preventing danger to human life, health or safety or for preventing a riot or any affray, it may, by notification, direct that an order made by a Magistrate under this section shall remain in force for such further

period not exceeding six months from the date on which the order made by the Magistrate would have, but for such order, expired, as it may specify in the said notification.

(5) Any Magistrate may, either on his own motion or on the application of any person aggrieved, rescind or alter any order made under this section, by himself or any Magistrate subordinate to him or by his predecessor-in-office.

(6) The State Government may, either on its own motion or on the application of any person aggrieved, rescind or alter any order made by it under the proviso to sub-section (4).

(7) Where an application under sub-section (5) or sub-section (6) is received, the Magistrate, or the State Government, as the case may be, shall afford to the applicant an early opportunity of appearing before him or it, either in person or by pleader and showing cause against the order; and if the Magistrate or the State Government, as the case may be, rejects the application wholly or in part, he or it shall record in writing the reasons for so doing.

D.—Disputes as to immovable property

Procedure where dispute concerning land or water is likely to cause breach of peace.

145. (1) Whenever an Executive Magistrate is satisfied from a report of a police officer or upon other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within his local jurisdiction, he shall make an order in writing, stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court in person or by pleader, on a specified date and time, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute.

(2) For the purposes of this section, the expression "land or water" includes buildings, markets, fisheries, crops or other produce of land, and the rents or profits of any such property.

(3) A copy of the order shall be served in the manner provided by this Code for the service of a summons upon such person or persons as the Magistrate may direct, and at least one copy shall be published by being affixed to some conspicuous place at or near the subject of dispute.

(4) The Magistrate shall then, without reference to the merits or the claims of any of the parties to a right to possess the subject of dispute, peruse the statements so put in, hear the parties, receive all such evidence as may be produced by them, take such further evidence, if any, as he thinks necessary, and, if possible, decide whether any and which of the parties was, at the date of the order made by him under sub-section (1), in possession of the subject of dispute:

Provided that if it appears to the Magistrate that any party has been forcibly and wrongfully dispossessed within two months next before the date on which the report of a police officer or other information was received by the Magistrate, or after that date and before the date of his order under sub-section (1), he may treat the party so dispossessed as if that party had been in possession on the date of his order under sub-section (1).

(5) Nothing in this section shall preclude any party so required to attend, or any other person interested, from showing that no such dispute as aforesaid exists or has existed; and in such case the Magistrate shall cancel his said order, and all further proceedings thereon shall be stayed, but, subject to such cancellation, the order of the Magistrate under sub-section (1) shall be final.

(6) (a) If the Magistrate decides that one of the parties was, or should under the proviso to sub-section (4) be treated as being, in such possession of the said subject, he shall issue an order declaring such party to be entitled to possession thereof until evicted therefrom in due course of law, and forbidding all disturbance of such possession until such eviction; and when he proceeds under the proviso to sub-section (4), may restore to possession the party forcibly, and wrongfully dispossessed.

(b) The order made under this sub-section shall be served and published in the manner laid down in sub-section (3).

(7) When any party to any such proceeding dies, the Magistrate may cause the legal representative of the deceased party to be made a party to the proceeding and shall thereupon continue the inquiry, and if any question arises as to who the legal representative of a deceased party for the purposes of such proceeding is, all persons claiming to be representatives of the deceased party shall be made parties thereto.

(8) If the Magistrate is of opinion that any crop or other produce of the property, the subject of dispute in a proceeding under this section pending before him, is subject to speedy and natural decay, he may make an order for the proper custody or sale of such property, and, upon the completion of the inquiry, shall make such order for the disposal of such property, or the sale-proceeds thereof, as he thinks fit.

(9) The Magistrate may, if he thinks fit, at any stage of the proceedings under this section, on the application of either party, issue a summons to any witness directing him to attend or to produce any document or thing.

(10) Nothing in this section shall be deemed to be in derogation of the powers of the Magistrate to proceed under section 107.

Power to attach subject of dispute and to appoint receiver.

146. (1) If the Magistrate at any time after making the order under sub-section (1) of section 145 considers the case to be one of emergency, or if he decides that none of the parties was then in such possession as is referred to in section 145, or if he is unable to satisfy himself as to which of them was then in such possession of the subject of dispute, he may attach the subject of dispute until a competent Court has determined the rights of the parties thereto with regard to the person entitled to the possession thereof:

Provided that such Magistrate may withdraw the attachment at any time if he is satisfied that there is no longer any likelihood of breach of the peace with regard to the subject of dispute.

(2) When the Magistrate attaches the subject of dispute, he may, if no receiver in relation to such subject of dispute has been appointed by any Civil Court, make such arrangements as he considers proper for looking after the property or if he thinks fit, appoint a receiver thereof, who shall have, subject to the control of the Magistrate, all the powers of a receiver appointed under the Code of Civil Procedure, 1908:

5 of 1908

Provided that in the event of a receiver being subsequently appointed in relation to the subject of dispute by any Civil Court, the Magistrate—

(a) shall order the receiver appointed by him to hand over the possession of the subject of dispute to the receiver appointed by the Civil Court and shall thereafter discharge the receiver appointed by him;

(b) may make such other incidental or consequential orders as may be just.

Dispute concerning right of use of land or water.

147. (1) Whenever an Executive Magistrate is satisfied from the report of a police officer or upon other information, that a dispute likely to cause a breach of the peace exists regarding any alleged right of user of any land or water within his local jurisdiction, whether such right be claimed as an easement or otherwise, he shall make an order in writing, stating the grounds of his being so satisfied and requiring the parties concerned in such dispute to attend his Court in person or by pleader on a specified date and time and to put in written statements of their respective claims.

Explanation.—The expression “land or water” has the meaning given to it in sub-section (2) of section 145.

(2) The Magistrate shall then peruse the statements so put in, hear the parties, receive all such evidence as may be produced by them respectively, consider the effect of such evidence, take such further evidence, if any, as he thinks necessary and, if possible, decide whether such right exists; and the provisions of section 145 shall, so far as may be, apply in the case of such inquiry.

(3) If it appears to such Magistrate that such rights exist, he may make an order prohibiting any interference with the exercise of such right, including, in a proper case, an order for the removal of any obstruction in the exercise of any such right:

Provided that no such order shall be made where the right is exercisable at all times of the year, unless such right has been exercised within three months next before the receipt under sub-section (1) of the report of a police officer or other information leading to the institution of the inquiry, or where the right is exercisable only at particular seasons or on particular occasions, unless the right has been exercised during the last of such seasons or on the last of such occasions before such receipt.

(4) When in any proceedings commenced under sub-section (1) of section 145 the Magistrate finds that the dispute is as regards an alleged right of user of land or water, he may, after recording his reasons, continue with the proceedings as if they had been commenced under sub-section (1);

and when in any proceedings commenced under sub-section (1) the Magistrate finds that the dispute should be dealt with under section 145, he may, after recording his reasons, continue with the proceedings as if they had been commenced under sub-section (1) of section 145.

148. (1) Whenever a local inquiry is necessary for the purposes of section 145, section 146 or section 147, a District Magistrate or Sub-divisional Magistrate may depute any Magistrate subordinate to him to make the inquiry, and may furnish him with such written instructions as may seem necessary for his guidance, and may declare by whom the whole or any part of the necessary expenses of the inquiry shall be paid.

Local inquiry.

(2) The report of the person so deputed may be read as evidence in the case.

(3) When any costs have been incurred by any party to a proceeding under section 145, section 146 or section 147, the Magistrate passing a decision may direct by whom such costs shall be paid, whether by such party or by any other party to the proceeding, and whether in whole or in part or proportion and such costs may include any expenses incurred in respect of witnesses and of pleaders' fees, which the Court may consider reasonable.

CHAPTER XI

PREVENTIVE ACTION OF THE POLICE

149. Every police officer may interpose for the purpose of preventing, and shall, to the best of his ability, prevent, the commission of any cognizable offence.

Police to prevent cognizable offences.

150. Every police officer receiving information of a design to commit any cognizable offence shall communicate such information to the police officer to whom he is subordinate, and to any other officer whose duty it is to prevent or take cognizance of the commission of any such offence.

Information of design to commit cognizable offences.

Arrest to prevent the commission of cognizable offences.

Prevention of injury to public property.

Inspection of weights and measures.

Information in cognizable cases.

Information as to non-cognizable cases and investigation of such cases.

151. (1) A police officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented.

(2) No person arrested under sub-section (1) shall be detained in custody for a period exceeding twenty-four hours from the time of his arrest unless his further detention is required or authorised under any other provisions of this Code or of any other law for the time being in force.

152. A police officer may of his own authority interpose to prevent any injury attempted to be committed in his view to any public property, movable or immovable, or the removal or injury of any public landmark or buoy or other mark used for navigation.

153. (1) Any officer in charge of a police station may, without a warrant, enter any place within the limits of such station for the purpose of inspecting or searching for any weights or measures or instruments for weighing, used or kept therein, whenever he has reason to believe that there are in such place any weights, measures or instruments for weighing which are false.

(2) If he finds in such place any weights, measures or instruments for weighing which are false, he may seize the same, and shall forthwith give information of such seizure to a Magistrate having jurisdiction.

CHAPTER XII

INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE

154. (1) Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf.

(2) A copy of the information as recorded under sub-section (1) shall be given forthwith, free of cost, to the informant.

(3) Any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in sub-section (1) may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by this Code, and such officer shall have all the powers of an officer in charge of the police station in relation to that offence.

155. (1) When information is given to an officer in charge of a police station of the commission within the limits of such station of a non-cognizable offence, he shall enter or cause to be entered the substance of the information in a book to be kept by such officer in such form as the State Government may prescribe in this behalf, and refer the informant to the Magistrate.

(2) No police officer shall investigate a non-cognizable case without the order of a Magistrate having power to try such case or commit the case for trial.

(3) Any police officer receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a police station may exercise in a cognizable case.

(4) Where a case relates to two or more offences of which at least one is cognizable, the case shall be deemed to be a cognizable case, notwithstanding that the other offences are non-cognizable.

156. (1) Any officer in charge of a police station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XIII.

(2) No proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

(3) Any Magistrate empowered under section 190 may order such an investigation as above-mentioned.

157. (1) If, from information received or otherwise, an officer in charge of a police station has reason to suspect the commission of an offence which he is empowered under section 156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police report and shall proceed in person, or shall depute one of his subordinate officers not being below such rank as the State Government may, by general or special order, prescribe in this behalf, to proceed, to the spot, to investigate the facts and circumstances of the case, and, if necessary, to take measures for the discovery and arrest of the offender:

Provided that—

(a) when information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer in charge of a police station need not proceed in person or depute a subordinate officer to make an investigation on the spot;

(b) if it appears to the officer in charge of a police station that there is no sufficient ground for entering on an investigation, he shall not investigate the case.

(2) In each of the cases mentioned in clauses (a) and (b) of the proviso to sub-section (1), the officer in charge of the police station shall state in his report his reasons for not fully complying with the requirements of that sub-section, and, in the case mentioned in clause (b) of the said proviso, the officer shall also forthwith notify to the informant, if any, in such manner as may be prescribed by the State Government, the fact that he will not investigate the case or cause it to be investigated.

Police
officer's
power to
investi-
gate
cognizable
case.

Proce-
dure for
investi-
gation.

Report how submitted.

158. (1) Every report sent to a Magistrate under section 157 shall, if the State Government so directs, be submitted through such superior officer of police as the State Government, by general or special order, appoints in that behalf.

(2) Such superior officer may give such instructions to the officer in charge of the police station as he thinks fit, and shall, after recording such instructions on such report, transmit the same without delay to the Magistrate.

Power to hold investigation or preliminary inquiry.

159. Such Magistrate, on receiving such report, may direct an investigation, or, if he thinks fit, at once proceed, or depute any Magistrate subordinate to him to proceed, to hold a preliminary inquiry into, or otherwise to dispose of, the case in the manner provided in this Code.

Police officer's power to require attendance of witnesses.

160. (1) Any police officer making an investigation under this Chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the facts and circumstances of the case; and such person shall attend as so required:

Provided that no male person under the age of fifteen years or woman shall be required to attend at any place other than the place in which such male person or woman resides.

(2) The State Government may, by rules made in this behalf, provide for the payment by the police officer of the reasonable expenses of every person, attending under sub-section (1) at any place other than his residence.

Examination of witnesses by police.

161. (1) Any police officer making an investigation under this Chapter, or any police officer not below such rank as the State Government may, by general or special order, prescribe in this behalf, acting on the requisition of such officer, may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(2) Such person shall be bound to answer truly all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

(3) The police officer may reduce into writing any statement made to him in the course of an examination under this section; and if he does so, he shall make a separate and true record of the statement of each such person whose statement he records.

Statements to police not to be signed:
Use of statements in evidence.

162. (1) No statement made by any person to a police officer in the course of an investigation under this Chapter, shall, if reduced to writing, be signed by the person making it; nor shall any such statement or any record thereof, whether in a police diary or otherwise, or any part of such statement or record, be used for any purpose, save as hereinafter provided, at any inquiry or trial in respect of any offence under investigation at the time when such statement was made:

1 of 1872.

Provided that when any witness is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid, any part of his statement, if duly proved, may be used by the accused, and with the permission of the Court, by the prosecution, to contradict such witness in the manner provided by section 145 of the Indian Evidence Act, 1872; and when any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination.

1 of 1872.

(2) Nothing in this section shall be deemed to apply to any statement falling within the provisions of clause (1) of section 32 of the Indian Evidence Act, 1872, or to affect the provisions of section 27 of that Act.

Explanation.—An omission to state a fact or circumstance in the statement referred to in sub-section (1) may amount to contradiction if the same appears to be significant and otherwise relevant having regard to the context in which such omission occurs and whether any omission amounts to a contradiction in the particular context shall be a question of fact.

163. (1) No police officer or other person in authority shall offer or make, or cause to be offered or made, any such inducement, threat or promise as is mentioned in section 24 of the Indian Evidence Act, 1872.

(2) But no police officer or other person shall prevent, by any caution or otherwise, any person from making in the course of any investigation under this Chapter any statement which he may be disposed to make of his own free will:

Provided that nothing in this sub-section shall affect the provisions of sub-section (4) of section 164.

164. (1) Any Metropolitan Magistrate or Judicial Magistrate may, whether or not he has jurisdiction in the case, record any confession or statement made to him in the course of an investigation under this Chapter or under any other law for the time being in force, or at any time afterwards before the commencement of the inquiry or trial:

Provided that no confession shall be recorded by a police officer on whom any power of a Magistrate has been conferred under any law for the time being in force.

(2) The Magistrate shall, before recording any such confession, explain to the person making it that he is not bound to make a confession and that, if he does so, it may be used as evidence against him; and the Magistrate shall not record any such confession unless, upon questioning the person making it, he has reason to believe that it is being made voluntarily.

(3) If at any time before the confession is recorded, the person appearing before the Magistrate states that he is not willing to make the confession, the Magistrate shall not authorise the detention of such person in police custody.

(4) Any such confession shall be recorded in the manner provided in section 281 for recording the examination of an accused person and shall

No inducement to be offered.

Recording of confessions and statements.

be signed by the person making the confession; and the Magistrate shall make a memorandum at the foot of such record to the following effect:—

“I have explained to (name) that he is not bound to make a confession and that, if he does so, any confession he may make may be used as evidence against him and I believe that this confession was voluntarily made. It was taken in my presence and hearing, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him.

(Signed) A. B.
Magistrate”.

(5) Any statement (other than a confession) made under sub-section (1) shall be recorded in such manner hereinafter provided for the recording of evidence as is, in the opinion of the Magistrate, best fitted to the circumstances of the case; and the Magistrate shall have power to administer oath to the person whose statement is so recorded.

(6) The Magistrate recording a confession or statement under this section shall forward it to the Magistrate by whom the case is to be inquired into or tried.

**Search
by police
officer.**

165. (1) Whenever an officer in charge of a police station or a police officer making an investigation has reasonable grounds for believing that anything necessary for the purposes of an investigation into any offence which he is authorised to investigate may be found in any place within the limits of the police station of which he is in charge, or to which he is attached, and that such thing cannot in his opinion be otherwise obtained without undue delay, such officer may, after recording in writing the grounds of his belief and specifying in such writing, so far as possible, the thing for which search is to be made, search, or cause search to be made, for such thing in any place within the limits of such station.

(2) A police officer proceeding under sub-section (1), shall, if practicable, conduct the search in person.

(3) If he is unable to conduct the search in person, and there is no other person competent to make the search present at the time, he may, after recording in writing his reasons for so doing, require any officer subordinate to him to make the search, and he shall deliver to such subordinate officer an order in writing, specifying the place to be searched, and so far as possible, the thing for which search is to be made; and such subordinate officer may thereupon search for such thing in such place.

(4) The provisions of this Code as to search-warrants and the general provisions as to searches contained in section 100 shall, so far as may be, apply to a search made under this section.

(5) Copies of any record made under sub-section (1) or sub-section (3) shall forthwith be sent to the nearest Magistrate empowered to take cognizance of the offence, and the owner or occupier of the place searched shall, on application, be furnished, free of cost, with a copy of the same by the Magistrate.

166. (1) An officer in charge of a police station or a police officer not being below the rank of sub-inspector making an investigation may require an officer in charge of another police station, whether in the same or a different district, to cause a search to be made in any place, in any case in which the former officer might cause such search to be made, within the limits of his own station.

(2) Such officer, on being so required, shall proceed according to the provisions of section 165, and shall forward the thing found, if any, to the officer at whose request the search was made.

(3) Whenever there is reason to believe that the delay occasioned by requiring an officer in-charge of another police station to cause a search to be made under sub-section (1) might result in evidence of the commission of an offence being concealed or destroyed, it shall be lawful for an officer in-charge of a police station or a police officer making any investigation under this Chapter to search, or cause to be searched, any place in the limits of another police station in accordance with the provisions of section 165, as if such place were within the limits of his own police station.

(4) Any officer conducting a search under sub-section (3) shall forthwith send notice of the search to the officer in charge of the police station within the limits of which such place is situate, and shall also send with such notice a copy of the list (if any) prepared under section 100, and shall also send to the nearest Magistrate empowered to take cognizance of the offence, copies of the records referred to in sub-sections (1) and (3) of section 165.

(5) The owner or occupier of the place searched shall, on application, be furnished free of cost with a copy of any record sent to the Magistrate under sub-section (4).

167. (1) Whenever any person is arrested and detained in custody, and it appears that the investigation cannot be completed within the period of twenty-four hours fixed by section 57, and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of sub-inspector, shall forthwith transmit to the nearest Judicial Magistrate a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused to such Magistrate.

(2) The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case, from time to time, authorise the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole; and if he has no jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction:

Provided that—

(a) the Magistrate may authorise detention of the accused person, otherwise than in custody of the police, beyond the period of fifteen days if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused person in custody under this section for a total period exceeding

When
officer in
charge of
police
station
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require
another
to issue
search-
warrant.

Proce-
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be com-
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in
twenty
four
hours.

sixty days, and on the expiry of the said period of sixty days, the accused person shall be released on bail if he is prepared to and does furnish bail; and every person released on bail under this section shall be deemed to be so released under the provisions of Chapter XXXIII for the purposes of that Chapter;

(b) no Magistrate shall authorise detention in any custody under this section unless the accused is produced before him;

(c) no Magistrate of the second class, not specially empowered in this behalf by the High Court, shall authorise detention in the custody of the police.

Explanation.—If any question arises whether an accused person was produced before the Magistrate as required under paragraph (b), the production of the accused person may be proved by his signature on the order authorising detention.

(3) A Magistrate authorising under this section detention in the custody of the police shall record his reasons for so doing.

(4) Any Magistrate other than the Chief Judicial Magistrate making such order shall forward a copy of his order, with his reasons for making it, to the Chief Judicial Magistrate.

(5) If in any case triable by a Magistrate as a summons-case, the investigation is not concluded within a period of six months from the date on which the accused was arrested, the Magistrate shall make an order stopping further investigation into the offence unless the officer making the investigation satisfies the Magistrate that for special reasons and in the interests of justice the continuation of the investigation beyond the period of six months is necessary.

(6) Where any order stopping further investigation into an offence has been made under sub-section (5), the Sessions Judge may, if he is satisfied, on an application made to him or otherwise, that further investigation into the offence ought to be made, vacate the order made under sub-section (5) and direct further investigation to be made into the offence subject to such directions with regard to bail and other matters as he may specify.

Report
of investi-
gation by
subordi-
nate
police
officer.

168. When any subordinate police officer has made any investigation under this Chapter, he shall report the result of such investigation to the officer in charge of the police station.

Release
of accus-
ed when
evidence
deficient.

169. If, upon an investigation under this Chapter, it appears to the officer in charge of the police station that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, such officer shall, if such person is in custody, release him on his executing a bond, with or without sureties, as such officer may direct, to appear, if and when so required, before a Magistrate empowered to take cognizance of the offence on a police report, and to try the accused or commit him for trial.

Cases.
to be
sent to
Magis-
trate

170. (1) If, upon an investigation under this Chapter, it appears to the officer in charge of the police station that there is sufficient evidence or reasonable ground as aforesaid, such officer shall forward the accused

✓ Newbered & Dated by Act 45 of 1970, S. 13.

under custody to a Magistrate empowered to take cognizance of the offence upon a police report and to try the accused or commit him for trial, or, if the offence is bailable and the accused is able to give security, shall take security from him for his appearance before such Magistrate on a day fixed and for his attendance from day to day before such Magistrate until otherwise directed.

when
evidence
is suffi-
cient

(2) When the officer in charge of a police station forwards an accused person to a Magistrate or takes security for his appearance before such Magistrate under this section, he shall send to such Magistrate any weapon or other article which it may be necessary to produce before him, and shall require the complainant (if any) and so many of the persons who appear to such officer to be acquainted with the facts and circumstances of the case as he may think necessary, to execute a bond to appear before the Magistrate as thereby directed and prosecute or give evidence (as the case may be) in the matter of the charge against the accused.

(3) If the Court of the Chief Judicial Magistrate is mentioned in the bond, such Court shall be held to include any Court to which such Magistrate may refer the case for inquiry or trial, provided reasonable notice of such reference is given to such complainant or persons.

(4) The officer in whose presence the bond is executed shall deliver a copy thereof to one of the persons who executed it, and shall then send to the Magistrate the original with his report.

171. No complainant or witness on his way to any Court shall be required to accompany a police officer, or shall be subjected to unnecessary restraint or inconvenience, or required to give any security for his appearance other than his own bond:

Provided that, if any complainant or witness refuses to attend or to execute a bond as directed in section 170, the officer in charge of the police station may forward him in custody to the Magistrate, who may detain him in custody until he executes such bond, or until the hearing of the case is completed.

Com-
plainant
and
witness-
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to be
required
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any
police
officer
and not
to be
subjec-
ted to
restraint.

Diary of
proceed-
ings in
investi-
gation.

172. (1) Every police officer making an investigation under this Chapter shall day by day enter his proceedings in the investigation in a diary, setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him, and a statement of the circumstances ascertained through his investigation.

(2) Any Criminal Court may send for the police diaries of a case under inquiry or trial in such Court, and may use such diaries, not as evidence in the case, but to aid it in such inquiry or trial.

(3) Neither the accused nor his agents shall be entitled to call for such diaries, nor shall he or they be entitled to see them merely because they are referred to by the Court; but, if they are used by the police officer who made them to refresh his memory, or if the Court uses them for the purpose of contradicting such police officer, the provisions of section 161 or section 145, as the case may be, of the Indian Evidence Act, 1872, shall apply.

Report
of
police
officer
on com-
pletion of
investi-
gation.

173. (1) Every investigation under this Chapter shall be completed without unnecessary delay.

(2) (i) As soon as it is completed, the officer in charge of the police station shall forward to a Magistrate empowered to take cognizance of the offence on a police report, a report in the form prescribed by the State Government, stating—

- (a) the names of the parties;
- (b) the nature of the information;
- (c) the names of the persons who appear to be acquainted with the circumstances of the case;
- (d) whether any offence appears to have been committed and, if so, by whom;
- (e) whether the accused has been arrested;
- (f) whether he has been released on his bond and, if so, whether with or without sureties;
- (g) whether he has been forwarded in custody under section 170.

(ii) The officer shall also communicate, in such manner as may be prescribed by the State Government, the action taken by him, to the person, if any, by whom the information relating to the commission of the offence was first given.

(3) Where a superior officer of police has been appointed under section 158, the report shall, in any case in which the State Government by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police station to make further investigation.

(4) Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Magistrate shall make such order for the discharge of such bond or otherwise as he thinks fit.

(5) When such report is in respect of a case to which section 170 applies, the police officer shall forward to the Magistrate along with the report—

(a) all documents or relevant extracts thereof on which the prosecution proposes to rely other than those already sent to the Magistrate during investigation;

(b) the statements recorded under section 161 of all the persons whom the prosecution proposes to examine as its witnesses.

(6) If the police officer is of opinion that any part of any such statement is not relevant to the subject-matter of the proceedings or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interest, he shall indicate that part of the statement and append a note requesting the Magistrate to exclude that part from the copies to be granted to the accused and stating his reasons for making such request.

(7) Where the police officer investigating the case finds it convenient so to do, he may furnish to the accused copies of all or any of the documents referred to in sub-section (5).

(8) Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (2) has been forwarded to the Magistrate and, where upon such investigation, the officer in charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form prescribed; and the provisions of sub-sections (2) to (6) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section (2).

174. (1) When the officer in charge of a police station or some other police officer specially empowered by the State Government in that behalf receives information that a person has committed suicide, or has been killed by another or by an animal or by machinery or by an accident, or has died under circumstances raising a reasonable suspicion that some other person has committed an offence, he shall immediately give intimation thereof to the nearest Executive Magistrate empowered to hold inquests, and, unless otherwise directed by any rule prescribed by the State Government, or by any general or special order of the District or Sub-divisional Magistrate, shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood, shall make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises, and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any); such marks appear to have been inflicted.

Police
to
enquire
and
report
on
suicide,
etc.

(2) The report shall be signed by such police officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the District Magistrate or the Sub-divisional Magistrate.

(3) When there is any doubt regarding the cause of death, or when for any other reason the police officer considers it expedient so to do, he shall, subject to such rules as the State Government may prescribe in this behalf, forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other qualified medical man appointed in this behalf by the State Government, if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would render such examination useless.

(4) The following Magistrates are empowered to hold inquests, namely, any District Magistrate or Sub-divisional Magistrate and any other Executive Magistrate specially empowered in this behalf by the State Government or the District Magistrate.

Power to
summon
persons.

175. (1) A police officer proceeding under section 174 may, by order in writing, summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case and every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

(2) If the facts do not disclose a cognizable offence to which section 170 applies, such persons shall not be required by the police officer to attend a Magistrate's Court.

Inquiry by Magistrate into cause of death.

176. (1) When any person dies while in the custody of the police, the nearest Magistrate empowered to hold inquests shall, and in any other case mentioned in sub-section (1) of section 174, any Magistrate so empowered may hold an inquiry into the cause of death either instead of, or in addition to, the investigation held by the police officer; and if he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence.

(2) The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any manner hereinafter prescribed according to the circumstances of the case.

(3) Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of his death, the Magistrate may cause the body to be disinterred and examined.

(4) Where an inquiry is to be held under this section, the Magistrate shall, wherever practicable, inform the relatives of the deceased whose names and addresses are known, and shall allow them to remain present at the inquiry.

Explanation.—In this section, the expression “relative” means parents, children, brothers, sisters and spouse.

CHAPTER XIII

JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS

Ordinary place of inquiry and trial.

177. Every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed.

Place of inquiry or trial.

178. (a) When it is uncertain in which of several local areas an offence was committed, or

(b) where an offence is committed partly in one local area and partly in another, or

(c) where an offence is a continuing one, and continues to be committed in more local areas than one, or

(d) where it consists of several acts done in different local areas, it may be inquired into or tried by a Court having jurisdiction over any of such local areas.

Offence triable where act is done or consequence ensues.

179. When an act is an offence by reason of anything which has been done and of a consequence which has ensued, the offence may be inquired into or tried by a Court within whose local jurisdiction such thing has been done or such consequence has ensued.

180. When an act is an offence by reason of its relation to any other act which is also an offence or which would be an offence if the doer were capable of committing an offence, the first-mentioned offence may be inquired into or tried by a Court within whose local jurisdiction either act was done.

Place of trial where act is an offence by reason of relation to other offence.

181. (1) Any offence of being a thug, or murder committed by a thug, of dacoity, of dacoity with murder, of belonging to a gang of dacoits, or of escaping from custody, may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the accused person is found.

Place of trial in case of certain offences.

(2) Any offence of kidnapping or abduction of a person may be inquired into or tried by a Court within whose local jurisdiction the person was kidnapped or abducted or was conveyed or concealed or detained.

(3) Any offence of theft, extortion or robbery may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the stolen property which is the subject of the offence was possessed by any person committing it or by any person who received or retained such property knowing or having reason to believe it to be stolen property.

(4) Any offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or any part of the property which is the subject of the offence was received or retained, or was required to be returned or accounted for, by the accused person.

(5) Any offence which includes the possession of stolen property may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the stolen property was possessed by any person who received or retained it knowing or having reason to believe it to be stolen property.

182. (1) Any offence which includes cheating may, if the deception is practised by means of letters or telecommunication messages, be inquired into or tried by any Court within whose local jurisdiction such letters or messages were sent or were received; and any offence of cheating and dishonestly inducing delivery of property may be inquired into or tried by a Court within whose local jurisdiction the property was delivered by the person deceived or was received by the accused person.

Offences committed by letters, etc.

(2) Any offence punishable under section 494 or section 495 of the Indian Penal Code may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the offender last resided with his or her spouse by the first marriage.

[words "by the first marriage", the words "], or the wife by the first marriage has taken up permanent residence after the commission of the offence] shall be inserted.]

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Offence committed on journey or voyage.

" that person or thing passed in the course of that journey or voyage.

4. Sd. by Act 45 of 1978, s. 15.

Place of trial for offences triable together.

184. Where—

(a) the offences committed by any person are such that he may be charged with, and tried at one trial for, each such offence by virtue of the provisions of section 219, section 220 or section 221, or

(b) the offence or offences committed by several persons are such that they may be charged with and tried together by virtue of the provisions of section 223,

the offences may be inquired into or tried by any Court competent to inquire into or try any of the offences.

Power to order cases to be tried in different sessions divisions.

185. Notwithstanding anything contained in the preceding provisions of this Chapter, the State Government may direct that any cases or class of cases committed for trial in any district may be tried in any sessions division:

Provided that such direction is not repugnant to any direction previously issued by the High Court or the Supreme Court under the Constitution, or under this Code or any other law for the time being in force.

High Court to decide, in case of doubt, district where inquiry or trial shall take place.

186. Where two or more Courts have taken cognizance of the same offence and a question arises as to which of them ought to inquire into or try that offence, the question shall be decided—

(a) if the Courts are subordinate to the same High Court, by that High Court;

(b) if the Courts are not subordinate to the same High Court, by the High Court within the local limits of whose appellate criminal jurisdiction the proceedings were first commenced,

and thereupon all other proceedings in respect of that offence shall be discontinued.

Power to issue summons or warrant for offence committed beyond local jurisdiction.

187. (1) When a Magistrate of the first class sees reason to believe that any person within his local jurisdiction has committed outside such jurisdiction (whether within or outside India) an offence which cannot, under the provisions of sections 177 to 185 (both inclusive), or any other law for the time being in force, be inquired into or tried within such jurisdiction but is under some law for the time being in force triable in India, such Magistrate may inquire into the offence as if it had been committed within such local jurisdiction and compel such person in the manner hereinbefore provided to appear before him, and send such person to the Magistrate having jurisdiction to inquire into or try such offence, or, if such offence is not punishable with death or imprisonment for life and such person is ready and willing to give bail to the satisfaction of the Magistrate acting under this section, take a bond with or without sureties for his appearance before the Magistrate having such jurisdiction.

(2) When there are more Magistrates than one having such jurisdiction and the Magistrate acting under this section cannot satisfy himself as to the Magistrate to or before whom such person should be sent or bound to appear, the case shall be reported for the orders of the High Court.

188. When an offence is committed outside India—

- (a) by a citizen of India, whether on the high seas or elsewhere; or
- (b) by a person, not being such citizen, on any ship or aircraft registered in India,

he may be dealt with in respect of such offence as if it had been committed at any place within India at which he may be found:

Provided that, notwithstanding anything in any of the preceding sections of this Chapter, no such offence shall be inquired into or tried in India except with the previous sanction of the Central Government.

189. When any offence alleged to have been committed in a territory outside India is being inquired into or tried under the provisions of section 188, the Central Government may, if it thinks fit, direct that copies of depositions made or exhibits produced before a judicial officer in or for that territory or before a diplomatic or consular representative of India in or for that territory shall be received as evidence by the Court holding such inquiry or trial in any case in which such Court might issue a commission for taking evidence as to the matters to which such depositions or exhibits relate.

Offence committed outside India.

Receipt of evidence relating to offences committed outside India.

CHAPTER XIV

CONDITIONS REQUISITE FOR INITIATION OF PROCEEDINGS

190. (1) Subject to the provisions of this Chapter, any Magistrate of the first class, and any Magistrate of the second class specially empowered in this behalf under sub-section (2), may take cognizance of any offence—

- (a) upon receiving a complaint of facts which constitute such offence;
- (b) upon a police report of such facts;
- (c) upon information received from any person other than a police officer, or upon his own knowledge, that such offence has been committed.

(2) The Chief Judicial Magistrate may empower any Magistrate of the second class to take cognizance under sub-section (1) of such offences as are within his competence to inquire into or try.

191. When a Magistrate takes cognizance of an offence under clause (c) of sub-section (1) of section 190, the accused shall, before any evidence is taken, be informed that he is entitled to have the case inquired into or tried by another Magistrate, and if the accused or any of the accused, if there be more than one, objects to further proceedings before the Magistrate taking cognizance, the case shall be transferred to such other Magistrate as may be specified by the Chief Judicial Magistrate in this behalf.

Cognizance of offences by Magistrates.

Transfer on application of the accused.

192. (1) Any Chief Judicial Magistrate may, after taking cognizance of an offence, make over the case for inquiry or trial to any competent Magistrate subordinate to him.

(2) Any Magistrate of the first class empowered in this behalf by the Chief Judicial Magistrate may, after taking cognizance of an offence,

Making over of cases to Magistrates.

make over the case for inquiry or trial to such other competent Magistrate as the Chief Judicial Magistrate may, by general or special order, specify; and thereupon such Magistrate may hold the inquiry or trial.

Cogni-
zance of
offences
by Courts
of
Session.

Addi-
tional
and
Assis-
tant
Sessions
Judges
to try
cases
made
over to
them.

Prosecu-
tion for
contempt
of lawful
authority
of public
servants,
for
offences
against
public
justice
and for
offences
relating
to docu-
ments
given in
evidence.

193. Except as otherwise expressly provided by this Code or by any other law for the time being in force, no Court of Session shall take cognizance of any offence as a Court of original jurisdiction unless the case has been committed to it by a Magistrate under this Code,

194. An Additional Sessions Judge or Assistant Sessions Judge shall try such cases as the Sessions Judge of the division may, by general or special order, make over to him for trial or as the High Court may, by special order, direct him to try.

195. (1) No Court shall take cognizance—

(a) (i) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code, or

(ii) of any abetment of, or attempt to commit, such offence, or

(iii) of any criminal conspiracy to commit such offence,

except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate;

(b) (i) of any offence punishable under any of the following sections of the Indian Penal Code, namely, sections 193 to 196 (both inclusive), 199, 200, 205 to 211 (both inclusive) and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, or

(ii) of any offence described in section 463, or punishable under section 471, section 475 or section 476, of the said Code, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any Court, or

(iii) of any criminal conspiracy to commit, or attempt to commit, or the abetment of, any offence specified in sub-clause (i) or sub-clause (ii),

except on the complaint in writing of that Court, or of some other Court to which that Court is subordinate.

(2) Where a complaint has been made by a public servant under clause (a) of sub-section (1) any authority to which he is administratively subordinate may order the withdrawal of the complaint and send a copy of such order to the Court; and upon its receipt by the Court, no further proceedings shall be taken on the complaint:

Provided that no such withdrawal shall be ordered if the trial in the Court of first instance has been concluded.

45 of 1860

45 of 1860

(3) In clause (b) of sub-section (1), the term "Court" means a Civil, Revenue or Criminal Court, and includes a tribunal constituted by or under a Central, Provincial or State Act if declared by that Act to be a Court for the purposes of this section.

(4) For the purposes of clause (b) of sub-section (1), a Court shall be deemed to be subordinate to the Court to which appeals ordinarily lie from the appealable decrees or sentences of such former Court, or in the case of a Civil Court from whose decrees no appeal ordinarily lies, to the principal Court having ordinary original civil jurisdiction within whose local jurisdiction such Civil Court is situate:

Provided that—

(a) where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate;

(b) where appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case or proceeding in connection with which the offence is alleged to have been committed.

196. (1) No Court shall take cognizance of—

Prosecution for offences against the State and for criminal conspiracy to commit such offence.

45 of 1860.

(a) any offence punishable under Chapter VI or under section 153A, section 153B, section 295A or section 505 of the Indian Penal Code, or

(b) a criminal conspiracy to commit such offence, or

45 of 1860.

(c) any such abetment, as is described in section 108A of the Indian Penal Code,

except with the previous sanction of the Central Government or of the State Government.

45 of 1860.

(2) No Court shall take cognizance of the offence of any criminal conspiracy punishable under section 120B of the Indian Penal Code, other than a criminal conspiracy to commit a cognizable offence punishable with death, imprisonment for life or rigorous imprisonment for a term of two years or upwards, unless the State Government or the District Magistrate has consented in writing to the initiation of the proceedings:

[an offence]

Provided that where the criminal conspiracy is one to which the provisions of section 195 apply, no such consent shall be necessary.

(3) The Central Government or the State Government may, before according sanction under sub-section (1) and the State Government or the District Magistrate may, before giving consent under sub-section (2), order a preliminary investigation by a police officer not being below the rank of Inspector, in which case such police officer shall have the powers referred to in sub-section (3) of section 155.

197. (1) When any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction—

Prosecution of Judges and public servants.

↓ Subs. by Act 45 of 1878, S. 16.

(a) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of the Union, of the Central Government;

(b) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of a State, of the State Government.

(2) No Court shall take cognizance of any offence alleged to have been committed by any member of the Armed Forces of the Union while acting or purporting to act in the discharge of his official duty, except with the previous sanction of the Central Government.

(3) The State Government may, by notification, direct that the provisions of sub-section (2) shall apply to such class or category of the members of the Forces charged with the maintenance of public order as may be specified therein, wherever they may be serving, and thereupon the provisions of that sub-section will apply as if for the expression "Central Government" occurring therein, the expression "State Government" were substituted.

(4) The Central Government or the State Government, as the case may be, may determine the person by whom, the manner in which, and the offence or offences for which, the prosecution of such Judge, Magistrate or public servant is to be conducted, and may specify the Court before which the trial is to be held.

Prosecution for
offences
against
marriage.

198. (1) No Court shall take cognizance of an offence punishable under Chapter XX of the Indian Penal Code except upon a complaint made by some person aggrieved by the offence:

Provided that—

(a) where such person is under the age of eighteen years, or is an idiot or a lunatic, or is from sickness or infirmity unable to make a complaint, or is a woman who, according to the local customs and manners, ought not to be compelled to appear in public, some other person may, with the leave of the Court, make a complaint on his or her behalf;

(b) where such person is the husband and he is serving in any of the Armed Forces of the Union under conditions which are certified by his Commanding Officer as precluding him from obtaining leave of absence to enable him to make a complaint in person, some other person authorised by the husband in accordance with the provisions of sub-section (4) may make a complaint on his behalf;

(c) where the person aggrieved by an offence punishable under section 494 of the Indian Penal Code is the wife, complaint may be made on her behalf by her father, mother, brother, sister, son or daughter or by her father's or mother's brother or sister.

(2) For the purposes of sub-section (1), no person other than the husband of the woman shall be deemed to be aggrieved by any offence punishable under section 497 or section 498 of the said Code:

Provided that in the absence of the husband, some person who had care of the woman on his behalf at the time when such offence was committed may, with the leave of the Court, make a complaint on his behalf.

(3) When in any case falling under clause (a) of the proviso to sub-section (1), the complaint is sought to be made on behalf of a person

45 of 186

45 of 186

Section 494 or
Section 495

Subs. as per Act 45 of 1978, S. 17.

under the age of eighteen years or of a lunatic by a person who has not been appointed or declared by a competent authority to be the guardian of the person of the minor or lunatic, and the Court is satisfied that there is a guardian so appointed or declared, the Court shall, before granting the application for leave, cause notice to be given to such guardian and give him a reasonable opportunity of being heard.

(4) The authorisation referred to in clause (b) of the proviso to sub-section (1), shall be in writing, shall be signed or otherwise attested by the husband, shall contain a statement to the effect that he has been informed of the allegations upon which the complaint is to be founded, shall be countersigned by his Commanding Officer, and shall be accompanied by a certificate signed by that Officer to the effect that leave of absence for the purpose of making a complaint in person cannot for the time being be granted to the husband.

(5) Any document purporting to be such an authorisation and complying with the provisions of sub-section (4), and any document purporting to be a certificate required by that section shall, unless the contrary is proved, be presumed to be genuine and shall be received in evidence.

45 of 1860.

(6) No Court shall take cognizance of an offence under section 376 of the Indian Penal Code, where such offence consists of sexual intercourse by a man with his own wife, the wife being under fifteen years of age, if more than one year has elapsed from the date of the commission of the offence.

(7) The provisions of this section apply to the abetment of, or attempt to commit, an offence as they apply to the offence.

45 of 1860.

199. (1) No Court shall take cognizance of an offence punishable under Chapter XXI of the Indian Penal Code except upon a complaint made by some person aggrieved by the offence:

Prosecution for defama-tion.

Provided that where such person is under the age of eighteen years, or is an idiot or a lunatic, or is from sickness or infirmity unable to make a complaint, or is a woman who, according to the local customs and manners, ought not to be compelled to appear in public, some other person may, with the leave of the Court, make a complaint on his or her behalf.

45 of 1860.

(2) Notwithstanding anything contained in this Code, when any offence falling under Chapter XXI of the Indian Penal Code is alleged to have been committed against a person who, at the time of such commission, is the President of India, the Vice-President of India, the Governor of a State, the Administrator of a Union territory or a Minister of the Union or of a State or of a Union territory, or any other public servant employed in connection with the affairs of the Union or of a State in respect of his conduct in the discharge of his public functions a Court of Session may take cognizance of such offence, without the case being committed to it, upon a complaint in writing made by the Public Prosecutor.

(3) Every complaint referred to in sub-section (2) shall set forth the facts which constitute the offence alleged, the nature of such offence

and such other particulars as are reasonably sufficient to give notice to the accused of the offence alleged to have been committed by him.

(4) No complaint under sub-section (2) shall be made by the Public Prosecutor except with the previous sanction—

(a) of the State Government, in the case of a person who is or has been the Governor of that State or a Minister of that Government;

(b) of the State Government, in the case of any other public servant employed in connection with the affairs of the State;

(c) of the Central Government, in any other case.

(5) No Court of Session shall take cognizance of an offence under sub-section (2) unless the complaint is made within six months from the date on which the offence is alleged to have been committed.

(6) Nothing in this section shall affect the right of the person against whom the offence is alleged to have been committed, to make a complaint in respect of that offence before a Magistrate having jurisdiction or the power of such Magistrate to take cognizance of the offence upon such complaint.

CHAPTER XV

COMPLAINTS TO MAGISTRATES

Examination of complainant.

200. A Magistrate taking cognizance of an offence on complaint shall examine upon oath the complainant and the witnesses present, if any, and the substance of such examination shall be reduced to writing and shall be signed by the complainant and the witnesses, and also by the Magistrate:

Provided that, when the complaint is made in writing, the Magistrate need not examine the complainant and the witnesses—

(a) if a public servant acting or purporting to act in the discharge of his official duties or a Court has made the complaint; or

(b) if the Magistrate makes over the case for inquiry or trial to another Magistrate under section 192:

Provided further that if the Magistrate makes over the case to another Magistrate under section 192 after examining the complainant and the witnesses, the latter Magistrate need not re-examine them.

201. If the complaint is made to a Magistrate who is not competent to take cognizance of the offence, he shall,—

- (a) if the complaint is in writing, return it for presentation to the proper Court with an endorsement to that effect;
- (b) if the complaint is not in writing, direct the complainant to the proper Court.

Procedure by Magistrate not competent to take cognizance of the case.

202. (1) Any Magistrate, on receipt of a complaint of an offence of which he is authorised to take cognizance or which has been made over to him under section 192, may, if he thinks fit, postpone the issue of process against the accused, and either inquire into the case himself or direct an investigation to be made by a police officer or by such other person as he thinks fit, for the purpose of deciding whether or not there is sufficient ground for proceeding:

Post-presentation of issue of process.

Provided that no such direction for investigation shall be made,—

(a) where it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session; or

(b) where the complaint has not been made by a Court, unless the complainant and the witnesses present (if any) have been examined on oath under section 200.

(2) In an inquiry under sub-section (1), the Magistrate may, if he thinks fit, take evidence of witnesses on oath:

Provided that if it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session, he shall call upon the complainant to produce all his witnesses and examine them on oath.

(3) If an investigation under sub-section (1) is made by a person not being a police officer, he shall have for that investigation all the powers conferred by this Code on an officer in charge of a police station except the power to arrest without warrant.

203. If, after considering the statements on oath (if any) of the complainant and of the witnesses and the result of the inquiry or investigation (if any) under section 202, the Magistrate is of opinion that there is no sufficient ground for proceeding, he shall dismiss the complaint, and in every such case he shall briefly record his reasons for so doing.

Dismissal of complaint.

CHAPTER XVI

COMMENCEMENT OF PROCEEDINGS BEFORE MAGISTRATES

204. (1) If in the opinion of a Magistrate taking cognizance of an offence there is sufficient ground for proceeding, and the case appears to be—

(a) a summons-case, he shall issue his summons for the attendance of the accused, or

(b) a warrant-case, he may issue a warrant, or, if he thinks fit, a summons, for causing the accused to be brought or to appear at a

Issue of process.

certain time before such Magistrate or (if he has no jurisdiction himself) some other Magistrate having jurisdiction.

(2) No summons or warrant shall be issued against the accused under sub-section (1) until a list of the prosecution witnesses has been filed.

(3) In a proceeding instituted upon a complaint made in writing, every summons or warrant issued under sub-section (1) shall be accompanied by a copy of such complaint.

(4) When by any law for the time being in force any process-fees or other fees are payable, no process shall be issued until the fees are paid and, if such fees are not paid within a reasonable time, the Magistrate may dismiss the complaint.

(5) Nothing in this section shall be deemed to affect the provisions of section 87.

Magistrate may dispense with personal attendance of accused.

Special summons in cases of petty offence.

Supply to the accused of copy of police report and other documents.

205. (1) Whenever a Magistrate issues a summons, he may, if he sees reason so to do, dispense with the personal attendance of the accused and permit him to appear by his pleader.

(2) But the Magistrate inquiring into or trying the case may, in his discretion, at any stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance in the manner hereinbefore provided.

206. (1) If, in the opinion of a Magistrate taking cognizance of a petty offence, the case may be summarily disposed of under section 260, the Magistrate shall, except where he is, for reasons to be recorded in writing of a contrary opinion, issue summons to the accused requiring him either to appear in person or by pleader before the Magistrate on a specified date, or if he desires to plead guilty to the charge without appearing before the Magistrate, to transmit before the specified date, by post or by messenger to the Magistrate, the said plea in writing and the amount of fine specified in the summons or if he desires to appear by pleader and to plead guilty to the charge through such pleader, to authorise, in writing, the pleader to plead guilty to the charge on his behalf and to pay the fine through such pleader:

Provided that the amount of the fine specified in such summons shall not exceed one hundred rupees.

(2) For the purposes of this section, "petty offence" means any offence punishable only with fine not exceeding one thousand rupees, but does not include any offence so punishable under the Motor Vehicles Act, 1939, or under any other law which provides for convicting the accused person in his absence on a plea of guilty.

207. In any case where the proceeding has been instituted on a police report, the Magistrate shall without delay furnish to the accused, free of cost, a copy of each of the following:—

- (i) the police report;
- (ii) the first information report recorded under section 154;
- (iii) the statements recorded under sub-section (3) of section 161 of all persons whom the prosecution proposes to examine as its witnesses, excluding therefrom any part in regard to which a request for such exclusion has been made by the police officer under sub-section (6) of section 173;

(iv) the confessions and statements, if any, recorded under section 164;

(v) any other document or relevant extract thereof forwarded to the Magistrate with the police report under sub-section (5) of section 173:

Provided that the Magistrate may, after perusing any such part of a statement as is referred to in clause (iii) and considering the reasons given by the police officer for the request, direct that a copy of that part of the statement or of such portion thereof as the Magistrate thinks proper, shall be furnished to the accused:

Provided further that if the Magistrate is satisfied that any document referred to in clause (v) is voluminous, he shall, instead of furnishing the accused with a copy thereof, direct that he will only be allowed to inspect it either personally or through pleader in Court.

208. Where, in a case instituted otherwise than on a police report, it appears to the Magistrate issuing process under section 204 that the offence is triable exclusively by the Court of Session, the Magistrate shall without delay furnish to the accused, free of cost, a copy of each of the following:—

(i) the statements recorded under section 200 or section 202, of all persons examined by the Magistrate;

(ii) the statements and confessions, if any, recorded under section 161 or section 164;

(iii) any documents produced before the Magistrate on which the prosecution proposes to rely:

Provided that if the Magistrate is satisfied that any such document is voluminous, he shall, instead of furnishing the accused with a copy thereof, direct that he will only be allowed to inspect it either personally or through pleader in Court.

209. When in a case instituted on a police report or otherwise, the accused appears or is brought before the Magistrate and it appears to the Magistrate that the offence is triable exclusively by the Court of Session, he shall—

(a) commit the case to the Court of Session;

(b) subject to the provisions of this Code relating to bail, remand the accused to custody during, and until the conclusion of, the trial;

(c) send to that Court the record of the case and the documents and articles, if any, which are to be produced in evidence;

(d) notify the Public Prosecutor of the commitment of the case to the Court of Session.

Supply of copies of statements and documents to accused in other cases triable by Court of Session,

Commitment of case to Court of Session when offence is triable exclusively by it.

↓ S. 19, by Act 45 of 1878, S. 19.

Procedure
to be
followed
when
there is
a com-
plaint
case
and
police
investiga-
tion in
respect
of the
same
offence.

210. (1) When in a case instituted otherwise than on a police report (hereinafter referred to as a complaint case), it is made to appear to the Magistrate, during the course of the inquiry or trial held by him, that an investigation by the police is in progress in relation to the offence which is the subject-matter of the inquiry or trial held by him, the Magistrate shall stay the proceedings of such inquiry or trial and call for a report on the matter from the police officer conducting the investigation.

(2) If a report is made by the investigating police officer under section 173 and on such report cognizance of any offence is taken by the Magistrate against any person who is an accused in the complaint case, the Magistrate shall inquire into or try together the complaint case and the case arising out of the police report as if both the cases were instituted on a police report.

(3) If the police report does not relate to any accused in the complaint case or if the Magistrate does not take cognizance of any offence on the police report, he shall proceed with the inquiry or trial, which was stayed by him, in accordance with the provisions of this Code.

CHAPTER XVII

THE CHARGE

A.—Form of charges

Contents
of charge.

211. (1) Every charge under this Code shall state the offence with which the accused is charged.

(2) If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.

(3) If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the accused notice of the matter with which he is charged.

(4) The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.

(5) The fact that the charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case.

(6) The charge shall be written in the language of the Court.

(7) If the accused, having been previously convicted of any offence, is liable, by reason of such previous conviction, to enhanced punishment, or to punishment of a different kind, for a subsequent offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court may think fit to award for the subsequent offence, the fact, date and place of the previous conviction shall be stated in the charge; and if such statement has been omitted, the Court may add it at any time before sentence is passed.

Illustrations

(a) A is charged with the murder of B. This is equivalent to a statement that A's act fell within the definition of murder given in sections 299 and 300

45 of 1860.

of the Indian Penal Code; that it did not fall within any of the general exceptions of the said Code; and that it did not fall within any of the five exceptions to section 300, or that, if it did fall within Exception 1, one or other of the three provisos to that exception applied to it.

45 of 1860.

(b) A is charged under section 326 of the Indian Penal Code with voluntarily causing grievous hurt to B by means of an instrument for shooting. This is equivalent to a statement that the case was not provided for by section 335 of the said Code, and that the general exceptions did not apply to it.

45 of 1860.

(c) A is accused of murder, cheating, theft, extortion, adultery or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion, or adultery, or criminal intimidation, or that he used a false property-mark, without reference to the definitions of those crime contained in the Indian Penal Code; but the sections under which the offence is punishable must, in each instance, be referred to in the charge.

45 of 1860.

(d) A is charged under section 184 of the Indian Penal Code with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words.

212. (1) The charge shall contain such particulars as to the time and place of the alleged offence, and the person (if any) against whom, or the thing (if any) in respect of which, it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged.

Particulars
as to
time,
place
and
person.

(2) When the accused is charged with criminal breach of trust or dishonest misappropriation of money or other movable property, it shall be sufficient to specify the gross sum or, as the case may be, describe the movable property in respect of which the offence is alleged to have been committed, and the dates between which the offence is alleged to have been committed, without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of one offence within the meaning of section 219:

Provided that the time included between the first and last of such dates shall not exceed one year.

213. When the nature of the case is such that the particulars mentioned in sections 211 and 212 do not give the accused sufficient notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

When
manner
of com-
mitting
offence
must be
stated.

Illustrations

(a) A is accused of the theft of a certain article at a certain time and place. The charge need not set out the manner in which the theft was effected.

(b) A is accused of cheating B at a given time and place. The charge must set out the manner in which A cheated B.

(c) A is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by A which is alleged to be false.

(d) A is accused of obstructing B, a public servant, in the discharge of his public functions at a given time and place. The charge must set out the manner in which A obstructed B in the discharge of his functions.

(e) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.

(f) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed.

Words in charge taken in sense of law under which offence is punishable.

Effect of errors.

214. In every charge words used in describing an offence shall be deemed to have been used in the sense attached to them respectively by the law under which such offence is punishable.

215. No error in stating either the offence or the particulars required to be stated in the charge, and no omission to state the offence or those particulars, shall be regarded at any stage of the case as material, unless the accused was in fact misled by such error or omission, and it has occasioned a failure of justice.

Illustrations

(a) A is charged under section 242 of the Indian Penal Code, with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit," the word "fraudulently" being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material.

(b) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(c) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many transactions between A and B, and A had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was, in the case, a material error.

(d) A is charged with the murder of Khoda Baksh on the 21st January, 1882. In fact, the murdered person's name was Haidar Baksh, and the date of the murder was the 20th January, 1882. A was never charged with any murder but one, and had heard the inquiry before the Magistrate, which referred exclusively to the case of Haidar Baksh. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(e) A was charged with murdering Haidar Baksh on the 20th January, 1882, and Khoda Baksh (who tried to arrest him for that murder) on the 21st January, 1882. When charged for the murder of Haidar Baksh, he was tried for the murder of Khoda Baksh. The witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that A was misled, and that the error was material.

Court may alter charge.

216. (1) Any Court may alter or add to any charge at any time before judgment is pronounced.

(2) Every such alteration or addition shall be read and explained to the accused.

(3) If the alteration or addition to a charge is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused in his defence or the prosecutor in the conduct of the case, the Court may, in its discretion, after such alteration or addition has been made, proceed with the trial as if the altered or added charge had been the original charge.

(4) If the alteration or addition is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused or the prosecutor as aforesaid, the Court may either direct a new trial or adjourn the trial for such period as may be necessary.

(5) If the offence stated in the altered or added charge is one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the altered or added charge is founded.

217. Whenever a charge is altered or added to by the Court after the commencement of the trial, the prosecutor and the accused shall be allowed—

(a) to recall or re-summon, and examine with reference to such alteration or addition, any witness who may have been examined, unless the Court, for reasons to be recorded in writing, considers that the prosecutor or the accused, as the case may be, desires to recall or re-examine such witness for the purpose of vexation or delay or for defeating the ends of justice;

(b) also to call any further witness whom the Court may think to be material.

B.—*Joinder of charges*

218. (1) For every distinct offence of which any person is accused there shall be a separate charge, and every such charge shall be tried separately:

Provided that where the accused person, by an application in writing, so desires and the Magistrate is of opinion that such person is not likely to be prejudiced thereby, the Magistrate may try together all or any number of the charges framed against such person.

(2) Nothing in sub-section (1) shall affect the operation of the provisions of sections 219, 220, 221 and 223.

Illustration

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and causing grievous hurt.

219. (1) When a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, whether in respect of the same person or not, he may be charged with, and tried at one trial for, any number of them not exceeding three.

(2) Offences are of the same kind when they are punishable with the same amount of punishment under the same section of the Indian Penal Code or of any special or local law:

Provided that, for the purposes of this section, an offence punishable under section 379 of the Indian Penal Code shall be deemed to be an offence of the same kind as an offence punishable under section 380 of the said Code, and that an offence punishable under any section of the said Code, or of any special or local law, shall be deemed to be an offence of the same kind as an attempt to commit such offence, when such an attempt is an offence.

Recall of
witnesses
when
charge
altered.

Separate
charges
for
distinct
offences.

Three
offences
of same
kind
within
year may
be charg-
ed toge-
ther.

45 of 1860.

45 of 1860.

220. (1) If, in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence.

Trial for
more than
one
offence

(2) When a person charged with one or more offences of criminal breach of trust or dishonest misappropriation of property as provided in sub-section (2) of section 212 or in sub-section (1) of section 219, is accused of committing, for the purpose of facilitating or concealing the commission of that offence or those offences, one or more offences of falsification of accounts, he may be charged with, and tried at one trial for, every such offence.

(3) If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with, and tried at one trial for, each of such offences.

(4) If several acts, of which one or more than one would by itself or themselves constitute an offence, constitute when combined a different offence, the person accused of them may be charged with, and tried at one trial for the offence constituted by such acts when combined, and for any offence constituted by any one, or more, of such acts.

(5) Nothing contained in this section shall affect section 71 of the Indian Penal Code.

Illustrations to sub-section (1)

(a) A rescues B, a person in lawful custody, and in so doing causes grievous hurt to C, a constable in whose custody B was. A may be charged with, and convicted of, offences under sections 225 and 333 of the Indian Penal Code.

(b) A commits house-breaking by day with intent to commit adultery, and commits, in the house so entered, adultery with B's wife. A may be separately charged with, and convicted of, offences under sections 454 and 497 of the Indian Penal Code.

(c) A entices B, the wife of C, away from C, with intent to commit adultery with B, and then commits adultery with her. A may be separately charged with, and convicted of, offences under sections 498 and 497 of the Indian Penal Code.

(d) A has in his possession several seals, knowing them to be counterfeit and intending to use them for the purpose of committing several forgeries punishable under section 466 of the Indian Penal Code. A may be separately charged with, and convicted of, the possession of each seal under section 473 of the Indian Penal Code.

(e) With intent to cause injury to B, A institutes a criminal proceeding against him, knowing that there is no just or lawful ground for such proceeding, and also falsely accuses B of having committed an offence, knowing that there is no just or lawful ground for such charge. A may be separately charged with, and convicted of, two offences under section 211 of the Indian Penal Code.

(f) A, with intent to cause injury to B, falsely accuses him of having committed an offence, knowing that there is no just or lawful ground for such charge. On the trial, A gives false evidence against B, intending thereby to cause B to be convicted of a capital offence. A may be separately charged with, and convicted of, offences under sections 211 and 194 of the Indian Penal Code.

(g) A, with six others, commits the offences of rioting, grievous hurt and assaulting a public servant endeavouring in the discharge of his duty as such to suppress the riot. A may be separately charged with, and convicted of, offences under sections 147, 325 and 152 of the Indian Penal Code.

(h) A threatens B, C and D at the same time with injury to their persons with intent to cause alarm to them. A may be separately charged with, and convicted of, each of the three offences under section 506 of the Indian Penal Code.

The separate charges referred to in Illustrations (a) to (h), respectively, may be tried at the same time.

45 of 1860

Illustrations to sub-section (3)

45 of 1860. (i) A wrongfully strikes B with a cane. A may be separately charged with and convicted of, offences under sections 352 and 323 of the Indian Penal Code.

Where it is doubtful what offence has been committed.

45 of 1860. (j) Several stolen sacks of corn are made over to A and B, who knew they are stolen property, for the purpose of concealing them. A and B thereupon voluntarily assist each other to conceal the sacks at the bottom of a grain-pit. A and B may be separately charged with, and convicted of, offences under sections 411 and 414 of the Indian Penal Code.

45 of 1860. (k) A exposes her child with the knowledge that she is thereby likely to cause its death. The child dies in consequence of such exposure. A may be separately charged with and convicted of, offences under sections 317 and 304 of the Indian Penal Code.

45 of 1860. (l) A dishonestly uses a forged document as genuine evidence, in order to convict B, a public servant, of an offence under section 167 of the Indian Penal Code. A may be separately charged with, and convicted of, offences under sections 471 (read with section 466) and 196 of that Code.

Illustration to sub-section (4)

45 of 1860. (m) A commits robbery on B, and in doing so voluntarily causes hurt to him. A may be separately charged with, and convicted of, offences under sections 323, 392 and 394 of the Indian Penal Code.

221. (1) If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some one of the said offences.

(2) If in such a case the accused is charged with one offence, and it appears in evidence that he committed a different offence for which he might have been charged under the provisions of sub-section (1), he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

Illustrations

(a) A is accused of an act which may amount to theft, or receiving stolen property, or criminal breach of trust or cheating. He may be charged with theft, receiving stolen property, criminal breach of trust and cheating, or he may be charged with having committed theft, or receiving stolen property, or criminal breach of trust or cheating.

(b) In the case mentioned, A is only charged with theft. It appears that he committed the offence of criminal breach of trust, or that of receiving stolen goods. He may be convicted of criminal breach of trust or of receiving stolen goods (as the case may be), though he was not charged with such offence.

(c) A states on oath before the Magistrate that he saw B hit C with a club. Before the Sessions Court A states on oath that B never hit C. A may be charged in the alternative and convicted of intentionally giving false evidence, although it cannot be proved which of these contradictory statements was false.

222. (1) When a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete minor offence, and such combination is proved, but the remaining particulars are not proved, he may be convicted of the minor offence, though he was not charged with it.

When offence proved included in offence charged.

(2) When a person is charged with an offence and facts are proved which reduce it to a minor offence, he may be convicted of the minor offence, although he is not charged with it.

(3) When a person is charged with an offence, he may be convicted of an attempt to commit such offence although the attempt is not separately charged.

(4) Nothing in this section shall be deemed to authorise a conviction of any minor offence where the conditions requisite for the initiation of proceedings in respect of that minor offence have not been satisfied.

Illustrations

(a) A is charged, under section 407 of the Indian Penal Code, with criminal breach of trust in respect of property entrusted to him as a carrier. It appears, 45 of 1860. that he did commit criminal breach of trust under section 406 of that Code in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under the said section 406.

(b) A is charged, under section 325 of the Indian Penal Code, with causing grievous hurt. 45 of 1860. He proves that he acted on grave and sudden provocation. He may be convicted under section 335 of that Code.

What persons may be charged jointly.

223. The following persons may be charged and tried together, namely:—

(a) persons accused of the same offence committed in the course of the same transaction;

(b) persons accused of an offence and persons accused of abetment of, or attempt to commit, such offence;

(c) persons accused of more than one offence of the same kind, within the meaning of section 219 committed by them jointly within the period of twelve months;

(d) persons accused of different offences committed in the course of the same transaction;

(e) persons accused of an offence which includes theft, extortion, cheating, or criminal misappropriation, and persons accused of receiving or retaining, or assisting in the disposal or concealment of, property possession of which is alleged to have been transferred by any such offence committed by the first-named persons, or of abetment of or attempting to commit any such last-named offence;

(f) persons accused of offences under sections 411 and 414 of the Indian Penal Code or either of those sections in respect of stolen property the possession of which has been transferred by one offence; 45 of 1860.

(g) persons accused of any offence under Chapter XII of the Indian Penal Code relating to counterfeit coin and persons accused of any other offence under the said Chapter relating to the same coin, or of abetment of or attempting to commit any such offence; and the provisions contained in the former part of this Chapter shall, so far as may be, apply to all such charges; 45 of 1860.

Provided that where a number of persons are charged with separate offences and such persons do not fall within any of the categories specified in this section, the Magistrate may, if such persons by an application in writing, so desire, and if he is satisfied that such persons would not be prejudicially affected thereby, and it is expedient so to do, try all such persons together.

224. When a charge containing more heads than one is framed against the same person, and when a conviction has been had on one or more of them, the complainant, or the officer conducting the prosecution, may, with the consent of the Court, withdraw the remaining charge or charges, or the Court of its own accord may stay the inquiry into, or trial of, such charge or charges and such withdrawal shall have the effect of an acquittal on such charge or charges, unless the conviction be set aside, in which case the said Court (subject to the order of the Court setting aside the conviction) may proceed with the inquiry into, or trial of, the charge or charges so withdrawn.

Withdrawal of remaining charges on conviction on one of several charges.

CHAPTER XVIII

TRIAL BEFORE A COURT OF SESSION

225. In every trial before a Court of Session, the prosecution shall be conducted by a Public Prosecutor.

Trial to be conducted by Public Prosecutor.

Opening case for prosecution.

226. When the accused appears or is brought before the Court in pursuance of a commitment of the case under section 209, the prosecutor shall open his case by describing the charge brought against the accused and stating by what evidence he proposes to prove the guilt of the accused.

Discharge.

227. If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.

Framing of charge.

228. (1) If, after such consideration and hearing as aforesaid, the Judge is of opinion that there is ground for presuming that the accused has committed an offence which—

(a) is not exclusively triable by the Court of Session, he may, frame a charge against the accused and, by order, transfer the case for trial to the Chief Judicial Magistrate, and thereupon the Chief Judicial Magistrate shall try the offence in accordance with the procedure for the trial of warrant-cases instituted on a police report;

(b) is exclusively triable by the Court, he shall frame in writing a charge against the accused.

(2) Where the Judge frames any charge under clause (b) of sub-section (1), the charge shall be read and explained to the accused and the accused shall be asked whether he pleads guilty of the offence charged or claims to be tried.

229. If the accused pleads guilty, the Judge shall record the plea and may, in his discretion, convict him thereon.

Conviction on plea of guilty.

Date for prosecution evidence.

230. If the accused refuses to plead, or does not plead, or claims to be tried or is not convicted under section 229, the Judge shall fix a date for the examination of witnesses, and may, on the application of the prosecution, issue any process for compelling the attendance of any witness or the production of any document or other thing.

Evidence for prosecution.

231. (1) On the date so fixed, the Judge shall proceed to take all such evidence as may be produced in support of the prosecution.

(2) The Judge may, in his discretion, permit the cross-examination of any witness to be deferred until any other witness or witnesses have been examined or recall any witness for further cross-examination.

Acquittal.

232. If, after taking the evidence for the prosecution, examining the accused and hearing the prosecution and the defence on the point, the Judge considers that there is no evidence that the accused committed the offence, the Judge shall record an order of acquittal.

Entering upon defence,

233. (1) Where the accused is not acquitted under section 232, he shall be called upon to enter on his defence and adduce any evidence he may have in support thereof.

(2) If the accused puts in any written statement, the Judge shall file it with the record.

(3) If the accused applies for the issue of any process for compelling the attendance of any witness or the production of any document or thing, the Judge shall issue such process unless he considers, for reasons to be recorded, that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice.

Argu-ments.

234. When the examination of the witnesses (if any) for the defence is complete, the prosecutor shall sum up his case and the accused or his pleader shall be entitled to reply:

Provided that where any point of law is raised by the accused or his pleader, the prosecution may, with the permission of the Judge, make his submissions with regard to such point of law.

Judg-ment of acquittal of conviction.

235. (1) After hearing arguments and points of law (if any), the Judge shall give a judgment in the case.

(2) If the accused is convicted, the Judge shall, unless he proceeds in accordance with the provisions of section 360, hear the accused on the question of sentence, and then pass sentence on him according to law.

Previous conviction.

236. In a case where a previous conviction is charged under the provisions of sub-section (7) of section 211, and the accused does not admit that he has been previously convicted as alleged in the charge, the Judge may, after he has convicted the said accused under section 229 or section 235, take evidence in respect of the alleged previous conviction, and shall record a finding thereon:

Provided that no such charge shall be read out by the Judge nor shall the accused be asked to plead thereto nor shall the previous conviction

be referred to by the prosecution or in any evidence adduced by it, unless and until the accused has been convicted under section 229 or section 235.

237. (1) A Court of Session taking cognizance of an offence under sub-section (2) of section 199 shall try the case in accordance with the procedure for the trial of warrant-cases instituted otherwise than on a police report before a Court of Magistrate:

Provided that the person against whom the offence is alleged to have been committed shall, unless the Court of Session, for reasons to be recorded, otherwise directs, be examined as a witness for the prosecution.

(2) Every trial under this section shall be held *in camera* if either party thereto so desires or if the Court thinks fit so to do.

(3) If, in any such case, the Court discharges or acquits all or any of the accused and is of opinion that there was no reasonable cause for making the accusation against them or any of them, it may, by its order of discharge or acquittal, direct the person against whom the offence was alleged to have been committed (other than the President, Vice-President or the Governor of a State or the Administrator of a Union territory) to show cause why he should not pay compensation to such accused or to each or any of such accused, when there are more than one.

(4) The Court shall record and consider any cause which may be shown by the person so directed, and if it is satisfied that there was no reasonable cause for making the accusation, it may, for reasons to be recorded, make an order that compensation to such amount not exceeding one thousand rupees, as it may determine, be paid by such person to the accused or to each or any of them.

(5) Compensation awarded under sub-section (4) shall be recovered as if it were a fine imposed by a Magistrate.

(6) No person who has been directed to pay compensation under sub-section (4) shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made under this section:

Provided that any amount paid to an accused person under this section shall be taken into account in awarding compensation to such person in any subsequent civil suit relating to the same matter.

(7) The person who has been ordered under sub-section (4) to pay compensation may appeal from the order, in so far as it relates to the payment of compensation, to the High Court.

(8) When an order for payment of compensation to an accused person is made, the compensation shall not be paid to him before the period allowed for the presentation of the appeal has elapsed, or, if an appeal is presented, before the appeal has been decided.

CHAPTER XIX

TRIAL OF WARRANT-CASES BY MAGISTRATES

A.—Cases instituted on a police report

238. When, in any warrant-case instituted on a police report, the accused appears or is brought before a Magistrate at the commencement of the trial, the Magistrate shall satisfy himself that he has complied with the provisions of section 207.

Procedure
in cases
instituted
under
section
199(2).

Compli-
ance with
section
207.

When accused shall be discharged.

239. If, upon considering the police report and the documents sent with it under section 173 and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused, and record his reasons for so doing.

Framing of charge.

240. (1) If, upon such consideration, examination, if any, and hearing, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused.

(2) The charge shall then be read and explained to the accused, and he shall be asked whether he pleads guilty of the offence charged or claims to be tried.

Conviction on plea of guilty.

241. If the accused pleads guilty, the Magistrate shall record the plea and may, in his discretion, convict him thereon.

Evidence for prosecution.

242. (1) If the accused refuses to plead or does not plead, or claims to be tried or the Magistrate does not convict the accused under section 241, the Magistrate shall fix a date for the examination of witnesses.

(2) The Magistrate may, on the application of the prosecution, issue a summons to any of its witnesses directing him to attend or to produce any document or other thing.

(3) On the date so fixed, the Magistrate shall proceed to take all such evidence as may be produced in support of the prosecution:

Provided that the Magistrate may permit the cross-examination of any witness to be deferred until any other witness or witnesses have been examined or recall any witness for further cross-examination.

Evidence for defence.

243. (1) The accused shall then be called upon to enter upon his defence and produce his evidence; and if the accused puts in any written statement, the Magistrate shall file it with the record.

(2) If the accused, after he has entered upon his defence, applies to the Magistrate to issue any process for compelling the attendance of any witness for the purpose of examination or cross-examination, or the production of any document or other thing, the Magistrate shall issue such process unless he considers that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice and such ground shall be recorded by him in writing:

Provided that, when the accused has cross-examined or had the opportunity of cross-examining any witness before entering on his defence, the attendance of such witness shall not be compelled under this section, unless the Magistrate is satisfied that it is necessary for the ends of justice.

(3) The Magistrate may, before summoning any witness on an application under sub-section (2), require that the reasonable expenses incurred by the witness in attending for the purposes of the trial be deposited in Court.

B.—Cases instituted otherwise than on police report

244. (1) When, in any warrant-case instituted otherwise than on a police report, the accused appears or is brought before a Magistrate, the Magistrate shall proceed to hear the prosecution and take all such evidence as may be produced in support of the prosecution.

Evidence
for prosecu-
tion.

(2) The Magistrate may, on the application of the prosecution, issue a summons to any of its witnesses directing him to attend or to produce any document or other thing.

245. (1) If, upon taking all the evidence referred to in section 244, the Magistrate considers, for reasons to be recorded, that no case against the accused has been made out which, if unrebuted, would warrant his conviction, the Magistrate shall discharge him.

When
accused
shall be
discharg-
ed.

(2) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.

246. (1) If, when such evidence has been taken, or at any previous stage of the case, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused.

Procedure
where
accused
is not
discharg-
ed.

(2) The charge shall then be read and explained to the accused, and he shall be asked whether he pleads guilty or has any defence to make.

(3) If the accused pleads guilty, the Magistrate shall record the plea, and may, in his discretion, convict him thereon.

(4) If the accused refuses to plead, or does not plead or claims to be tried or if the accused is not convicted under sub-section (3), he shall be required to state, at the commencement of the next hearing of the case, or, if the Magistrate for reasons to be recorded in writing so thinks fit, forthwith, whether he wishes to cross-examine any, and, if so, which, of the witnesses for the prosecution whose evidence has been taken.

(5) If he says he does so wish, the witnesses named by him shall be recalled and, after cross-examination and re-examination (if any), they shall be discharged.

(6) The evidence of any remaining witnesses for the prosecution shall next be taken, and after cross-examination and re-examination (if any), they shall also be discharged.

247. The accused shall then be called upon to enter upon his defence and produce his evidence; and the provisions of section 243 shall apply to the case.

Evidence
for
defence.

C.—Conclusion of trial

Acquittal or conviction.

248. (1) If, in any case under this Chapter in which a charge has been framed, the Magistrate finds the accused not guilty, he shall record an order of acquittal.

(2) Where, in any case under this Chapter, the Magistrate finds the accused guilty, but does not proceed in accordance with the provisions of section 325 or section 360, he shall, after hearing the accused on the question of sentence, pass sentence upon him according to law.

(3) Where, in any case under this Chapter, a previous conviction is charged under the provisions of sub-section (7) of section 211 and the accused does not admit that he has been previously convicted as alleged in the charge, the Magistrate may, after he has convicted the said accused, take evidence in respect of the alleged previous conviction, and shall record a finding thereon:

Provided that no such charge shall be read out by the Magistrate nor shall the accused be asked to plead thereto nor shall the previous conviction be referred to by the prosecution or in any evidence adduced by it, unless and until the accused has been convicted under sub-section (2).

Absence of complainant.

249. When the proceedings have been instituted upon complaint, and on any day fixed for the hearing of the case, the complainant is absent, and the offence may be lawfully compounded or is not a cognizable offence, the Magistrate may, in his discretion, notwithstanding anything hereinbefore contained, at any time before the charge has been framed, discharge the accused.

Compensation for accusation without reasonable cause.

250. (1) If, in any case instituted upon complaint or upon information given to a police officer or to a Magistrate, one or more persons is or are accused before a Magistrate of any offence triable by a Magistrate, and the Magistrate by whom the case is heard discharges or acquits all or any of the accused, and is of opinion that there was no reasonable ground for making the accusation against them or any of them, the Magistrate may, by his order of discharge or acquittal, if the person upon whose complaint or information the accusation was made is present, call upon him forthwith to show cause why he should not pay compensation to such accused or to each or any of such accused when there are more than one; or, if such person is not present, direct the issue of a summons to him to appear and show cause as aforesaid.

(2) The Magistrate shall record and consider any cause which such complainant or informant may show, and if he is satisfied that there was no reasonable ground for making the accusation, may, for reasons to be recorded, make an order that compensation to such amount, not exceeding the amount of fine he is empowered to impose, as he may determine, be paid by such complainant or informant to the accused or to each or any of them.

(3) The Magistrate may, by the order directing payment of the compensation under sub-section (2), further order that, in default of payment, the person ordered to pay such compensation shall undergo simple imprisonment for a period not exceeding thirty days.

(4) When any person is imprisoned under sub-section (3), the provisions of sections 68 and 69 of the Indian Penal Code shall, so far as may be, apply.

(5) No person who has been directed to pay compensation under this section shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made or information given by him:

Provided that any amount paid to an accused person under this section shall be taken into account in awarding compensation to such person in any subsequent civil suit relating to the same matter.

(6) A complainant or informant who has been ordered under sub-section (2) by a Magistrate of the second class to pay compensation exceeding one hundred rupees, may appeal from the order, as if such complainant or informant had been convicted on a trial held by such Magistrate.

(7) When an order for payment of compensation to an accused person is made in a case which is subject to appeal under sub-section (6), the compensation shall not be paid to him before the period allowed for the presentation of the appeal has elapsed, or, if an appeal is presented, before the appeal has been decided; and where such order is made in a case which is not so subject to appeal the compensation shall not be paid before the expiration of one month from the date of the order.

(8) The provisions of this section apply to summons-cases as well as to warrant-cases.

CHAPTER XX

TRIAL OF SUMMONS-CASES BY MAGISTRATES

251. When in a summons-case the accused appears or is brought before the Magistrate, the particulars of the offence of which he is accused shall be stated to him, and he shall be asked whether he pleads guilty or has any defence to make, but it shall not be necessary to frame a formal charge.

252. If the accused pleads guilty, the Magistrate shall record the plea as nearly as possible in the words used by the accused and may, in his discretion, convict him thereon.

253. (1) Where a summons has been issued under section 206 and the accused desires to plead guilty to the charge without appearing before the Magistrate, he shall transmit to the Magistrate, by post or by messenger, a letter containing his plea and also the amount of fine specified in the summons.

(2) The Magistrate may, in his discretion, convict the accused in his absence, on his plea of guilty and sentence him to pay the fine specified in the summons, and the amount transmitted by the accused shall be adjusted towards that fine, or where a pleader authorised by the accused in this behalf pleads guilty on behalf of the accused, the Magistrate shall record the plea as nearly as possible in the words used by the pleader and may, in his discretion, convict the accused on such plea and sentence him as aforesaid.

Procedure when not convicted.

254. (1) If the Magistrate does not convict the accused under section 252 or section 253, the Magistrate shall proceed to hear the prosecution and take all such evidence as may be produced in support of the prosecution, and also to hear the accused and take all such evidence as he produces in his defence.

(2) The Magistrate may, if he thinks fit, on the application of the prosecution or the accused, issue a summons to any witness directing him to attend or to produce any document or other thing.

(3) The Magistrate may, before summoning any witness on such application, require that the reasonable expenses of the witness incurred in attending for the purposes of the trial be deposited in Court.

Acquittal or conviction.

255. (1) If the Magistrate, upon taking the evidence referred to in section 254 and such further evidence, if any, as he may, of his own motion, cause to be produced, finds the accused not guilty, he shall record an order of acquittal.

(2) Where the Magistrate does not proceed in accordance with the provisions of section 325 or section 360, he shall, if he finds the accused guilty, pass sentence upon him according to law.

(3) A Magistrate may, under section 252 or section 255, convict the accused of any offence triable under this Chapter, which from the facts admitted or proved he appears to have committed, whatever may be the nature of the complaint or summons, if the Magistrate is satisfied that the accused would not be prejudiced thereby.

Non-appearance or death of complainant.

256. (1) If the summons has been issued on complaint, and on the day appointed for the appearance of the accused, or any day subsequent thereto to which the hearing may be adjourned, the complainant does not appear, the Magistrate shall, notwithstanding anything hereinbefore contained, acquit the accused, unless for some reason he thinks it proper to adjourn the hearing of the case to some other day:

Provided that where the complainant is represented by a pleader or by the officer conducting the prosecution or where the Magistrate is of opinion that the personal attendance of the complainant is not necessary, the Magistrate may dispense with his attendance and proceed with the case.

(2) The provisions of sub-section (1) shall, so far as may be, apply also to cases where the non-appearance of the complainant is due to his death.

Withdrawal of complaint.

257. If a complainant, at any time before a final order is passed in any case under this Chapter, satisfies the Magistrate that there are sufficient grounds for permitting him to withdraw his complaint against the accused, or if there be more than one accused, against all or any of them, the Magistrate may permit him to withdraw the same, and shall thereupon acquit the accused against whom the complaint is so withdrawn.

258. In any summons-case instituted otherwise than upon complaint, a Magistrate of the first class or, with the previous sanction of the Chief Judicial Magistrate, any other Judicial Magistrate, may, for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment and where such stoppage of proceedings is made after the evidence of the principal witnesses has been recorded, pronounce a judgment of acquittal, and in any other case, release the accused, and such release shall have the effect of discharge.

Power to stop proceedings in certain cases.

259. When in the course of the trial of a summons-case relating to an offence punishable with imprisonment for a term exceeding six months, it appears to the Magistrate that in the interests of justice, the offence should be tried in accordance with the procedure for the trial of warrant-cases, such Magistrate may proceed to re-hear the case in the manner provided by this Code for the trial of warrant-cases and may recall any witness who may have been examined.

Power of Court to convert summons-cases into warrant-cases.

CHAPTER XXI

SUMMARY TRIALS

260. (1) Notwithstanding anything contained in this Code—

- (a) any Chief Judicial Magistrate;
- (b) any Metropolitan Magistrate;

(c) any Magistrate of the first class specially empowered in this behalf by the High Court,

Power to try summarily.

may, if he thinks fit, try in a summary way all or any of the following offences:—

(i) offences not punishable with death, imprisonment for life or imprisonment for a term exceeding two years;

45 of 1860.

(ii) theft, under section 379, section 380 or section 381 of the Indian Penal Code, where the value of the property stolen does not exceed two hundred rupees;

45 of 1860.

(iii) receiving or retaining stolen property, under section 411 of the Indian Penal Code, where the value of the property does not exceed two hundred rupees;

45 of 1860.

(iv) assisting in the concealment or disposal of stolen property, under section 414 of the Indian Penal Code, where the value of such property does not exceed two hundred rupees;

45 of 1860.

(v) offences under sections 454 and 456 of the Indian Penal Code;

45 of 1860.

(vi) insult with intent to provoke a breach of the peace, under section 504, and criminal intimidation, under section 506 of the Indian Penal Code;

1 of 1871.

(vii) abetment of any of the foregoing offences;

(viii) an attempt to commit any of the foregoing offences, when such attempt is an offence;

(ix) any offence constituted by an act in respect of which a complaint may be made under section 20 of the Cattle-trespass Act, 1871.

(2) When, in the course of a summary trial it appears to the Magistrate that the nature of the case is such that it is undesirable to try

it summarily, the Magistrate shall recall any witnesses who may have been examined and proceed to re-hear the case in the manner provided by this Code.

Summary trial by Magistrate of the second class.

Procedure for summary trials.

Record in summary trials.

Judgment in cases tried summarily.

Language of record and judgement.

Definitions.

261. The High Court may confer on any Magistrate invested with the powers of a Magistrate of the second class power to try summarily any offence which is punishable only with fine or with imprisonment for a term not exceeding six months with or without fine, and any abetment of or attempt to commit any such offence.

262. (1) In trials under this Chapter, the procedure specified in this Code for the trial of summons-case shall be followed except as hereinafter mentioned

(2) No sentence of imprisonment for a term exceeding three months shall be passed in the case of any conviction under this Chapter.

263. In every case tried summarily, the Magistrate shall enter, in such form as the State Government may direct, the following particulars, namely:—

- (a) the serial number of the case;
- (b) the date of the commission of the offence;
- (c) the date of the report or complaint;
- (d) the name of the complainant (if any);
- (e) the name, parentage and residence of the accused;
- (f) the offence complained of and the offence (if any) proved, and in cases coming under clause (ii), clause (iii) or clause (iv) of subsection (1) of section 260, the value of the property in respect of which the offence has been committed;
- (g) the plea of the accused and his examination (if any);
- (h) the finding;
- (i) the sentence or other final order;
- (j) the date on which proceedings terminated.

264. In every case tried summarily in which the accused does not plead guilty, the Magistrate shall record the substance of the evidence and a judgment containing a brief statement of the reasons for the finding.

265. (1) Every such record and judgment shall be written in the language of the Court.

(2) The High Court may authorise any Magistrate empowered to try offences summarily to prepare the aforesaid record or judgment or both by means of an officer appointed in this behalf by the Chief Judicial Magistrate, and the record or judgment so prepared shall be signed by such Magistrate.

CHAPTER XXII

ATTENDANCE OF PERSONS CONFINED OR DETAINED IN PRISONS

266. In this Chapter,—

- (a) "detained" includes detained under any law providing for preventive detention;

(b) "prison" includes,—

(i) any place which has been declared by the State Government, by general or special order, to be a subsidiary jail;

(ii) any reformatory, Borstal institution or other institution of a like nature.

267. (1) Whenever, in the course of an inquiry, trial or other proceeding under this Code, it appears to a Criminal Court,—

(a) that a person confined or detained in a prison should be brought before the Court for answering to a charge of an offence, or for the purpose of any proceedings against him, or

(b) that it is necessary for the ends of justice to examine such person as a witness,

the Court may make an order requiring the officer in charge of the prison to produce such person before the Court for answering to the charge or for the purpose of such proceeding or, as the case may be, for giving evidence.

(2) Where an order under sub-section (1) is made by a Magistrate of the second class, it shall not be forwarded to, or acted upon by, the officer in charge of the prison unless it is countersigned by the Chief Judicial Magistrate to whom such Magistrate is subordinate.

(3) Every order submitted for countersigning under sub-section (2) shall be accompanied by a statement of the facts which, in the opinion of the Magistrate, render the order necessary, and the Chief Judicial Magistrate to whom it is submitted may, after considering such statement, decline to countersign the order.

268. (1) The State Government may, at any time, having regard to the matters specified in sub-section (2), by general or special order, direct that any person or class of persons shall not be removed from the prison in which he or they may be confined or detained, and thereupon, so long as the order remains in force, no order made under section 267, whether before or after the order of the State Government, shall have effect in respect of such person or class of persons.

(2) Before making an order under sub-section (1), the State Government shall have regard to the following matters, namely:—

(a) the nature of the offence for which, or the grounds on which, the person or class of persons has been ordered to be confined or detained in prison;

(b) the likelihood of the disturbance of public order if the person or class of persons is allowed to be removed from the prison;

(c) the public interest, generally.

269. Where the person in respect of whom an order is made under section 267—

(a) is by reason of sickness or infirmity unfit to be removed from the prison; or

(b) is under committal for trial or under remand pending trial or pending a preliminary investigation; or

Power to require attendance of prisoners.

Power of State Government to exclude certain persons from operation of section 267.

Officer in charge of prison to abstain from carrying out order in certain contingencies.

(c) is in custody for a period which would expire before the expiration of the time required for complying with the order and for taking him back to the prison in which he is confined or detained; or

(d) is a person to whom an order made by the State Government under section 268 applies;

the officer in charge of the prison shall abstain from carrying out the Court's order and shall send to the Court a statement of reasons for so abstaining:

Provided that where the attendance of such person is required for giving evidence at a place not more than twenty-five kilometres distant from the prison, the officer in charge of the prison shall not so abstain for the reason mentioned in clause (b).

Prisoner
to be
brought
to Court
in cus-
tody.

270. Subject to the provisions of section 269, the officer in charge of the prison shall, upon delivery of an order made under sub-section (1) of section 267 and duly countersigned, where necessary, under sub-section (2) thereof, cause the person named in the order to be taken to the Court in which his attendance is required, so as to be present there at the time mentioned in the order, and shall cause him to be kept in custody in or near the Court until he has been examined or until the Court authorises him to be taken back to the prison in which he was confined or detained.

Power
to issue
commis-
sion for
examina-
tion of
witness in
prison.

271. The provisions of this Chapter shall be without prejudice to the power of the Court to issue, under section 284, a commission for the examination, as a witness, of any person confined or detained in a prison; and the provisions of Part B of Chapter XXIII shall apply in relation to the examination on commission of any such person in the prison as they apply in relation to the examination on commission of any other person.

CHAPTER XXIII

EVIDENCE IN INQUIRIES AND TRIALS

A.—Mode of taking and recording evidence

Language
of Courts.

272. The State Government may determine what shall be, for purposes of this Code, the language of each Court within the State other than the High Court.

Evidence
to be
taken
in pres-
ence of
accused.

273. Except as otherwise expressly provided, all evidence taken in the course of the trial or other proceeding shall be taken in the presence of the accused, or, when his personal attendance is dispensed with, in the presence of his pleader.

Explanation.—In this section, “accused” includes a person in relation to whom any proceeding under Chapter VIII has been commenced under this Code.

Record in
summons
cases
and
inquiries.

274. (1) In all summons-cases tried before a Magistrate, in all inquiries under sections 145 to 148 (both inclusive), and in all proceedings under section 446 otherwise than in the course of a trial, the Magistrate shall, as the examination of each witness proceeds, make a memorandum of the substance of the evidence in the language of the Court:

Provided that if the Magistrate is unable to make such memorandum himself, he shall, after recording the reason of his inability, cause such memorandum to be made in writing or from his dictation in open Court.

(2) Such memorandum shall be signed by the Magistrate and shall form part of the record.

275. (1) In all warrant-cases tried before a Magistrate, the evidence of each witness shall, as his examination proceeds, be taken down in writing either by the Magistrate himself or by his dictation in open Court or, where he is unable to do so owing to a physical or other incapacity, under his direction and superintendence, by an officer of the Court appointed by him in this behalf.

(2) Where the Magistrate causes the evidence to be taken down, he shall record a certificate that the evidence could not be taken down by himself for the reasons referred to in sub-section (1).

(3) Such evidence shall ordinarily be taken down in the form of a narrative; but the Magistrate may, in his discretion take down, or cause to be taken down, any part of such evidence in the form of question and answer.

(4) The evidence so taken down shall be signed by the Magistrate and shall form part of the record.

276. (1) In all trials before a Court of Session, the evidence of each witness shall, as his examination proceeds, be taken down in writing either by the presiding Judge himself or by his dictation in open Court or, under his direction and superintendence, by an officer of the Court appointed by him in this behalf.

~~(2) Such evidence shall ordinarily be taken down in the form of question and answer; but the presiding Judge may, in his discretion, take down or cause to be taken down, the whole or any part of such evidence in the form of a narrative.~~

(3) The evidence so taken down shall be signed by the presiding Judge and shall form part of the record.

277. In every case where evidence is taken down under section 275 or section 276,—

(a) if the witness gives evidence in the language of the Court, it shall be taken down in that language;

(b) if he gives evidence in any other language, it may, if practicable, be taken down in that language, and if it is not practicable to do so, a true translation of the evidence in the language of the Court shall be prepared as the examination of the witness proceeds, signed by the Magistrate or presiding Judge, and shall form part of the record;

(c) where under clause (b) evidence is taken down in a language other than the language of the Court, a true translation thereof in the language of the Court shall be prepared as soon as practicable, signed by the Magistrate or presiding Judge, and shall form part of the record:

Provided that when under clause (b) evidence is taken down in English and a translation thereof in the language of the Court is not required by any of the parties, the Court may dispense with such translation.

Record in
warrant-
cases,

Record in
trial be-
fore
Court of
Session,

Language
of record
of evi-
dence.

Procedure in regard to such evidence when completed.

278. (1) As the evidence of each witness taken under section 275 or section 276 is completed, it shall be read over to him in the presence of the accused, if in attendance, or of his pleader, if he appears by pleader, and shall, if necessary, be corrected.

(2) If the witness denies the correctness of any part of the evidence when the same is read over to him, the Magistrate or presiding Judge may, instead of correcting the evidence, make a memorandum thereon of the objection made to it by the witness and shall add such remarks as he thinks necessary.

(3) If the record of the evidence is in a language different from that in which it has been given and the witness does not understand that language, the record shall be interpreted to him in the language in which it was given, or in a language which he understands.

Interpretation of evidence to accused or his pleader.

279. (1) Whenever any evidence is given in a language not understood by the accused, and he is present in Court in person, it shall be interpreted to him in open Court in a language understood by him.

(2) If he appears by pleader and the evidence is given in a language other than the language of the Court, and not understood by the pleader, it shall be interpreted to such pleader in that language.

(3) When documents are put for the purpose of formal proof, it shall be in the discretion of the Court to interpret as much thereof as appears necessary.

Remarks respecting demeanour of witness.

280. When a presiding Judge or Magistrate has recorded the evidence of a witness, he shall also record such remarks (if any) as he thinks material respecting the demeanour of such witness whilst under examination.

Record of examination of accused.

281. (1) Whenever the accused is examined by a Metropolitan Magistrate, the Magistrate shall make a memorandum of the substance of the examination of the accused in the language of the Court and such memorandum shall be signed by the Magistrate and shall form part of the record.

(2) Whenever the accused is examined by any Magistrate other than a Metropolitan Magistrate, or by a Court of Session, the whole of such examination; including every question put to him and every answer given by him, shall be recorded in full by the presiding Judge or Magistrate himself or where he is unable to do so owing to a physical or other incapacity, under his direction and superintendence by an officer of the Court appointed by him in this behalf.

(3) The record shall, if practicable, be in the language in which the accused is examined or, if that is not practicable, in the language of the Court.

(4) The record shall be shown or read to the accused, or, if he does not understand the language in which it is written, shall be interpreted to him in a language which he understands, and he shall be at liberty to explain or add to his answers.

(5) It shall thereafter be signed by the accused and by the Magistrate or presiding Judge, who shall certify under his own hand that the examination was taken in his presence and hearing and that the record contains a full and true account of the statement made by the accused.

(6) Nothing in this section shall be deemed to apply to the examination of an accused person in the course of a summary trial.

282. When the services of an interpreter are required by any Criminal Court for the interpretation of any evidence or statement, he shall be bound to state the true interpretation of such evidence or statement.

283. Every High Court may, by general rule, prescribe the manner in which the evidence of witnesses and the examination of the accused shall be taken down in cases coming before it; and such evidence and examination shall be taken down in accordance with such rule.

B.—Commissions for the examination of witnesses

284. (1) Whenever, in the course of any inquiry, trial or other proceeding under this Code, it appears to a Court or Magistrate that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, the Court or Magistrate may dispense with such attendance and may issue a commission for the examination of the witness in accordance with the provisions of this Chapter:

Provided that where the examination of the President or the Vice-President of India or the Governor of a State or the Administrator of a Union territory as a witness is necessary for the ends of justice, a commission shall be issued for the examination of such a witness.

(2) The Court may, when issuing a commission for the examination of a witness for the prosecution, direct that such amount as the Court considers reasonable to meet the expenses of the accused, including the pleader's fees, be paid by the prosecution.

285. (1) If the witness is within the territories to which this Code extends, the commission shall be directed to the Chief Metropolitan Magistrate or Chief Judicial Magistrate, as the case may be, within whose local jurisdiction the witness is to be found.

(2) If the witness is in India, but in a State or an area to which this Code does not extend, the commission shall be directed to such Court or officer as the Central Government may, by notification, specify in this behalf.

(3) If the witness is in a country or place outside India and arrangements have been made by the Central Government with the Government of such country or place for taking the evidence of witnesses in relation to criminal matters, the commission shall be issued in such form, directed to such Court or officer, and sent to such authority for transmission, as the Central Government may, by notification, prescribe in this behalf.

286. Upon receipt of the commission, the Chief Metropolitan Magistrate or Chief Judicial Magistrate, or such Metropolitan or Judicial Magistrate as he may appoint in this behalf, shall summon the witness before him or proceed to the place where the witness is, and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant-cases under this Code,

Interpreter
to be
bound to
interpret
truth-
fully.

Record in
High
Court.

When
attend-
ance
of witness
may be
dispensed
with and
commis-
sion
issued.

Commis-
sion to
whom to
be issued.

Execution
of com-
missions.

Parties
may exa-
mine wit-
nesses.

287. (1) The parties to any proceeding under this Code in which a commission is issued may respectively forward any interrogatories in writing which the Court or Magistrate directing the commission may think relevant to the issue, and it shall be lawful for the Magistrate, Court or officer to whom the commission is directed, or to whom the duty of executing it is delegated, to examine the witness upon such interrogatories.

(2) Any such party may appear before such Magistrate, Court or officer by pleader, or if not in custody, in person, and may examine, cross-examine and re-examine (as the case may be) the said witness.

Return of
commis-
sion.

288. (1) After any commission issued under section 284 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Court or Magistrate issuing the commission; and the commission, the return thereto and the deposition shall be open at all reasonable times to inspection of the parties, and may, subject to all just exceptions, be read in evidence in the case by either party, and shall form part of the record.

(2) Any deposition so taken, if it satisfies the conditions prescribed by section 33 of the Indian Evidence Act, 1872, may also be received in evidence at any subsequent stage of the case before another Court.

1 of 1872

Adjourn-
ment of
proceed-
ing.

289. In every case in which a commission is issued under section 284, the inquiry, trial or other proceeding may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

Execution
of foreign
commis-
sions.

290. (1) The provisions of section 286 and so much of section 287 and section 288 as relate to the execution of a commission and its return shall apply in respect of commissions issued by any of the Courts, Judges or Magistrates hereinafter mentioned as they apply to commissions issued under section 284.

(2) The Courts, Judges and Magistrates referred to in sub-section (1) are—

(a) any such Court, Judge or Magistrate exercising jurisdiction within an area in India to which this Code does not extend, as the Central Government may, by notification, specify in this behalf;

(b) any Court, Judge or Magistrate exercising jurisdiction in any such country or place outside India, as the Central Government may, by notification, specify in this behalf, and having authority, under the law in force in that country or place, to issue commissions for the examination of witnesses in relation to criminal matters.

Deposition
of medical
witnes.

291. (1) The deposition of a civil surgeon or other medical witness, taken and attested by a Magistrate in the presence of the accused, or taken on commission under this Chapter, may be given in evidence in any inquiry, trial or other proceeding under this Code, although the deponent is not called as a witness.

(2) The Court may, if it thinks fit, and shall, on the application of the prosecution or the accused, summon and examine any such deponent as to the subject-matter of his deposition.

292. (1) Any document purporting to be a report under the hand of any such gazetted officer of the Mint or of the India Security Press (including the office of the Controller of Stamps and Stationery) as the Central Government may, by notification, specify in this behalf, upon any matter or thing duly submitted to him for examination and report in the course of any proceeding under this Code, may be used as evidence in any inquiry, trial or other proceeding under this Code, although such officer is not called as a witness.

Evidence
of officers
of the
Mint.

(2) The Court may, if it thinks fit, summon and examine any such officer as to the subject-matter of his report:

Provided that no such officer shall be summoned to produce any records on which the report is based.

I of 1872:

(3) Without prejudice to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, no such officer shall, except with the permission of the Master of the Mint or the India Security Press or the Controller of Stamps and Stationery, as the case may be, be permitted—

(a) to give any evidence derived from any unpublished official records on which the report is based; or

(b) to disclose the nature or particulars of any test applied by him in the course of the examination of the matter or thing.

293. (1) Any document purporting to be a report under the hand of a Government scientific expert to whom this section applies, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Code, may be used as evidence in any inquiry, trial or other proceeding under this Code.

Reports
of cer-
tain
Govern-
ment
scientific
experts.

(2) The Court may, if it thinks fit, summon and examine any such expert as to the subject-matter of his report.

(3) Where any such expert is summoned by a Court and he is unable to attend personally, he may, unless the Court has expressly directed him to appear personally, depute any responsible officer working with him to attend the Court, if such officer is conversant with the facts of the case and can satisfactorily depose in Court on his behalf.

(4) This section applies to the following Government scientific experts, namely:—

(a) any Chemical Examiner or Assistant Chemical Examiner to Government;

(b) the Chief Inspector of Explosives;

(c) the Director of the Finger Print Bureau;

(d) the Director, Haffkine Institute, Bombay;

(e) the Director of a Central Forensic Science Laboratory or a State Forensic Science Laboratory;

(f) the Serologist to the Government.

✓ Ins. by Act 45 of 1978, S. 21.

No formal proof of certain documents.

294. (1) Where any document is filed before any Court by the prosecution or the accused, the particulars of every such document shall be included in a list and the prosecution or the accused, as the case may be, or the pleader for the prosecution or the accused, if any, shall be called upon to admit or deny the genuineness of each such document.

(2) The list of documents shall be in such form as may be prescribed by the State Government.

(3) Where the genuineness of any document is not disputed, such document may be read in evidence in any inquiry, trial or other proceeding under this Code without proof of the signature of the person to whom it purports to be signed:

Provided that the Court may, in its discretion, require such signature to be proved.

Affidavit in proof of conduct of public servant.

295. When any application is made to any Court in the course of any inquiry, trial or other proceeding under this Code, and allegations are made therein respecting any public servant, the applicant may give evidence of the facts alleged in the application by affidavit, and the Court may, if it thinks fit, order that evidence relating to such facts be so given.

Evidence of formal character on affidavit.

296. (1) The evidence of any person whose evidence is of a formal character may be given by affidavit and may, subject to all just exceptions, be read in evidence in any inquiry, trial or other proceeding under this Code.

(2) The Court may, if it thinks fit, and shall, on the application of the prosecution or the accused, summon and examine any such person as to the facts contained in his affidavit.

297. (1) Affidavits to be used before any Court under this Code may be sworn or affirmed before—

(a) any Judge or Magistrate, or

(b) any Commission of Oaths appointed by a High Court or Court of Session, or

(c) any notary appointed under the Notaries Act, 1952.

53 of 1952

(2) Affidavits shall be confined to, and shall state separately, such facts as the deponent is able to prove from his own knowledge and such facts as he has reasonable ground to believe to be true, and in the latter case, the deponent shall clearly state the grounds of such belief.

(3) The Court may order any scandalous and irrelevant matter in the affidavit to be struck out or amended.

Previous conviction or acquittal how proved.

298. In any inquiry, trial or other proceeding under this Code, a previous conviction or acquittal may be proved, in addition to any other mode provided by any law for the time being in force,—

(a) by an extract certified under the hand of the officer having the custody of the records of the Court in which such conviction or acquittal was held, to be a copy of the sentence or order, or

↓ Subs. by Act 45 of 1978, S. 22.

(b) in case of a conviction, either by a certificate signed by the officer in charge of the jail in which the punishment or any part thereof was undergone, or by production of the warrant of commitment under which the punishment was suffered,

together with, in each of such cases, evidence as to the identity of the accused person with the person so convicted or acquitted.

299. (1) If it is proved that an accused person has absconded, and that there is no immediate prospect of arresting him, the Court competent to try such person for the offence complained of may, in his absence, examine the witnesses (if any) produced on behalf of the prosecution, and record their depositions and any such deposition may, on the arrest of such person, be given in evidence against him on the inquiry into, or trial for, the offence with which he is charged, if the deponent is dead or incapable of giving evidence or cannot be found or his presence cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable.

Record of evidence in absence of accused.

(2) If it appears that an offence punishable with death or imprisonment for life has been committed by some person or persons unknown, the High Court or the Sessions Judge may direct that any Magistrate of the first class shall hold an inquiry and examine any witnesses who can give evidence concerning the offence and any depositions so taken may be given in evidence against any person who is subsequently accused of the offence, if the deponent is dead or incapable of giving evidence or beyond the limits of India.

CHAPTER XXIV

GENERAL PROVISIONS AS TO INQUIRIES AND TRIALS

300. (1) A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under sub-section (1) of section 221, or for which he might have been convicted under sub-section (2) thereof.

Person once convicted or acquitted not to be tried for same offence.

(2) A person acquitted or convicted of any offence may be afterwards tried, with the consent of the State Government, for any distinct offence for which a separate charge might have been made against him at the former trial under sub-section (1) of section 220.

(3) A person convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that of which he was convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was convicted.

(4) A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts which he may have committed if the Court by which he was first tried

↓ Iw. by Act 45 of 1978, S. 23.

was not competent to try the offence with which he is subsequently charged.

(5) A person discharged under section 258 shall not be tried again for the same offence except with the consent of the Court by which he was discharged or of any other Court to which the first-mentioned Court is subordinate.

(6) Nothing in this section shall affect the provisions of section 26 of the General Clauses Act, 1897 or of section 188 of this Code.

10 of 1897

Explanation.—The dismissal of a complaint, or the discharge of the accused, is not an acquittal for the purposes of this section.

Illustrations

(a) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards, while the acquittal remains in force, be charged with theft as a servant, or, upon the same facts, with theft simply, or with criminal breach of trust.

(b) A is tried for causing grievous hurt and convicted. The person injured afterwards dies. A may be tried again for culpable homicide.

(c) A is charged before the Court of Session and convicted of the culpable homicide of B. A may not afterwards be tried on the same facts for the murder of B.

(d) A is charged by a Magistrate of the first class with, and convicted by him of, voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B on the same facts, unless the case comes within sub-section (3) of this section.

(e) A is charged by a Magistrate of the second class with, and convicted by him of, theft of property from the person of B. A may subsequently be charged with, and tried for, robbery on the same facts.

(f) A, B and C are charged by a Magistrate of the first class with, and convicted by him of, robbing D. A, B and C may afterwards be charged with, and tried for, dacoity on the same facts.

Appear-
ance by
Public
Prosecu-
tors.

301. (1) The Public Prosecutor or Assistant Public Prosecutor in charge of a case may appear and plead without any written authority before any Court in which that case is under inquiry, trial or appeal.

(2) If in any such case any private person instructs a pleader to prosecute any person in any Court, the Public Prosecutor or Assistant Public Prosecutor in charge of the case shall conduct the prosecution, and the pleader so instructed shall act therein under the directions of the Public Prosecutor or Assistant Public Prosecutor, and may, with the permission of the Court, submit written arguments after the evidence is closed in the case.

Permis-
sion to
conduct
prosecu-
tion.

302. (1) Any Magistrate inquiring into or trying a case may permit the prosecution to be conducted by any person other than a police officer below the rank of Inspector; but no person, other than the Advocate-General or Government Advocate or a Public Prosecutor or Assistant Public Prosecutor, shall be entitled to do so without such permission:

Provided that no police officer shall be permitted to conduct the prosecution if he has taken part in the investigation into the offence with respect to which the accused is being prosecuted.

(2) Any person conducting the prosecution may do so personally or by a pleader.

303. Any person accused of an offence before a Criminal Court, or against whom proceedings are instituted under this Code, may of right be defended by a pleader of his choice.

304. (1) Where, in a trial before the Court of Session, the accused is not represented by a pleader, and where it appears to the Court that the accused has not sufficient means to engage a pleader, the Court shall assign a pleader for his defence at the expense of the State.

(2) The High Court may, with the previous approval of the State Government, make rules providing for—

- (a) the mode of selecting pleaders for defence under sub-section (1);
- (b) the facilities to be allowed to such pleaders by the Courts;
- (c) the fees payable to such pleaders by the Government, and generally, for carrying out the purposes of sub-section (1).

(3) The State Government may, by notification, direct that, as from such date as may be specified in the notification, the provisions of sub-sections (1) and (2) shall apply in relation to any class of trials before other Courts in the State as they apply in relation to trials before Courts of Session.

305. (1) In this section, "corporation" means an incorporated company or other body corporate, and includes a society registered under the Societies Registration Act, 1860.

21 of 1860.

(2) Where a corporation is the accused person or one of the accused persons in an inquiry or trial, it may appoint a representative for the purpose of the inquiry or trial and such appointment need not be under the seal of the corporation.

(3) Where a representative of a corporation appears, any requirement of this Code that anything shall be done in the presence of the accused or shall be read or stated or explained to the accused, shall be construed as a requirement that that thing shall be done in the presence of the representative or read or stated or explained to the representative, and any requirement that the accused shall be examined shall be construed as a requirement that the representative shall be examined.

(4) Where a representative of a corporation does not appear, any such requirement as is referred to in sub-section (3) shall not apply.

(5) Where a statement in writing purporting to be signed by the managing director of the corporation or by any person (by whatever name called) having, or being one of the persons having the management of the

Right of person against whom proceedings are instituted to be defended.

Legal aid to accused at State expense in certain cases.

Procedure when corporation or registered society is an accused.

affairs of the corporation to the effect that the person named in the statement has been appointed as the representative of the corporation for the purposes of this section, is filed, the Court shall, unless the contrary is proved, presume that such person has been so appointed.

(6) If a question arises as to whether any person, appearing as the representative of a corporation in an inquiry or trial before a Court is or is not such representative, the question shall be determined by the Court.

**Tender of
pardon to
accomp-
lice.**

306. (1) With a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to an offence to which this section applies, the Chief Judicial Magistrate or a Metropolitan Magistrate at any stage of the investigation or inquiry into, or the trial of, the offence, and the Magistrate of the first class inquiring into or trying the offence, at any stage of the inquiry or trial, may tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof.

(2) This section applies to—

(a) any offence triable exclusively by the Court of Session or by the Court of a Special Judge appointed under the Criminal Law Amendment Act, 1952;

(b) any offence punishable with imprisonment which may extend to seven years or with a more severe sentence.

(3) Every Magistrate who tenders a pardon under sub-section (1) shall record—

(a) his reasons for so doing;

(b) whether the tender was or was not accepted by the person to whom it was made,

and shall, on application made by the accused, furnish him with a copy of such record free of cost.

(4) Every person accepting a tender of pardon made under sub-section (1)—

(a) shall be examined as a witness in the Court of the Magistrate taking cognizance of the offence and in the subsequent trial, if any;

(b) shall, unless he is already on bail, be detained in custody until the termination of the trial.

(5) Where a person has accepted a tender of pardon made under sub-section (1) and has been examined under sub-section (4), the Magistrate taking cognizance of the offence shall, without making any further inquiry in the case,—

(a) commit it for trial—

(i) to the Court of Session if the offence is triable exclusively by that Court or if the Magistrate taking cognizance is the Chief Judicial Magistrate;

of 1952

(ii) to a Court of Special Judge appointed under the Criminal Law Amendment Act, 1952, if the offence is triable exclusively by that Court;

(b) in any other case, make over the case to the Chief Judicial Magistrate who shall try the case himself.

307. At any time after commitment of a case but before judgment is passed, the Court to which the commitment is made may, with a view to obtaining at the trial the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, any such offence, tender a pardon on the same condition to such person.

Power to direct tender of pardon.

308. (1) Where, in regard to a person who has accepted a tender of pardon made under section 306 or section 307, the Public Prosecutor certifies that in his opinion such person has, either by wilfully concealing anything essential or by giving false evidence, not complied with the condition on which the tender was made, such person may be tried for the offence in respect of which the pardon was so tendered or for any other offence of which he appears to have been guilty in connection with the same matter, and also for the offence of giving false evidence:

Provided that such person shall not be tried jointly with any of the other accused:

Provided further that such person shall not be tried for the offence of giving false evidence except with the sanction of the High Court, and nothing contained in section 195 or section 340 shall apply to that offence.

(2) Any statement made by such person accepting the tender of pardon and recorded by a Magistrate under section 164 or by a Court under sub-section (4) of section 306 may be given in evidence against him at such trial.

(3) At such trial, the accused shall be entitled to plead that he has complied with the condition upon which such tender was made; in which case it shall be for the prosecution to prove that the condition has not been complied with.

(4) At such trial, the Court shall—

(a) if it is a Court of Session, before the charge is read out and explained to the accused;

(b) if it is the Court of a Magistrate, before the evidence of the witnesses for the prosecution is taken.

ask the accused whether he pleads that he has complied with the conditions on which the tender of pardon was made.

(5) If the accused does so plead, the Court shall record the plea and proceed with the trial and it shall, before passing judgment in the case, find whether or not the accused has complied with the conditions of the pardon, and, if it finds that he has so complied, it shall, notwithstanding anything contained in this Code, pass judgment of acquittal.

Trial of person not complying with conditions of pardon.

Power to postpone or adjourn proceedings.

309. (1) In every inquiry or trial, the proceedings shall be held as expeditiously as possible, and in particular, when the examination of witnesses has once begun, the same shall be continued from day to day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded.

(2) If the Court, after taking cognizance of an offence, or commencement of trial, finds it necessary or advisable to postpone the commencement of, or adjourn, any inquiry or trial, it may, from time to time, for reasons to be recorded, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody:

Provided that no Magistrate shall remand an accused person to custody under this section for a term exceeding fifteen days at a time:

Provided further that when witnesses are in attendance, no adjournment or postponement shall be granted, without examining them, except for special reasons to be recorded in writing:

Explanation 1.—If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

Explanation 2.—The terms on which an adjournment or postponement may be granted include, in appropriate cases, the payment of costs by the prosecution or the accused.

Local inspection.

310. (1) Any Judge or Magistrate may, at any stage of any inquiry, trial or other proceeding, after due notice to the parties, visit and inspect any place in which an offence is alleged to have been committed, or any other place which it is in his opinion necessary to view for the purpose of properly appreciating the evidence given at such inquiry or trial, and shall without unnecessary delay record a memorandum of any relevant facts observed at such inspection.

(2) Such memorandum shall form part of the record of the case and if the prosecutor, complainant or accused or any other party to the case, so desires, a copy of the memorandum shall be furnished to him free of cost.

Power to summon material witness, or examine person present.

311. Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it to be essential to the just decision of the case.

Expenses of complainants and witnesses.

312. Subject to any rules made by the State Government, any Criminal Court may, if it thinks fit, order payment, on the part of Government, of the reasonable expenses of any complainant or witness attending for the purposes of any inquiry, trial or other proceeding before such Court under this Code.

4 Jan by Act No 1578, S. 24.

Power to
examine
the
accused.

313. (1) In every inquiry or trial, for the purpose of enabling the accused personally to explain any circumstances appearing in the evidence against him, the Court—

(a) may at any stage, without previously warning the accused put such questions to him as the Court considers necessary;

(b) shall, after the witnesses for the prosecution have been examined and before he is called on for his defence, question him generally on the case:

Provided that in a summons-case, where the Court has dispensed with the personal attendance of the accused, it may also dispense with his examination under clause (b).

(2) No oath shall be administered to the accused when he is examined under sub-section (1).

(3) The accused shall not render himself liable to punishment by refusing to answer such questions, or by giving false answers to them.

(4) The answers given by the accused may be taken into consideration in such inquiry or trial, and put in evidence for or against him in any other inquiry into, or trial for, any other offence which such answers may tend to show he has committed.

314. (1) Any party to a proceeding may, as soon as may be, after the close of his evidence, address concise oral arguments, and may, before he concludes the oral arguments, if any, submit a memorandum to the Court setting forth concisely and under distinct headings, the arguments in support of his case and every such memorandum shall form part of the record.

(2) A copy of every such memorandum shall be simultaneously furnished to the opposite party.

(3) No adjournment of the proceedings shall be granted for the purpose of filing the written arguments unless the Court, for reasons to be recorded in writing, considers it necessary to grant such adjournment.

(4) The Court may, if it is of opinion that the oral arguments are not concise or relevant, regulate such arguments.

315. (1) Any person accused of an offence before a Criminal Court shall be a competent witness for the defence and may give evidence on oath in disproof of the charges made against him or any person charged together with him at the same trial:

Provided that—

(a) he shall not be called as a witness except on his own request in writing;

(b) his failure to give evidence shall not be made the subject of any comment by any of the parties or the Court or give rise to any presumption against himself or any person charged together with him at the same trial.

Oral
argu-
ments and
memoran-
dum of
argu-
ments.

Accused
person
to be
competent
witness.

(2) Any person against whom proceedings are instituted in any Criminal Court under section 98, or section 107, or section 108, or section 109, or section 110, or under Chapter IX or under Part B, Part C or Part D of Chapter X, may offer himself as a witness in such proceedings:

Provided that in proceedings under section 108, section 109 or section 110, the failure of such person to give evidence shall not be made the subject or any comment by any of the parties or the Court or give rise to any presumption against him or any other person proceeded against together with him at the same inquiry.

No influence to be used to induce disclosure.

Provision for inquiries and trial being held in the absence of accused in certain cases.

Procedure where accused does not understand proceedings.

Power to proceed against other persons appearing to be guilty of offence.

316. Except as provided in sections 306 and 307, no influence, by means of any promise or threat or otherwise, shall be used to an accused person to induce him to disclose or withhold any matter within his knowledge.

317. (1) At any stage of an inquiry or trial under this Code, if the Judge or Magistrate is satisfied, for reasons to be recorded, that the personal attendance of the accused before the Court is not necessary in the interests of justice, or that the accused persistently disturbs the proceedings in Court, the Judge or Magistrate may, if the accused is represented by a pleader, dispense with his attendance and proceed with such inquiry or trial in his absence, and may, at any subsequent stage of the proceedings, direct the personal attendance of such accused.

(2) If the accused in any such case is not represented by a pleader, or if the Judge or Magistrate considers his personal attendance necessary, he may, if he thinks fit and for reasons to be recorded by him, either adjourn such inquiry or trial, or order that the case of such accused be taken up or tried separately.

318. If the accused, though not of unsound mind, cannot be made to understand the proceedings, the Court may proceed with the inquiry or trial; and, in the case of a Court other than a High Court, if such proceedings result in a conviction, the proceedings shall be forwarded to the High Court with a report of the circumstances of the case, and the High Court shall pass thereon such order as it thinks fit.

319. (1) Where, in the course of any inquiry into, or trial of, an offence, it appears from the evidence that any person not being the accused has committed any offence for which such person could be tried together with the accused, the Court may proceed against such person for the offence which he appears to have committed.

(2) Where such person is not attending the Court, he may be arrested or summoned, as the circumstances of the case may require, for the purpose aforesaid.

(3) Any person attending the Court, although not under arrest or upon a summons, may be detained by such Court for the purpose of the inquiry into, or trial of, the offence which he appears to have committed.

(4) Where the Court proceeds against any person under sub-section (1), then—

(a) the proceedings in respect of such person shall be commenced afresh, and the witnesses re-heard;

(b) subject to the provisions of clause (a), the case may proceed as if such person had been an accused person when the Court took cognizance of the offence upon which the inquiry or trial was commenced.

45 of 1860 320. (1) The offences punishable under the sections of the Indian Penal Code specified in the first two columns of the Table next following may be compounded by the persons mentioned in the third column of that Table:—

Compounding
of offences.

TABLE

Offence	Section of the Indian Penal Code applicable	Person by whom offence may be compounded
I	2	3
Uttering words, etc., with deliberate intent to wound the religious feelings of any person.	298	The person whose religious feelings are intended to be wounded.
Causing hurt	323, 334	The person to whom the hurt is caused.
Wrongfully restraining or confining any person.	341, 342	The person restrained or confined.
Assault or use of criminal force	352, 355, 358	The person assaulted or to whom criminal force is used.
Mischief, when the only loss or damage caused is loss or damage to a private person.	426, 427	The person to whom the loss or damage is caused.
Criminal trespass	447	The person in possession of the property trespassed upon.
House-trespass	448	Ditto.
Criminal breach of contract of service	491	The person with whom the offender has contracted.
Adultery	497	The husband of the woman.
Enticing or taking away or detaining with criminal intent a married woman.	498	Ditto.
Defamation	500	The person defamed.
Printing or engraving matter, knowing it to be defamatory.	501	Ditto.
Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	502	Ditto.
Insult intended to provoke a breach of the peace.	504	The person insulted.
Criminal intimidation except when the offence is punishable with imprisonment for seven years.	506	The person intimidated.
Act caused by making a person believe that he will be an object of divine displeasure.	508	The person against whom the offence was committed.

Act 45 of 1974 S. 25

(2) The offences punishable under the sections of the Indian Penal Code specified in the first two columns of the Table next following may, with the permission of the Court before which any prosecution for such offence is pending, be compounded by the persons mentioned in the third column of that Table:—

45 of 1860.

TABLE

Offence	Section of the Indian Penal Code applicable	Person by whom offence may be compounded
I	2	3
Voluntarily causing hurt by dangerous weapons or means.	324	The person to whom hurt is caused.
Voluntarily causing grievous hurt.	325	Ditto.
Voluntarily causing grievous hurt on grave and sudden provocation.	335	Ditto.
Causing hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	337	Ditto.
Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	338	Ditto.
Wrongfully confining a person for three days or more.	343	The person confined.
Wrongfully confining for ten or more days.	344	Ditto.
Wrongfully confining a person in secret.	346	Ditto.
Assault or criminal force to woman with intent to outrage her modesty.	354	The woman assaulted to whom the criminal force was used.
Assault or criminal force in attempting wrongfully to confine a person.	357	The person assaulted or to whom the force was used.
Theft, where the value of property stolen does not exceed two hundred and fifty rupees.	379	The owner of the property stolen.
Theft by clerk or servant of property in possession of master, where the value of the property stolen does not exceed two hundred and fifty rupees.	381	Ditto.
Dishonest misappropriation of property.	403	The owner of the property misappropriated.
Criminal breach of trust, where the value of the property does not exceed two hundred and fifty rupees.	406	The owner of the property in respect of which the breach of trust has been committed.
Criminal breach of trust by a carrier, wharfinger, etc., where the value of the property does not exceed two hundred and fifty rupees.	407	Ditto.
Criminal breach of trust by a clerk or servant, where the value of the property does not exceed two hundred and fifty rupees.	408	Ditto.

Offence	Section of the Indian Penal Code applicable	Person by whom offence may be compounded
I	2	3
Dishonestly receiving stolen property, knowing it to be stolen, when the value of the stolen property does not exceed two hundred and fifty rupees.	411	The owner of the property stolen.
Assisting in the concealment or disposal of stolen property, knowing it to be stolen, where the value of the stolen property does not exceed two hundred and fifty rupees.	414	Ditto.
Cheating	417	The person cheated.
Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	418	Ditto.
Cheating by personation	419	Ditto.
Cheating and dishonestly inducing delivery of property or the making, alteration or destruction of a valuable security.	420	Ditto.
Fraudulent removal or concealment of property, etc., to prevent distribution among creditors.	421	The creditors who are affected thereby.
Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	422	Ditto.
Fraudulent execution of deed of transfer containing false statement of consideration.	423	The person affected thereby,
Fraudulent removal or concealment of property.	424	Ditto.
Mischief by killing or maiming animal of the value of ten rupees or upwards.	428	The owner of the animal.
Mischief by killing or maiming cattle, etc., of any value or any other animal of the value of fifty rupees or upwards.	429	The owner of the cattle or animal.
Mischief by injury to work of irrigation by wrongfully diverting water when the only loss or damage caused is loss or damage to a private person.	430	The person to whom the loss or damage is caused.
House-trespass to commit an offence (other than theft) punishable with imprisonment.	451	The person in possession of the house trespassed upon.
Using a false trade or property mark	482	The person to whom loss or injury is caused by such use.
Counterfeiting a trade or property mark used by another.	483	The person whose trade or property mark is counterfeited.
Knowingly selling, or exposing or possessing for sale or for manufacturing purpose, goods marked with a counterfeit property mark.	486	Ditto.
Marrying again during the lifetime of a husband or wife.	494	The husband or wife of the person so marrying.

Offence I	Section of the Indian Penal Code applicable 2	Person by whom offence may be compounded 3
Defamation against the President or the Vice-President or the Governor of a State or the Administrator of a Union territory or a Minister in respect of his conduct in the discharge of his public functions when instituted upon a complaint made by the Public Prosecutor.	500	The person defamed.
Uttering words or sounds or making gestures or exhibiting any object intending to insult the modesty of a woman or intruding upon the privacy of a woman.	509	The woman whom it was intended to insult or whose privacy was intruded upon.

(3) When any offence is compoundable under this section, the abetment of such offence or an attempt to commit such offence (when such attempt is itself an offence) may be compounded in like manner.

(4) (a) When the person who would otherwise be competent to compound an offence under this section is under the age of eighteen years or is an idiot or a lunatic, any person competent to contract on his behalf may, with the permission of the Court, compound such offence.

(b) When the person who would otherwise be competent to compound an offence under this section is dead, the legal representative, as defined in the Code of Civil Procedure, 1908, of such person may, with the consent of the Court, compound such offence.

5 of 1908.

(5) When the accused has been committed for trial or when he has been convicted and an appeal is pending, no composition for the offence shall be allowed without the leave of the Court to which he is committed, or, as the case may be, before which the appeal is to be heard.

(6) A High Court or Court of Session acting in the exercise of its powers of revision under section 401 may allow any person to compound any offence which such person is competent to compound under this section.

(7) No offence shall be compounded if the accused is, by reason of a previous conviction, liable either to enhanced punishment or to a punishment of a different kind for such offence.

(8) The composition of an offence under this section shall have the effect of an acquittal of the accused with whom the offence has been compounded.

(9) No offence shall be compounded except as provided by this section.

With-
drawal
from
prose-
cution.

321. The Public Prosecutor or Assistant Public Prosecutor in charge of a case may, with the consent of the Court, at any time before the judgment is pronounced, withdraw from the prosecution of any person either generally or in respect of any one or more of the offences for which he is tried; and, upon such withdrawal,—

(a) if it is made before a charge has been framed, the accused shall be discharged in respect of such offence or offences;

(b) if it is made after a charge has been framed, or when under this Code no charge is required, he shall be acquitted in respect of such offence or offences:

Provided that where such offence—

- (i) was against any law relating to a matter to which the executive power of the Union extends, or
- (ii) was investigated by the Delhi Special Police Establishment under the Delhi Special Police Establishment Act, 1946, or
- (iii) involved the misappropriation or destruction of, or damage to, any property belonging to the Central Government, or
- (iv) was committed by a person in the service of the Central Government while acting or purporting to act in the discharge of his official duty,

25 of 1946.

and the Prosecutor in charge of the case has not been appointed by the Central Government, he shall not, unless he has been permitted by the Central Government to do so, move the Court for its consent to withdraw from the prosecution and the Court shall, before according consent, direct the Prosecutor to produce before it the permission granted by the Central Government to withdraw from the prosecution.

322. (1) If, in the course of any inquiry into an offence or a trial before a Magistrate in any district, the evidence appears to him to warrant a presumption—

- (a) that he has no jurisdiction to try the case or commit it for trial, or
- (b) that the case is one which should be tried or committed for trial by some other Magistrate in the district, or
- (c) that the case should be tried by the Chief Judicial Magistrate, he shall stay the proceedings and submit the case, with a brief report explaining its nature, to the Chief Judicial Magistrate or to such other Magistrate, having jurisdiction, as the Chief Judicial Magistrate directs.

(2) The Magistrate to whom the case is submitted may, if so empowered, either try the case himself, or refer it to any Magistrate subordinate to him having jurisdiction, or commit the accused for trial.

323. If, in any inquiry into an offence or a trial before a Magistrate, it appears to him at any stage of the proceedings before signing judgment that the case is one which ought to be tried by the Court of Session, he shall commit it to that Court under the provisions herein-before contained.

✓ Jus. by Act 45 of 1978, S-26

Procedure in cases which Magistrate cannot dispose of.

Procedure when, after commencement of inquiry or trial, Magistrate finds case should be committed.

Trial of persons previously convicted of offences against coinage, stamp-law or property.

324. (1) Where a person, having been convicted of an offence punishable under Chapter XII or Chapter XVII of the Indian Penal Code with imprisonment for a term of three years or upwards, is again accused of any offence punishable under either of those Chapters with imprisonment for a term of three years or upwards, and the Magistrate before whom the case is pending is satisfied that there is ground for presuming that such person has committed the offence, he shall be sent for trial to the Chief Judicial Magistrate or committed to the Court of Session, unless the Magistrate is competent to try the case and is of opinion that he can himself pass an adequate sentence if the accused is convicted.

(2) When any person is sent for trial to the Chief Judicial Magistrate or committed to the Court of Session under sub-section (1) any other person accused jointly with him in the same inquiry or trial shall be similarly sent or committed, unless the Magistrate discharges such other person under section 239 or section 245, as the case may be.

Procedure when Magistrate cannot pass sentence sufficient-ly severe.

325. (1) Whenever a Magistrate is of opinion, after hearing the evidence for the prosecution and the accused, that the accused is guilty, and that he ought to receive a punishment different in kind from, or more severe than, that which such Magistrate is empowered to inflict, or, being a Magistrate of the second class, is of opinion that the accused ought to be required to execute a bond under section 106, he may record the opinion and submit his proceedings, and forward the accused, to the Chief Judicial Magistrate to whom he is subordinate.

(2) When more accused than one are being tried together, and the Magistrate considers it necessary to proceed under sub-section (1), in regard to any of such accused, he shall forward all the accused, who are in his opinion guilty, to the Chief Judicial Magistrate.

(3) The Chief Judicial Magistrate to whom the proceedings are submitted may, if he thinks fit, examine the parties and recall and examine any witness who has already given evidence in the case and may call for and take any further evidence, and shall pass such judgment, sentence or order in the case as he thinks fit, and as is according to law.

Conviction or commitment on evidence partly recorded by one Magistrate and partly by another.

326. (1) Whenever any Magistrate, after having heard and recorded the whole or any part of the evidence in an inquiry or a trial, ceases to exercise jurisdiction therein and is succeeded by another Magistrate who has and who exercises such jurisdiction, the Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by himself:

Provided that if the succeeding Magistrate is of opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interests of justice, he may re-summon any such witness, and after such further examination, cross-examination and re-examination, if any, as he may permit, the witness shall be discharged.

(2) When a case is transferred under the provisions of this Code from one Magistrate to another Magistrate, the former shall be deemed to cease to exercise jurisdiction therein, and to be succeeded by the latter, within the meaning of sub-section (1).

↓ Subs. by Act 45 of 1978, S. 27.

(3) Nothing in this section applies to summary trials or to cases in which proceedings have been stayed under section 322 or in which proceedings have been submitted to a superior Magistrate under section 325.

327. The place in which any Criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed to be an open Court, to which the public generally may have access, so far as the same can conveniently contain them:

Provided that the presiding Judge or Magistrate may, if he thinks fit, order at any stage of any inquiry into, or trial of, any particular case, that the public generally, or any particular person, shall not have access to, or be or remain in, the room or building used by the Court.

Court to
be open.

CHAPTER XXV

PROVISIONS AS TO ACCUSED PERSONS OF UNSOUND MIND

328. (1) When a Magistrate holding an inquiry has reason to believe that the person against whom the inquiry is being held is of unsound mind and consequently incapable of making his defence, the Magistrate shall inquire into the fact of such unsoundness of mind, and shall cause such person to be examined by the civil surgeon of the district or such other medical officer as the State Government may direct, and thereupon shall examine such surgeon or other officer as a witness, and shall reduce the examination to writing.

Proce-
dure in
case of
accused
being
lunatic.

(2) Pending such examination and inquiry, the Magistrate may deal with such person in accordance with the provisions of section 330.

(3) If such Magistrate is of opinion that the person referred to in subsection (1) is of unsound mind and consequently incapable of making his defence, he shall record a finding to that effect and shall postpone further proceedings in the case.

329. (1) If at the trial of any person before a Magistrate or Court of Session, it appears to the Magistrate or Court that such person is of unsound mind and consequently incapable of making his defence, the Magistrate or Court shall, in the first instance, try the fact of such unsoundness and incapacity, and if the Magistrate or Court, after considering such medical and other evidence as may be produced before him or it, is satisfied of the fact, he or it shall record a finding to that effect and shall postpone further proceedings in the case.

Proce-
dure in
case of
person of
unsound
mind
tried
before
Court.

(2) The trial of the fact of the unsoundness of mind and incapacity of the accused shall be deemed to be part of his trial before the Magistrate or Court.

330. (1) Whenever a person is found, under section 328 or section 329, to be of unsound mind and incapable of making his defence, the Magistrate or Court, as the case may be, whether the case is one in which bail may be taken or not, may release him on sufficient security being given that he shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before the Magistrate or Court or such officer as the Magistrate or Court appoints in this behalf.

Release
of lunatic
pending
investi-
gation
or trial.

(2) If the case is one in which, in the opinion of the Magistrate or Court, bail should not be taken, or if sufficient security is not given, the Magistrate or Court, as the case may be, shall order the accused to be detained in safe custody in such place and manner as he or it may think fit, and shall report the action taken to the State Government:

Provided that no order for the detention of the accused in a lunatic asylum shall be made otherwise than in accordance with such rules as the State Government may have made under the Indian Lunacy Act, 1912.

4 of 1912

Resumption
of
inquiry
or trial.

331. (1) Whenever an inquiry or a trial is postponed under section 328 or section 329, the Magistrate or Court, as the case may be, may at any time after the person concerned has ceased to be of unsound mind, resume the inquiry or trial, and require the accused to appear or be brought before such Magistrate or Court.

(2) When the accused has been released under section 330, and the sureties for his appearance produce him to the officer whom the Magistrate or Court appoints in this behalf, the certificate of such officer that the accused is capable of making his defence shall be receivable in evidence.

Proce-
dure on
accused
appearing
before
Magis-
trate or
Court.

332. (1) If, when the accused appears or is again brought before the Magistrate or Court, as the case may be, the Magistrate or Court considers him capable of making his defence, the inquiry or trial shall proceed.

When
accused
appears
to have
been of
sound
mind.

(2) If the Magistrate or Court considers the accused to be still incapable of making his defence, the Magistrate or Court shall act according to the provisions of section 328 or section 329, as the case may be, and if the accused is found to be of unsound mind and consequently incapable of making his defence, shall deal with such accused in accordance with the provisions of section 330.

Judgment
of acquit-
tal on
ground of
unsound-
ness of
mind.

333. When the accused appears to be of sound mind at the time of inquiry or trial, and the Magistrate is satisfied from the evidence given before him that there is reason to believe that the accused committed an act, which, if he had been of sound mind, would have been an offence, and that he was, at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of the act or that it was wrong or contrary to law, the Magistrate shall proceed with the case, and, if the accused ought to be tried by the Court of Session, commit him for trial before the Court of Session.

334. Whenever any person is acquitted upon the ground that, at the time at which he is alleged to have committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act alleged as constituting the offence, or that it was wrong or contrary to law, the finding shall state specifically whether he committed the act or not.

335. (1) Whenever the finding states that the accused person committed the act alleged, the Magistrate or Court before whom or which the trial has been held, shall, if such act would, but for the incapacity found, have constituted an offence,—

(a) order such person to be detained in safe custody in such place and manner as the Magistrate or Court thinks fit; or

(b) order such person to be delivered to any relative or friend of such person.

(2) No order for the detention of the accused in a lunatic asylum shall be made under clause (a) of sub-section (1) otherwise than in accordance with such rules as the State Government may have made under the Indian Lunacy Act, 1912.

(3) No order for the delivery of the accused to a relative or friend shall be made under clause (b) of sub-section (1), except upon the application of such relative or friend and on his giving security to the satisfaction of the Magistrate or Court that the person delivered shall—

(a) be properly taken care of and prevented from doing injury to himself or to any other person;

(b) be produced for the inspection of such officer, and at such times and places, as the State Government may direct.

(4) The Magistrate or Court shall report to the State Government the action taken under sub-section (1).

336. The State Government may empower the officer in charge of the jail in which a person is confined under the provisions of section 330 or section 335 to discharge all or any of the functions of the Inspector-General of Prisons under section 337 or section 338.

Person
acquitted
on such
ground
to be
detained
in safe
custody.

Power of
State
Govern-
ment to
empower
officer in
charge to
discharge.

337. If such person is detained under the provisions of sub-section (2) of section 330, and in the case of a person detained in a jail, the Inspector-General of Prisons, or, in the case of a person detained in a lunatic asylum, the visitors of such asylum or any two of them shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Magistrate or Court, as the case may be, at such time as the Magistrate or Court appoints, and the Magistrate or Court shall deal with such person under the provisions of section 332; and the certificate of such Inspector-General or visitors as aforesaid shall be receivable as evidence.

Proce-
dure
where
lunatic
prisoner
is report-
ed capable
of making
his
defence.

338. (1) If such person is detained under the provisions of sub-section (2) of section 330, or section 335, and such Inspector-General or visitors shall certify that, in his or their judgment, he may be released without danger of his doing injury to himself or to any other person, the State Government may thereupon order him to be released, or to be detained in custody, or to be transferred to a public lunatic asylum if he has not been already sent to such an asylum; and, in case it orders him to be transferred to an asylum, may appoint a Commission, consisting of a judicial and two medical officers.

Proce-
dure
where
lunatic
detained
is declar-
ed fit to be
released.

(2) Such Commission shall make a formal inquiry into the state of mind of such person, take such evidence as is necessary, and shall report to the State Government, which may order his release or detention as it thinks fit.

Delivery
of lunatic
to care
of rela-
tive or
friend.

339. (1) Whenever any relative or friend of any person detained under the provisions of section 330 or section 335 desires that he shall be delivered to his care and custody, the State Government may, upon the application of such relative or friend and on his giving security to the satisfaction of such State Government, that the person delivered shall—

(a) be properly taken care of and prevented from doing injury to himself or to any other person;

(b) be produced for the inspection of such officer, and at such times and places, as the State Government may direct;

(c) in the case of a person detained under sub-section (2) of section 330, be produced when required before such Magistrate or Court,

order such person to be delivered to such relative or friend.

(2) If the person so delivered is accused of any offence, the trial of which has been postponed by reason of his being of unsound mind and incapable of making his defence, and the inspecting officer referred to in clause (b) of sub-section (1), certifies at any time to the Magistrate or Court that such person is capable of making his defence, such Magistrate or Court shall call upon the relative or friend to whom such accused was delivered to produce him before the Magistrate or Court; and, upon such production the Magistrate or Court shall proceed in accordance with the provisions of section 332, and the certificate of the inspecting officer shall be receivable as evidence.

CHAPTER XXVI

PROVISIONS AS TO OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE

Procedure
in cases
mentioned
in section
195.

340. (1) When, upon an application made to it in this behalf or otherwise, any Court is of opinion that it is expedient in the interests of justice that an inquiry should be made into any offence referred to in clause (b) of sub-section (1) of section 195, which appears to have been committed in or in relation to a proceeding in that Court or, as the case may be, in respect of a document produced or given in evidence in a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary,—

(a) record a finding to that effect;

(b) make a complaint thereof in writing;

(c) send it to a Magistrate of the first class having jurisdiction;

(d) take sufficient security for the appearance of the accused before such Magistrate, or if the alleged offence is non-bailable and the Court thinks it necessary so to do, send the accused in custody to such Magistrate; and

(e) bind over any person to appear and give evidence before such Magistrate,

(2) The power conferred on a Court by sub-section (1) in respect of an offence may, in any case where that Court has neither made a complaint under sub-section (1) in respect of that offence nor rejected an application for the making of such complaint, be exercised by the Court to which such former Court is subordinate within the meaning of sub-section (4) of section 195.

(3) A complaint made under this section shall be signed,—

(a) where the Court making the complaint is a High Court, by such officer of the Court as the Court may appoint;

(b) in any other case, by the presiding officer of the Court.

(4) In this section, "Court" has the same meaning as in section 195.

341. (1) Any person on whose application any Court other than a High Court has refused to make a complaint under sub-section (1) or sub-section (2) of section 340, or against whom such a complaint has been made by such Court, may appeal to the Court to which such former Court is subordinate within the meaning of sub-section (4) of section 195, and the superior Court may thereupon, after notice to the parties concerned, direct the withdrawal of the complaint, or, as the case may be, making of the complaint which such former Court might have made under section 340, and if it makes such complaint, the provisions of that section shall apply accordingly. Appeal.

(2) An order under this section, and subject to any such order, an order under section 340, shall be final, and shall not be subject to revision.

342. Any Court dealing with an application made to it for filing a complaint under section 340 or an appeal under section 341, shall have power to make such order as to costs as may be just. Power to order costs.

343. (1) A Magistrate to whom a complaint is made under section 340 or section 341 shall, notwithstanding anything contained in Chapter XV, proceed, as far as may be, to deal with the case as if it were instituted on a police report. Procedure of Magistrate taking cognizance.

(2) Where it is brought to the notice of such Magistrate, or of any other Magistrate to whom the case may have been transferred, that an appeal is pending against the decision arrived at in the judicial proceeding out of which the matter has arisen, he may, if he thinks fit, at any stage, adjourn the hearing of the case until such appeal is decided.

344. (1) If, at the time of delivery of any judgment or final order disposing of any judicial proceeding, a Court of Session or Magistrate of the first class expresses an opinion to the effect that any witness appearing in such proceeding had knowingly or wilfully given false evidence or had fabricated false evidence with the intention that such evidence should be used in such proceeding, it or he may, if satisfied that it is necessary and expedient in the interest of justice that the witness should be tried summarily for giving or fabricating, as the case may be, false evidence, take cognizance of the offence and may, after giving the offender a reasonable opportunity of showing cause why he should not

Summary procedure for trial for giving false evidence.

be punished for such offence, try such offender summarily and sentence him to imprisonment for a term which may extend to three months, or to fine which may extend to five hundred rupees, or with both.

(2) In every such case the Court shall follow, as nearly as may be practicable, the procedure prescribed for summary trials.

(3) Nothing in this section shall affect the power of the Court to make a complaint under section 340 for the offence, where it does not choose to proceed under this section.

(4) Where, after any action is initiated under sub-section (1), it is made to appear to the Court of Session or Magistrate of the first class that an appeal or an application for revision has been preferred or filed against the judgment or order in which the opinion referred to in that sub-section has been expressed, it or he shall stay further proceedings of the trial until the disposal of the appeal or the application for revision, as the case may be, and thereupon the further proceedings of the trial shall abide by the results of the appeal or application for revision.

**Procedure
in certain
cases of
contempt.**

345. (1) When any such offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code is committed in the view or presence of any Civil, Criminal or Revenue Court, the Court may cause the offender to be detained in custody and may, at any time before the rising of the Court on the same day, take cognizance of the offence and, after giving the offender a reasonable opportunity of showing cause why he should not be punished under this section, sentence the offender to fine not exceeding two hundred rupees, and, in default of payment of fine, to simple imprisonment for a term which may extend to one month, unless such fine be sooner paid.

(2) In every such case the Court shall record the facts constituting the offence, with the statement (if any) made by the offender, as well as the finding and sentence.

(3) If the offence is under section 228 of the Indian Penal Code, the record shall show the nature and stage of the judicial proceeding in which the Court interrupted or insulted was sitting, and the nature of the interruption or insult.

**Procedure
where
Court
considers
that case
should
not be
dealt with
under
section 345.**

346. (1) If the Court in any case considers that a person accused of any of the offences referred to in section 345 and committed in its view or presence should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, or such Court is for any other reason of opinion that the case should not be disposed of under section 345, such Court, after recording the facts constituting the offence and the statement of the accused as hereinbefore provided, may forward the case to a Magistrate having jurisdiction to try the same, and may require security to be given for the appearance of such person before such Magistrate, or if sufficient security is not given shall forward such person in custody to such Magistrate.

(2) The Magistrate to whom any case is forwarded under this section shall proceed to deal with, as far as may be, as if it were instituted on a police report.

16 of 1908.

✓ x x x

347. When the State Government so directs, any Registrar or any Sub-Registrar appointed under the Indian Registration Act, 1908, shall be deemed to be a Civil Court within the meaning of sections 345 and 346.

When
Registrar
or Sub-
Registrar
to be
deemed
a Civil
Court.

348. When any Court has under section 345 adjudged an offender to punishment, or has under section 346 forwarded him to a Magistrate for trial, for refusing or omitting to do anything which he was lawfully required to do or for any intentional insult or interruption, the Court may, in its discretion, discharge the offender or remit the punishment on his submission to the order or requisition of such Court, or on apology being made to its satisfaction.

Discharge
of
offender
on sub-
mission
of
apology.

349. If any witness or person called to produce a document or thing before a Criminal Court refuses to answer such questions as are put to him or to produce any document or thing in his possession or power which the Court requires him to produce, and does not, after a reasonable opportunity has been given to him so to do, offer any reasonable excuse for such refusal, such Court may, for reasons to be recorded in writing, sentence him to simple imprisonment, or by warrant under the hand of the Presiding Magistrate or Judge commit him to the custody of an officer of the Court for any term not exceeding seven days, unless in the meantime, such person consents to be examined and to answer, or to produce the document or thing and in the event of his persisting in his refusal, he may be dealt with according to the provisions of section 345 or section 346.

Imprison-
ment or
committal
of person
refusing
to answer
or
produce
document

350. (1) If any witness being summoned to appear before a Criminal Court is legally bound to appear at a certain place and time in obedience to the summons and without just excuse neglects or refuses to attend at that place or time or departs from the place where he has to attend before the time at which it is lawful for him to depart, and the Court before which the witness is to appear is satisfied that it is expedient in the interests of justice that such a witness should be tried summarily, the Court may take cognizance of the offence and after giving the offender an opportunity of showing cause why he should not be punished under this section, sentence him to fine not exceeding one hundred rupees.

Summary
proce-
dure
for
punish-
ment for
non-
attend-
ance by
a witness
in obedi-
ence to
summons.

(2) In every such case the Court shall follow, as nearly as may be practicable, the procedure prescribed for summary trials.

351. (1) Any person sentenced by any Court other than a High Court under section 344, section 345, section 349, or section 350 may, notwithstanding anything contained in this Code appeal to the Court to which decrees or orders made in such Court are ordinarily appealable.

(2) The provisions of Chapter XXIX shall, so far as they are applicable, apply to appeals under this section, and the Appellate Court may alter or reverse the finding, or reduce or reverse the sentence appealed against.

Appeals
from
convic-
tions
under
sections
344, 345,
349 and
350.

(3) An appeal from such conviction by a Court of Small Causes shall lie to the Court of Session for the sessions division within which such Court is situate.

✓ Omitted by Art 56 of 1974, s. 3 (2) and Sch. II.

(4) An appeal from such conviction by any Registrar or Sub-Registrar deemed to be a Civil Court by virtue of a direction issued under section 347 shall lie to the Court of Session for the sessions division within which the office of such Registrar or Sub-Registrar is situate.

Certain Judges and Magistrates not to try certain offences when committed before them-selves
352. Except as provided in sections 344, 345, 349 and 350, no Judge of a Criminal Court (other than a Judge of a High Court) or Magistrate shall try any person for any offence referred to in section 195, when such offence is committed before himself or in contempt of his authority, or is brought under his notice as such Judge or Magistrate in the course of a judicial proceeding.

CHAPTER XXVII

THE JUDGMENT

Judgment.
353. (1) The judgment in every trial in any Criminal Court of original jurisdiction shall be pronounced in open Court by the presiding officer immediately after the termination of the trial or at some subsequent time of which notice shall be given to the parties or their pleaders;

- (a) by delivering the whole of the judgment; or
- (b) by reading out the whole of the judgment; or

(c) by reading out the operative part of the judgment and explaining the substance of the judgment in a language which is understood by the accused or his pleader.

(2) Where the judgment is delivered under clause (a) of sub-section (1), the presiding officer shall cause it to be taken down in short-hand, sign the transcript and every page thereof as soon as it is made ready, and write on it the date of the delivery of the judgment in open Court.

(3) Where the judgment or the operative part thereof is read out under clause (b) or clause (c) of sub-section (1), as the case may be, it shall be dated and signed by the presiding officer in open Court, and if it is not written with his own hand, every page of the judgment shall be signed by him.

(4) Where the judgment is pronounced in the manner specified in clause (c) of sub-section (1), the whole judgment or a copy thereof shall be immediately made available for the perusal of the parties or their pleaders free of cost.

(5) If the accused is in custody, he shall be brought up to hear the judgment pronounced.

(6) If the accused is not in custody, he shall be required by the Court to attend to hear the judgment pronounced, except where his personal attendance during the trial has been dispensed with and the sentence is one of fine only or he is acquitted:

Provided that, where there are more accused than one, and one or more of them do not attend the Court on the date on which the judgment is to be pronounced, the presiding officer may, in order to avoid undue

delay in the disposal of the case, pronounce the judgment notwithstanding their absence.

(7) No judgment delivered by any Criminal Court shall be deemed to be invalid by reason only of the absence of any party or his pleader on the day or from the place notified for the delivery thereof, or of any omission to serve, or defect in serving, on the parties or their pleaders, or any of them, the notice of such day and place.

(8) Nothing in this section shall be construed to limit in any way the extent of the provisions of section 465.

354. (1) Except as otherwise expressly provided by this Code, every judgment referred to in section 353,—

(a) shall be written in the language of the Court;

(b) shall contain the point or points for determination, the decision thereon and the reasons for the decision;

(c) shall specify the offence (if any) of which, and the section of the Indian Penal Code or other law under which, the accused is convicted and the punishment to which he is sentenced;

(d) if it be a judgment of acquittal, shall state the offence of which the accused is acquitted and direct that he be set at liberty.

(2) When the conviction is under the Indian Penal Code and it is doubtful under which of two sections, or under which of two parts of the same section, of that Code the offence falls, the Court shall distinctly express the same, and pass judgment in the alternative.

(3) When the conviction is for an offence punishable with death or in the alternative, with imprisonment for life or imprisonment for a term of years, the judgment shall state the reasons for the sentence awarded, and, in the case of sentence of death, the special reasons for such sentence.

(4) When the conviction is for an offence punishable with imprisonment for a term of one year or more, but the Court imposes a sentence of imprisonment for a term of less than three months, it shall record its reasons for awarding such sentence, unless the sentence is one of imprisonment till the rising of the Court or unless the case was tried summarily under the provisions of this Code.

(5) When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.

(6) Every order under section 117 or sub-section (2) of section 138 and every final order made under section 125, section 145 or section 147 shall contain the point or points for determination, the decision thereon and the reasons for the decision.

355. Instead of recording a judgment in the manner hereinbefore provided, a Metropolitan Magistrate shall record the following particulars, namely:—

- (a) the serial number of the case;
- (b) the date of the commission of the offence;
- (c) the name of the complainant (if any);
- (d) the name of the accused person, and his parentage and residence;
- (e) the offence complained of or proved;
- (f) the plea of the accused and his examination (if any);
- (g) the final order;

Language
and
con-
tent
s of
judgment.

45 of 1860.

45 of 1860.

Metro-
politan
Magis-
trate's
judgment.

Order
for
notifying
address
of previ-
ously
convicted
offender.

(h) the date of such order;

(i) in all cases in which an appeal lies from the final order either under section 373 or under sub-section (3) of section 374, a brief statement of the reasons for the decision.

356. (1) When any person, having been convicted by a Court in India of an offence punishable under section 215, section 489A, section 489B, section 489C, or section 489D of the Indian Penal Code, or of any offence punishable under Chapter XII or Chapter XVII of that Code, with imprisonment for a term of three years or upwards, is again convicted of any offence punishable under any of those sections or Chapters with imprisonment for a term of three years or upwards by any Court other than that of a Magistrate of the second class, such Court may, if it thinks fit, at the time of passing a sentence of imprisonment on such person, also order that his residence and any change of, or absence from, such residence after release be notified as hereinafter provided for a term not exceeding five years from the date of the expiration of such sentence.

45 of 1860.

(2) The provisions of sub-section (1) with reference to the offences named therein, apply also to criminal conspiracies to commit such offences and to the abetment of such offences and attempts to commit them.

(3) If such conviction is set aside on appeal or otherwise, such order shall become void.

(4) An order under this section may also be made by an Appellate Court or by the High Court or Court of Session when exercising its powers of revision.

(5) The State Government may, by notification, make rules to carry out the provisions of this section relating to the notification of residence or change of, or absence from, residence by released convicts.

(6) Such rules may provide for punishment for the breach thereof and any person charged with a breach of any such rule may be tried by a Magistrate of competent jurisdiction in the district in which the place last notified by him as his place of residence is situated.

Order to
pay com-
pensation

357. (1) When a Court imposes a sentence of fine or a sentence (including a sentence of death) of which fine forms a part, the Court may, when passing judgment, order the whole or any part of the fine recovered to be applied—

(a) in defraying the expenses properly incurred in the prosecution;

(b) in the payment to any person of compensation for any loss or injury caused by the offence, when compensation is, in the opinion of the Court, recoverable by such person in a Civil Court;

(c) when any person is convicted of any offence for having caused the death of another person or of having abetted the commission of such an offence, in paying compensation to the persons who are, under the Fatal Accidents Act, 1855, entitled to recover damages from the person sentenced for the loss resulting to them from such death;

(d) when any person is convicted of any offence which includes theft, criminal misappropriation, criminal breach of trust, or cheating, or of having dishonestly received or retained, or of having volun-

13 of 1855

tarily assisted in disposing of, stolen property knowing or having reason to believe the same to be stolen, in compensating any *bona fide* purchaser of such property for the loss of the same if such property is restored to the possession of the person entitled thereto.

(2) If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, before the decision of the appeal.

(3) When a Court imposes a sentence, of which fine does not form a part, the Court may, when passing judgment, order the accused person to pay, by way of compensation, such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced.

(4) An order under this section may also be made by an Appellate Court or by the High Court or Court of Session when exercising its powers of revision.

(5) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under this section.

358. (1) Whenever any person causes a police officer to arrest another person, if it appears to the Magistrate by whom the case is heard that there was no sufficient ground for causing such arrest, the Magistrate may award such compensation, not exceeding one hundred rupees, to be paid by the person so causing the arrest to the person so arrested, for his loss of time and expenses in the matter, as the Magistrate thinks fit.

Compensation to persons groundlessly arrested.

(2) In such cases, if more persons than one are arrested, the Magistrate may, in like manner, award to each of them such compensation, not exceeding one hundred rupees, as such Magistrate thinks fit.

(3) All compensation awarded under this section may be recovered as if it were a fine, and if it cannot be so recovered, the person by whom it is payable shall be sentenced to simple imprisonment for such term not exceeding thirty days as the Magistrate directs, unless such sum is sooner paid.

359. (1) Whenever any complaint of a non-cognizable offence is made to a Court, the Court, if it convicts the accused, may, in addition to the penalty imposed upon him, order him to pay to the complainant, in whole or in part, the cost incurred by him in the prosecution, and may further order that in default of payment, the accused shall suffer simple imprisonment for a period not exceeding thirty days and such costs may include any expenses incurred in respect of process-fees, witnesses and pleader's fees which the Court may consider reasonable.

Order to pay costs in non-cognizable cases.

(2) An order under this section may also be made by an Appellate Court or by the High Court or Court of Session when exercising its powers of revision.

360. (1) When any person not under twenty-one years of age is convicted of an offence punishable with fine only or with imprisonment for a term of seven years or less, or when any person under twenty-one years of age or any woman is convicted of an offence not punishable with death or imprisonment for life, and no previous conviction is proved against the offender, if it appears to the Court before which he is convicted, regard being had to the age, character or antecedents of the offender, and

Order to release on probation of good conduct or after admonition.

to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period (not exceeding three years) as the Court may direct and in the meantime to keep the peace and be of good behaviour:

Provided that where any first offender is convicted by a Magistrate of the second class not specially empowered by the High Court, and the Magistrate is of opinion that the powers conferred by this section should be exercised, he shall record his opinion to that effect, and submit the proceedings to a Magistrate of the first class, forwarding the accused to, or taking bail for his appearance before, such Magistrate, who shall dispose of the case in the manner provided by sub-section (2).

(2) Where proceedings are submitted to a Magistrate of the first class as provided by sub-section (1), such Magistrate may thereupon pass such sentence or make such order as he might have passed or made if the case had originally been heard by him, and, if he thinks further inquiry or additional evidence on any point to be necessary, he may make such inquiry or take such evidence himself or direct such inquiry or evidence to be made or taken.

(3) In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation, cheating or any offence under the Indian Penal Code punishable with not more than two years' imprisonment or any offence punishable with fine only and no previous conviction is proved against him, the Court before which he is so convicted may, if it thinks fit, having regard to the age, character, antecedents or physical or mental condition of the offender and to the trivial nature of the offence or any extenuating circumstances under which the offence was committed, instead of sentencing him to any punishment, release him after due admonition.

(4) An order under this section may be made by any Appellate Court or by the High Court or Court of Session when exercising its powers of revision.

(5) When an order has been made under this section in respect of any offender, the High Court or Court of Session may, on appeal when there is a right of appeal to such Court, or when exercising its powers of revision, set aside such order, and in lieu thereof pass sentence on such offender according to law:

Provided that the High Court or Court of Session shall not under this sub-section inflict a greater punishment than might have been inflicted by the Court by which the offender was convicted.

(6) The provisions of sections 121, 124 and 373 shall, so far as may be, apply in the case of sureties offered in pursuance of the provisions of this section.

(7) The Court, before directing the release of an offender under sub-section (1), shall be satisfied that an offender or his surety (if any) has a fixed place of abode or regular occupation in the place for which the Court acts or in which the offender is likely to live during the period named for the observance of the conditions.

(8) If the Court which convicted the offender, or a Court which could have dealt with the offender in respect of his original offence, is satisfied that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehensions.

(9) An offender, when apprehended on any such warrant, shall be brought forthwith before the Court issuing the warrant, and such Court may either remand him in custody until the case is heard or admit him to bail with a sufficient surety conditioned on his appearing for sentence and such Court may, after hearing the case, pass sentence.

20 of 1958.
60 of 1960.

(10) Nothing in this section shall affect the provisions of the Probation of Offenders Act, 1958, or the Children Act, 1960, or any other law for the time being in force for the treatment, training or rehabilitation of youthful offenders.

361. Where in any case the Court could have dealt with,—

20 of 1958.

(a) an accused person under section 360 or under the provisions of the Probation of Offenders Act, 1958, or

60 of 1960.

(b) a youthful offender under the Children Act, 1960, or any other law for the time being in force for the treatment, training or rehabilitation of youthful offenders,

but has not done so, it shall record in its judgment the special reasons for not having done so.

Special
reasons
to be
recorded
in certain
cases.

362. Save as otherwise provided by this Code or by any other law for the time being in force, no Court, when it has signed its judgment or final order disposing of a case, shall alter or review the same except to correct a clerical or arithmetical error.

Court
not to
alter
judgment.

363. (1) When the accused is sentenced to imprisonment, a copy of the judgment shall, immediately after the pronouncement of the judgment, be given to him free of cost.

Copy of
judgment
to be
given to
the
accused
and
other
persons.

(2) On the application of the accused, a certified copy of the judgment, or when he so desires, a translation in his own language if practicable or in the language of the Court, shall be given to him without delay, and such copy shall, in every case where the judgment is appealable by the accused, be given free of cost:

Provided that where a sentence of death is passed or confirmed by the High Court, a certified copy of the judgment shall be immediately given to the accused free of cost whether or not he applies for the same.

(3) The provisions of sub-section (2) shall apply in relation to an order under section 117 as they apply in relation to a judgment which is appealable by the accused.

(4) When the accused is sentenced to death by any Court and an appeal lies from such judgment as of right, the Court shall inform him of the period within which, if he wishes to appeal, his appeal should be preferred.

(5) Save as otherwise provided in sub-section (2), any person affected by a judgment or order passed by a Criminal Court shall, on an application made in this behalf and on payment of the prescribed charges, be given a copy of such judgment or order or of any deposition or other part of the record:

Provided that the Court may, if it thinks fit for some special reason, give it to him free of cost.

(6) The High Court may, by rules, provide for the grant of copies of any judgment or order of a Criminal Court to any person who is not affected by a judgment or order, on payment, by such person, of such fees, and subject to such conditions, as the High Court may, by such rules, provide.

Judg-
ment
when
to be
trans-
lated.

Court of
Session
to send
copy of
finding
and
sentence
to
District
Magis-
trate.

Sentence
of death
to be
submit-
ted by
Court of
Session
for con-
firma-
tion.

Power to
direct
further
inquiry
to be
made or
additional
evidence
to be
taken.

Power of
High
Court to
confirm
sentence
or
annul
convic-
tion.

364. The original judgment shall be filed with the record of the proceedings and where the original is recorded in a language different from that of the Court and the accused so requires, a translation thereof into the language of the Court shall be added to such record.

365. In cases tried by the Court of Session or a Chief Judicial Magistrate, the Court or such Magistrate, as the case may be, shall forward a copy of its or his finding and sentence (if any) to the District Magistrate within whose local jurisdiction the trial was held.

CHAPTER XXVIII

SUBMISSION OF DEATH SENTENCES FOR CONFIRMATION

366. (1) When the Court of Session passes a sentence of death, the proceedings shall be submitted to the High Court, and the sentence shall not be executed unless it is confirmed by the High Court.

(2) The Court passing the sentence shall commit the convicted person to jail custody under a warrant.

367. (1) If, when such proceedings are submitted, the High Court thinks that a further inquiry should be made into, or additional evidence taken upon, any point bearing upon the guilt or innocence of the convicted person, it may make such inquiry or take such evidence itself, or direct it to be made or taken by the Court of Session.

(2) Unless the High Court otherwise directs, the presence of the convicted person may be dispensed with when such inquiry is made or such evidence is taken.

(3) When the inquiry or evidence (if any) is not made or taken by the High Court, the result of such inquiry or evidence shall be certified to such Court.

368. In any case submitted under section 366, the High Court—

(a) may confirm the sentence, or pass any other sentence warranted by law, or

(b) may annul the conviction, and convict the accused of any offence of which the Court of Session might have convicted him, or order a new trial on the same or an amended charge, or

(c) may acquit the accused person:

Provided that no order of confirmation shall be made under this section until the period allowed for preferring an appeal has expired, or, if an appeal is presented within such period, until such appeal is disposed of.

369. In every case so submitted, the confirmation of the sentence, or any new sentence or order passed by the High Court, shall, when such Court consists of two or more Judges, be made, passed and signed by at least two of them.

Confirmation or new sentence to be signed by two Judges.

370. Where any such case is heard before a Bench of Judges and such Judges are equally divided in opinion, the case shall be decided in the manner provided by section 392.

Procedure in case of difference of opinion.

371. In cases submitted by the Court of Session to the High Court for the confirmation of a sentence of death, the proper officer of the High Court shall, without delay, after the order of confirmation or other order has been made by the High Court, send a copy of the order, under the seal of the High Court and attested with his official signature, to the Court of Session.

Procedure in cases submitted to High Court for confirmation.

CHAPTER XXIX

APPEALS

372. No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force.

No appeals to lie unless otherwise provided.

373. Any person,—

Appeal from orders requiring security or refusal to accept or rejecting surety for keeping peace or good behaviour.

(i) who has been ordered under section 117 to give security for keeping the peace or for good behaviour, or

(ii) who is aggrieved by any order refusing to accept or rejecting a surety under section 121,

may appeal against such order to the Court of Session;

Provided that nothing in this section shall apply to persons the proceedings against whom are laid before a Sessions Judge in accordance with the provisions of sub-section (2) or sub-section (4) of section 122.

374. (1) Any person convicted on a trial held by a High Court in its extraordinary original criminal jurisdiction may appeal to the Supreme Court.

Appeals from convictions.

(2) Any person convicted on a trial held by a Sessions Judge or an Additional Sessions Judge or on a trial held by any other Court in which a sentence of imprisonment for more than seven years has been passed, may appeal to the High Court.

(3) Save as otherwise provided in sub-section (2), any person,—

(a) convicted on a trial held by a Metropolitan Magistrate or Assistant Sessions Judge or Magistrate of the first class, or of the second class, or

Yours, by Act 45 of 1978, S. 28.

(b) sentenced under section 325, or

(c) in respect of whom an order has been made or a sentence has been passed under section 360 by any Magistrate,

may appeal to the Court of Session.

No appeal in certain cases when accused pleads guilty.

375. Notwithstanding anything contained in section 374, where an accused person has pleaded guilty and has been convicted on such plea, there shall be no appeal,—

(a) if the conviction is by a High Court; or

(b) if the conviction is by a Court of Session, Metropolitan Magistrate or Magistrate of the first or second class, except as to the extent or legality of the sentence.

No appeal in petty cases.

376. Notwithstanding anything contained in section 374, there shall be no appeal by a convicted person in any of the following cases, namely:—

(a) where a High Court passes only a sentence of imprisonment for a term not exceeding six months or of fine not exceeding one thousand rupees, or of both such imprisonment and fine;

(b) where a Court of Session or a Metropolitan Magistrate passes only a sentence of imprisonment for a term not exceeding three months or of fine not exceeding two hundred rupees, or of both such imprisonment and fine;

(c) where a Magistrate of the first class passes only a sentence of fine not exceeding one hundred rupees; or

(d) where, in a case tried summarily, a Magistrate empowered to act under section 260 passes only a sentence of fine not exceeding two hundred rupees:

Provided that an appeal may be brought against any such sentence if any other punishment is combined with it, but such sentence shall not be appealable merely on the ground—

(i) that the person convicted is ordered to furnish security to keep the peace; or

(ii) that a direction for imprisonment in default of payment of fine is included in the sentence; or

(iii) that more than one sentence of fine is passed in the case, if the total amount of fine imposed does not exceed the amount hereinbefore specified in respect of the case.

Appeal by the State Government against sentence.

377. (1) Save as otherwise provided in sub-section (2), the State Government may, in any case of conviction on a trial held by any Court other than a High Court, direct the Public Prosecutor to present an appeal to the High Court against the sentence on the ground of its inadequacy.

(2) If such conviction is in a case in which the offence has been investigated by the Delhi Special Police Establishment, constituted under the Delhi Special Police Establishment Act, 1946, or by any other

~~agency empowered to make investigation into an offence under any Central Act other than this Code, the Central Government may direct the Public Prosecutor to present an appeal to the High Court against the sentence on the ground of its inadequacy.~~

(3) When an appeal has been filed against the sentence on the ground of its inadequacy, the High Court shall not enhance the sentence except after giving to the accused a reasonable opportunity of showing cause against such enhancement and while showing cause, the accused may plead for his acquittal or for the reduction of the sentence.

378. (1) Save as otherwise provided in sub-section (2) and subject to the provisions of sub-sections (3) and (5), the State Government may, in any case, direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of acquittal passed by any Court other than a High Court.

Appeal
in case
of
acquittal.

25 of 1946.

(2) If such an order of acquittal is passed in any case in which the offence has been investigated by the Delhi Special Police Establishment constituted under the Delhi Special Police Establishment Act, 1946 or by any other agency empowered to make investigation into an offence under any Central Act other than this Code, the Central Government may also direct the Public Prosecutor to present an appeal, subject to the provisions of sub-section (3), to the High Court from the order of acquittal.

(3) No appeal under sub-section (1) or sub-section (2) shall be entertained except with the leave of the High Court.

(4) If such an order of acquittal is passed in any case instituted upon complaint and the High Court, on an application made to it by the complainant in this behalf, grants special leave to appeal from the order of acquittal, the complainant may present such an appeal to the High Court.

(5) No application under sub-section (4) for the grant of special leave to appeal from an order of acquittal shall be entertained by the High Court after the expiry of six months, where the complainant is a public servant, and sixty days in every other case, computed from the date of that order of acquittal.

(6) If, in any case, the application under sub-section (4) for the grant of special leave to appeal from an order of acquittal is refused, no appeal from that order of acquittal shall lie under sub-section (1) or under sub-section (2).

379. Where the High Court has, on appeal, reversed an order of acquittal of an accused person and convicted him and sentenced him to death or to imprisonment for life or to imprisonment for a term of ten years or more, he may appeal to the Supreme Court.

Appeal
against
convic-
tion by
High
Court
in certain
cases.

380. Notwithstanding anything contained in this Chapter, when more persons than one are convicted in one trial, and an appealable judgment or order has been passed in respect of any of such persons, all or any of the persons convicted at such trial shall have a right of appeal.

Special
right of
appeal in
certain
cases.

1. Subs. by Act 45 of 1978, S. 29.
2. Subs. by S. 30, ibid.

Appeal to
Court of
Session
how
heard.

381. (1) Subject to the provisions of sub-section (2), an appeal to the Court of Session or Sessions Judge shall be heard by the Sessions Judge or by an Additional Sessions Judge:

Provided that an appeal against a conviction on a trial held by a Magistrate of the second class may be heard and disposed of by an Assistant Sessions Judge or a Chief Judicial Magistrate.

(2) An Additional Sessions Judge, Assistant Sessions Judge or a Chief Judicial Magistrate shall hear only such appeals as the Sessions Judge of the division may, by general or special order, make over to him or as the High Court may, by special order, direct him to hear.

Petition
of appeal.

382. Every appeal shall be made in the form of a petition in writing presented by the appellant or his pleader, and every such petition shall (unless the Court to which it is presented otherwise directs) be accompanied by a copy of the judgment or order appealed against.

Procedure
when
appellant
in jail.

383. If the appellant is in jail, he may present his petition of appeal and the copies accompanying the same to the officer in charge of the jail, who shall thereupon forward such petition and copies to the proper Appellate Court.

Summary
dismissal
of appeal.

384. (1) If upon examining the petition of appeal and copy of the judgment received under section 382 or section 383, the Appellate Court considers that there is no sufficient ground for interfering, it may dismiss the appeal summarily:

Provided that—

(a) no appeal presented under section 382 shall be dismissed unless the appellant or his pleader has had a reasonable opportunity of being heard in support of the same;

(b) no appeal presented under section 383 shall be dismissed except after giving the appellant a reasonable opportunity of being heard in support of the same, unless the Appellate Court considers that the appeal is frivolous or that the production of the accused in custody before the Court would involve such inconvenience as would be disproportionate in the circumstances of the case;

(c) no appeal presented under section 383 shall be dismissed summarily until the period allowed for preferring such appeal has expired.

(2) Before dismissing an appeal under this section, the Court may call for the record of the case.

(3) Where the Appellate Court dismissing an appeal under this section is a Court of Session or of the Chief Judicial Magistrate, it shall record its reasons for doing so.

(4) Where an appeal presented under section 383 has been dismissed summarily under this section and the Appellate Court finds that another petition of appeal duly presented under section 382 on behalf of the same appellant has not been considered by it, that Court may, notwithstanding anything contained in section 393, if satisfied that it is necessary in the interests of justice so to do, hear and dispose of such appeal in accordance with law.

385. (1) If the Appellate Court does not dismiss the appeal summarily, it shall cause notice of the time and place at which such appeal will be heard to be given—

- (i) to the appellant or his pleader;
- (ii) to such officer as the State Government may appoint in this behalf;
- (iii) if the appeal is from a judgment of conviction in a case instituted upon complaint, to the complainant;
- (iv) if the appeal is under section 377 or section 378, to the accused, and shall also furnish such officer, complainant and accused with a copy of the grounds of appeal.

(2) The Appellate Court shall then send for the record of the case, if such record is not already available in that Court, and hear the parties:

Provided that if the appeal is only as to the extent or the legality of the sentence, the Court may dispose of the appeal without sending for the record.

(3) Where the only ground for appeal from a conviction is the alleged severity of the sentence, the appellant shall not, except with the leave of the Court, urge or be heard in support of any other ground.

386. After perusing such record and hearing the appellant or his pleader, if he appears, and the Public Prosecutor if he appears, and in case of an appeal under section 377 or section 378, the accused, if he appears, the Appellate Court may, if it considers that there is no sufficient ground for interfering, dismiss the appeal, or may—

(a) in an appeal from an order of acquittal, reverse such order and direct that further inquiry be made, or that the accused be re-tried or committed for trial, as the case may be, or find him guilty and pass sentence on him according to law;

(b) in an appeal from a conviction—

(i) reverse the finding and sentence and acquit or discharge the accused, or order him to be re-tried by a Court of competent jurisdiction subordinate to such Appellate Court or committed for trial, or

(ii) alter the finding, maintaining the sentence, or

(iii) with or without altering the finding, alter the nature or the extent, or the nature and extent, of the sentence, but not so as to enhance the same;

Proce-
dure for
hearing
appeals
not dis-
missed
sum-
marily.

Powers
of the
Appellate
Court.

(c) in an appeal for enhancement of sentence—

(i) reverse the finding and sentence and acquit or discharge the accused or order him to be re-tried by a Court competent to try the offence, or

(ii) alter the finding maintaining the sentence, or

(iii) with or without altering the finding, alter the nature or the extent, or the nature and extent, of the sentence, so as to enhance or reduce the same;

(d) in an appeal from any other order, alter or reverse such order;

(e) make any amendment or any consequential or incidental order that may be just or proper:

Provided that the sentence shall not be enhanced unless the accused has had an opportunity of showing cause against such enhancement:

Provided further that the Appellate Court shall not inflict greater punishment for the offence which in its opinion the accused has committed, than might have been inflicted for that offence by the Court passing the order or sentence under appeal.

Judg-
ments
of sub-
ordinate
Appellate
Court.

387. The rules contained in Chapter XXVII as to the judgment of a Criminal Court of original jurisdiction shall apply, so far as may be practicable, to the judgment in appeal of a Court of Session or Chief Judicial Magistrate:

Provided that, unless the Appellate Court otherwise directs, the accused shall not be brought up, or required to attend, to hear judgment delivered.

Order of
High
Court on
appeal to
be certi-
fied to
lower
Court.

388. (1) Whenever a case is decided on appeal by the High Court under this Chapter, it shall certify its judgment or order to the Court by which the finding, sentence or order appealed against was recorded or passed and if such Court is that of a Judicial Magistrate other than the Chief Judicial Magistrate, the High Court's judgment or order shall be sent through the Chief Judicial Magistrate; and if such Court is that of an Executive Magistrate, the High Court's judgment or order shall be sent through the District Magistrate.

(2) The Court to which the High Court certifies its judgment or order shall thereupon make such orders as are conformable to the judgment or order of the High Court; and, if necessary, the record shall be amended in accordance therewith.

Suspen-
sion of
sentence
pending
the ap-
peal; re-
lease of
appellant
on bail.

389. (1) Pending any appeal by a convicted person, the Appellate Court may, for reasons to be recorded by it in writing, order that the execution of the sentence or order appealed against be suspended and, also, if he is in confinement, that he be released on bail, or on his own bond.

(2) The power conferred by this section on an Appellate Court may be exercised also by the High Court in the case of an appeal by a convicted person to a Court subordinate thereto.

(3) Where the convicted person satisfies the Court by which he is convicted that he intends to present an appeal, the Court shall,—

(i) where such person, being on bail, is sentenced to imprisonment for a term not exceeding three years, or

(ii) where the offence of which such person has been convicted is a bailable one, and he is on bail,

order that the convicted person be released on bail, unless there are special reasons for refusing bail, for such period as will afford sufficient time to present the appeal and obtain the orders of the Appellate Court under sub-section (1); and the sentence of imprisonment shall, so long as he is so released on bail, be deemed to be suspended.

(4) When the appellant is ultimately sentenced to imprisonment for a term or to imprisonment for life, the time during which he is so released shall be excluded in computing the term for which he is so sentenced.

390. When an appeal is presented under section 378, the High Court may issue a warrant directing that the accused be arrested and brought before it or any subordinate Court, and the Court before which he is brought may commit him to prison pending the disposal of the appeal or admit him to bail.

Arrest of accused in appeal from acquittal.

391. (1) In dealing with any appeal under this Chapter, the Appellate Court, if it thinks additional evidence to be necessary, shall record its reasons and may either take such evidence itself, or direct it to be taken by a Magistrate, or when the Appellate Court is a High Court, by a Court of Session or a Magistrate.

Appellate Court may take further evidence or direct it to be taken.

(2) When the additional evidence is taken by the Court of Session or the Magistrate, it or he shall certify such evidence to the Appellate Court, and such Court shall thereupon proceed to dispose of the appeal.

(3) The accused or his pleader shall have the right to be present when the additional evidence is taken.

(4) The taking of evidence under this section shall be subject to the provisions of Chapter XXIII, as if it were an inquiry.

392. When an appeal under this Chapter is heard by a High Court before a Bench of Judges and they are divided in opinion, the appeal, with their opinions, shall be laid before another Judge of that Court, and that Judge, after such hearing as he thinks fit, shall deliver his opinion, and the judgment or order shall follow that opinion:

Procedure where Judges of Court of Appeal are equally divided.

Provided that if one of the Judges constituting the Bench, or, where the appeal is laid before another Judge under this section, that Judge, so requires, the appeal shall be re-heard and decided by a larger Bench of Judges.

Finality of judgments and orders on appeal.

393. Judgments and orders passed by an Appellate Court upon an appeal shall be final, except in the cases provided for in section 377, section 378, sub-section (4) of section 384 or Chapter XXX:

Provided that notwithstanding the final disposal of an appeal against conviction in any case, the Appellate Court may hear and dispose of, on the merits,—

(a) an appeal against acquittal under section 378, arising out of the same case, or

(b) an appeal for the enhancement of sentence under section 377, arising out of the same case.

Abate-
ment of
appeal.

394. (1) Every appeal under section 377 or section 378 shall finally abate on the death of the accused.

(2) Every other appeal under this Chapter (except an appeal from a sentence of fine) shall finally abate on the death of the appellant:

Provided that where the appeal is against a conviction and sentence of death or of imprisonment, and the appellant dies during the pendency of the appeal, any of his near relatives may, within thirty days of the death of the appellant, apply to the Appellate Court for leave to continue the appeal; and if leave is granted, the appeal shall not abate.

Explanation.—In this section, “near relative” means a parent, spouse, lineal descendant, brother or sister.

CHAPTER XXX

REFERENCE AND REVISION

Reference
to High
Court.

395. (1) Where any Court is satisfied that a case pending before it involves a question as to the validity of any Act, Ordinance or Regulation or of any provision contained in an Act, Ordinance or Regulation, the determination of which is necessary for the disposal of the case, and is of opinion that such Act, Ordinance, Regulation or provision is invalid or inoperative, but has not been so declared by the High Court to which that Court is subordinate or by the Supreme Court, the Court shall state a case setting out its opinion and the reasons therefor, and refer the same for the decision of the High Court.

Explanation.—In this section, “Regulation” means any Regulation as defined in the General Clauses Act, 1897, or in the General Clauses Act of a State.

10 of 18

(2) A Court of Session or a Metropolitan Magistrate may, if it or he thinks fit in any case pending before it or him to which the provisions of sub-section (1) do not apply, refer for the decision of the High Court any question of law arising in the hearing of such case.

(3) Any Court making a reference to the High Court under sub-section (1) or sub-section (2) may, pending the decision of the High Court thereon, either commit the accused to jail or release him on bail to appear when called upon.

396. (1) When a question has been so referred, the High Court shall pass such order thereon as it thinks fit, and shall cause a copy of such order to be sent to the Court by which the reference was made, which shall dispose of the case conformably to the said order.

Disposal
of case
accord-
ing to
decision
of High
Court.

(2) The High Court may direct by whom the costs of such reference shall be paid.

397. (1) The High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior Court, and may, when calling for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record.

Calling
for
records
to exer-
cise
powers of
revision.

Explanation.—All Magistrates, whether Executive or Judicial, and whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this sub-section and of section 398.

(2) The powers of revision conferred by sub-section (1) shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding.

(3) If an application under this section has been made by any person either to the High Court or to the Sessions Judge, no further application by the same person shall be entertained by the other of them.

398. On examining any record under section 397 or otherwise, the High Court or the Sessions Judge may direct the Chief Judicial Magistrate by himself or by any of the Magistrates subordinate to him to make, and the Chief Judicial Magistrate may himself make or direct any subordinate Magistrate to make, further inquiry into any complaint which has been dismissed under section 203 or sub-section (4) of section 204, or into the case of any person accused of an offence who has been discharged:

Power to
order
inquiry.

Provided that no Court shall make any direction under this section for inquiry into the case of any person who has been discharged unless such person has had an opportunity of showing cause why such direction should not be made.

~~Sessions
Judge's
powers
of revi-
sion.~~

399. (1) In the case of any proceeding the record of which has been called for by himself, the Sessions Judge may exercise all or any of the powers which may be exercised by the High Court under sub-section (1) of section 401.

(2) Where any proceeding by way of revision is commenced before a Sessions Judge under sub-section (1), the provisions of sub-sections (2), (3), (4) and (5) of section 401 shall, so far as may be, apply to such proceeding and references in the said sub-sections to the High Court shall be construed as references to the Sessions Judge.

(3) Where any application for revision is made by or on behalf of any person before the Sessions Judge, the decision of the Sessions Judge thereon in relation to such person shall be final and no further proceeding by way of revision at the instance of such person shall be entertained by the High Court or any other Court.

~~Power of
Addi-
tional
Sessions
Judge.~~

400. An Additional Sessions Judge shall have and may exercise all the powers of a Sessions Judge under this Chapter in respect of any case which may be transferred to him by or under any general or special order of the Sessions Judge.

~~High
Court's
powers
of
revision.~~

401. (1) In the case of any proceeding the record of which has been called for by itself or which otherwise comes to its knowledge, the High Court may, in its discretion, exercise any of the powers conferred on a Court of Appeal by sections 386, 389, 390 and 391 or on a Court of Session by section 307 and, when the Judges composing the Court of revision are equally divided in opinion, the case shall be disposed of in the manner provided by section 392.

(2) No order under this section shall be made to the prejudice of the accused or other person unless he has had an opportunity of being heard either personally or by pleader in his own defence.

(3) Nothing in this section shall be deemed to authorise a High Court to convert a finding of acquittal into one of conviction.

(4) Where under this Code an appeal lies and no appeal is brought, no proceeding by way of revision shall be entertained at the instance of the party who could have appealed.

(5) Where under this Code an appeal lies but an application for revision has been made to the High Court by any person and the High Court is satisfied that such application was made under the erroneous belief that no appeal lies thereto and that it is necessary in the interests of justice so to do, the High Court may treat the application for revision as a petition of appeal and deal with the same accordingly.

~~Power of
High
Court
to with-
draw
or
transfer
revision
cases.~~

402. (1) Whenever one or more persons convicted at the same trial makes or make application to a High Court for revision and any other person convicted at the same trial makes an application to the Sessions Judge for revision, the High Court shall decide, having regard to the general convenience of the parties and the importance of the questions involved, which of the two Courts should finally dispose of the applications for revision and when the High Court decides that all the applications for revision should be disposed of by itself, the High Court shall direct that the applications for revision pending before the Sessions

Judge be transferred to itself and where the High Court decides that it is not necessary for it to dispose of the applications for revision, it shall direct that the applications for revision made to it be transferred to the Sessions Judge.

(2) Whenever any application for revision is transferred to the High Court, that Court shall deal with the same as if it were an application duly made before itself.

(3) Whenever any application for revision is transferred to the Sessions Judge, that Judge shall deal with the same as if it were an application duly made before himself.

(4) Where an application for revision is transferred by the High Court to the Sessions Judge, no further application for revision shall lie to the High Court or to any other Court at the instance of the person or persons whose applications for revision have been disposed of by the Sessions Judge.

403. Save as otherwise expressly provided by this Code, no party has any right to be heard either personally or by pleader before any Court exercising its powers of revision; but the Court may, if it thinks fit, when exercising such powers, hear any party either personally or by pleader.

Option
of Court
to hear
parties

404. When the record of any trial held by a Metropolitan Magistrate is called for by the High Court or Court of Session under section 397, the Magistrate may submit with the record a statement setting forth the grounds of his decision or order and any facts which he thinks material to the issue; and the Court shall consider such statement before overruling or setting aside the said decision or order.

State-
ment by
Metro-
politan
Magis-
trate of
grounds
of his
decision
to be con-
sidered
by High
Court.

405. When a case is revised under this Chapter by the High Court or a Sessions Judge, it or he shall, in the manner provided by section 388, certify its decision or order to the Court by which the finding, sentence or order revised was recorded or passed, and the Court to which the decision or order is so certified shall thereupon make such orders as are conformable to the decision so certified; and, if necessary, the record shall be amended in accordance therewith.

High
Court's
order to
be certi-
fied to
lower
Court.

CHAPTER XXXI

TRANSFER OF CRIMINAL CASES

Power
of Sup-
reme
Court to
transfer
cases
and ap-
peals.

406. (1) Whenever it is made to appear to the Supreme Court that an order under this section is expedient for the ends of justice, it may direct that any particular case or appeal be transferred from one High Court to another High Court or from a Criminal Court subordinate to one High Court to another Criminal Court of equal or superior jurisdiction subordinate to another High Court.

(2) The Supreme Court may act under this section only on the application of the Attorney-General of India or of a party interested, and every such application shall be made by motion, which shall, except when the applicant is the Attorney-General of India or the Advocate-General of the State, be supported by affidavit or affirmation.

(3) Where any application for the exercise of the powers conferred by this section is dismissed, the Supreme Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to any person who has opposed the application such sum not exceeding one thousand rupees as it may consider appropriate in the circumstances of the case.

Power
of High
Court
to trans-
fer cases
and ap-
peals.

407. (1) Whenever it is made to appear to the High Court—

- (a) that a fair and impartial inquiry or trial cannot be had in any Criminal Court subordinate thereto, or
- (b) that some question of law of unusual difficulty is likely to arise, or
- (c) that an order under this section is required by any provision of this Code, or will tend to the general convenience of the parties or witnesses, or is expedient for the ends of justice,

it may order—

(i) that any offence be inquired into or tried by any Court not qualified under sections 177 to 185 (both inclusive), but in other respects competent to inquire into or try such offence;

(ii) that any particular case or appeal, or class of cases or appeals, be transferred from a Criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction;

(iii) that any particular case be committed for trial to a Court of Session; or

(iv) that any particular case or appeal be transferred to and tried before itself.

(2) The High Court may act either on the report of the lower Court, or on the application of a party interested, or on its own initiative:

Provided that no application shall lie to the High Court for transferring a case from one Criminal Court to another Criminal Court in the same sessions division, unless an application for such transfer has been made to the Sessions Judge and rejected by him.

(3) Every application for an order under sub-section (1) shall be made by motion, which shall, except when the applicant is the Advocate-General of the State, be supported by affidavit or affirmation.

(4) When such application is made by an accused person, the High Court may direct him to execute a bond, with or without sureties, for the payment of any compensation which the High Court may award under sub-section (7).

(5) Every accused person making such application shall give to the Public Prosecutor notice in writing of the application, together with a copy of the grounds on which it is made; and no order shall be made on the merits of the application unless at least twenty-four hours have elapsed between the giving of such notice and the hearing of the application.

(6) Where the application is for the transfer of a case or appeal from any subordinate Court, the High Court may, if it is satisfied that it is necessary so to do in the interests of justice, order that, pending the disposal of the application, the proceedings in the subordinate Court shall be stayed, on such terms as the High Court may think fit to impose:

Provided that such stay shall not affect the subordinate Court's power of remand under section 309.

(7) Where an application for an order under sub-section (1) is dismissed, the High Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to any person who has opposed the application such sum not exceeding one thousand rupees as it may consider proper in the circumstances of the case.

(8) When the High Court orders under sub-section (1) that a case be transferred from any Court for trial before itself, it shall observe in such trial the same procedure which that Court would have observed if the case had not been so transferred.

(9) Nothing in this section shall be deemed to affect any order of Government under section 197.

408. (1) Whenever it is made to appear to a Sessions Judge that an order under this sub-section is expedient for the ends of justice, he may order that any particular case be transferred from one Criminal Court to another Criminal Court in his sessions division.

(2) The Sessions Judge may act either on the report of the lower Court, or on the application of a party interested, or on his own initiative.

(3) The provisions of sub-sections (3), (4), (5), (6), (7) and (9) of section 407 shall apply in relation to an application to the Sessions Judge for an order under sub-section (1) as they apply in relation to an application to the High Court for an order under sub-section (1) of section 407, except that sub-section (7) of that section shall so apply as if for the words "one thousand rupees" occurring therein, the words "two hundred and fifty rupees" were substituted.

Power
of Ses-
sions
Judge to
transfer
cases and
appeals.

With-
drawal of
cases
and
appeals
by
Sessions
Judges.

409. (1) A Sessions Judge may withdraw any case or appeal from, or recall any case or appeal which he has made over to, any Assistant Sessions Judge or Chief Judicial Magistrate subordinate to him.

(2) At any time before the trial of the case or the hearing of the appeal has commenced before the Additional Sessions Judge, a Sessions Judge may recall any case or appeal which he has made over to any Additional Sessions Judge.

(3) Where a Sessions Judge withdraws or recalls a case or appeal under sub-section (1) or sub-section (2), he may either try the case in his own Court or hear the appeal himself, or make it over in accordance with the provisions of this Code to another Court for trial or hearing, as the case may be.

With-
drawal of
cases by
Judicial
Magis-
trates.

410. (1) Any Chief Judicial Magistrate may withdraw any case from, or recall any case which he has made over to, any Magistrate subordinate to him, and may inquire into or try such case himself, or refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same.

(2) Any Judicial Magistrate may recall any case made over by him under sub-section (2) of section 192 to any other Magistrate and may inquire into or try such case himself.

Making
over or
withdra-
wal of
cases by
Executive
Magis-
trates.

411. Any District Magistrate or Sub-divisional Magistrate may—
(a) make over, for disposal, any proceeding which has been started before him, to any Magistrate subordinate to him;

(b) withdraw any case from, or recall any case which he has made over to, any Magistrate subordinate to him, and dispose of such proceeding himself or refer it for disposal to any other Magistrate.

Reasons
to be re-
corded.

412. A Sessions Judge or Magistrate making an order under section 408, section 409, section 410 or section 411 shall record his reasons for making it.

CHAPTER XXXII

EXECUTION, SUSPENSION, REMISSION AND COMMUTATION OF SENTENCES

A.—Death sentences

Execu-
tion of
order
passed
under
section
368.

413. When in a case submitted to the High Court for the confirmation of a sentence of death, the Court of Session receives the order of confirmation or other order of the High Court thereon, it shall cause such order to be carried into effect by issuing a warrant or taking such other steps as may be necessary.

414. When a sentence of death is passed by the High Court in appeal or in revision, the Court of Session shall, on receiving the order of the High Court, cause the sentence to be carried into effect by issuing a warrant.

Execution
of sen-
tence of
death
passed by
High
Court.

415. (1) Where a person is sentenced to death by the High Court and an appeal from its judgment lies to the Supreme Court under sub-clause (a) or sub-clause (b) of clause (1) of article 134 of the Constitution, the High Court shall order the execution of the sentence to be postponed until the period allowed for preferring such appeal has expired, or, if an appeal is preferred within that period, until such appeal is disposed of.

Postpone-
ment of
execu-
tion of
sentence
of
death in
case of
appeal to
Supreme
Court.

(2) Where a sentence of death is passed or confirmed by the High Court, and the person sentenced makes an application to the High Court for the grant of a certificate under article 132 or under sub-clause (c) of clause (1) of article 134 of the Constitution, the High Court shall order the execution of the sentence to be postponed until such application is disposed of by the High Court, or if a certificate is granted on such application, until the period allowed for preferring an appeal to the Supreme Court on such certificate has expired.

(3) Where a sentence of death is passed or confirmed by the High Court, and the High Court is satisfied that the person sentenced intends to present a petition to the Supreme Court for the grant of special leave to appeal under article 136 of the Constitution, the High Court shall order the execution of the sentence to be postponed for such period as it considers sufficient to enable him to present such petition.

416. If a woman sentenced to death is found to be pregnant, the High Court shall order the execution of the sentence to be postponed, and may, if it thinks fit, commute the sentence to imprisonment for life.

Postpone-
ment of
capital
sentence
on
pregnant
woman.

B.—Imprisonment

417. (1) Except when otherwise provided by any law for the time being in force, the State Government may direct in what place any person liable to be imprisoned or committed to custody under this Code shall be confined.

Power to
appoint
place of
imprison-
ment.

(2) If any person liable to be imprisoned or committed to custody under this Code is in confinement in a civil jail, the Court or Magistrate

ordering the imprisonment or committal may direct that the person be removed to a criminal jail.

(3) When a person is removed to a criminal jail under sub-section (2), he shall, on being released therefrom, be sent back to the civil jail, unless either—

(a) three years have elapsed since he was removed to the criminal jail, in which case he shall be deemed to have been released from the civil jail under section 58 of the Code of Civil Procedure, 1908, or section 23 of the Provincial Insolvency Act, 1920, as the case may be; or

(b) the Court which ordered his imprisonment in the civil jail has certified to the officer in charge of the criminal jail that he is entitled to be released under section 58 of the Code of Civil Procedure, 1908, or under section 23 of the Provincial Insolvency Act, 1920, as the case may be.

5 of 1908
5 of 1920

5 of 1908
5 of 1920

**Execution
of sen-
tence of
imprison-
ment.**

418. (1) Where the accused is sentenced to imprisonment for life or to imprisonment for a term in cases other than those provided for by section 413, the Court passing the sentence shall forthwith forward a warrant to the jail or other place in which he is, or is to be, confined, and, unless the accused is already confined in such jail or other place, shall forward him to such jail or other place, with the warrant:

Provided that where the accused is sentenced to imprisonment till the rising of the Court, it shall not be necessary to prepare or forward a warrant to a jail, and the accused may be confined in such place as the Court may direct.

(2) Where the accused is not present in Court when he is sentenced to such imprisonment as is mentioned in sub-section (1), the Court shall issue a warrant for his arrest for the purpose of forwarding him to the jail or other place in which he is to be confined; and in such case, the sentence shall commence on the date of his arrest.

**Direction
of
warrant
for exe-
cution.**

419. Every warrant for the execution of a sentence of imprisonment shall be directed to the officer in charge of the jail or other place in which the prisoner is, or is to be, confined.

**Warrant
with
whom
to be
lodged.**

420. When the prisoner is to be confined in a jail, the warrant shall be lodged with the jailor.

C.—Levy of fine

421. (1) When an offender has been sentenced to pay a fine, the Court passing the sentence may take action for the recovery of the fine in either or both of the following ways, that is to say, it may—

Warrant
for levy
of fine.

(a) issue a warrant for the levy of the amount by attachment and sale of any movable property belonging to the offender;

(b) issue a warrant to the Collector of the district, authorising him to realise the amount as arrears of land revenue from the movable or immovable property, or both, of the defaulter;

Provided that, if the sentence directs that in default of payment of the fine, the offender shall be imprisoned, and if such offender has undergone the whole of such imprisonment in default, no Court shall issue such warrant unless, for special reasons to be recorded in writing, it considers it necessary so to do, or unless it has made an order for the payment of expenses or compensation out of the fine under section 357.

(2) The State Government may make rules regulating the manner in which warrants under clause (a) of sub-section (1) are to be executed, and for the summary determination of any claims made by any person other than the offender in respect of any property attached in execution of such warrant.

(3) Where the Court issues a warrant to the Collector under clause (b) of sub-section (1), the Collector shall realise the amount in accordance with the law relating to recovery of arrears of land revenue, as if such warrant were a certificate issued under such law:

Provided that no such warrant shall be executed by the arrest or detention in prison of the offender.

422. A warrant issued under clause (a) of sub-section (1) of section 421 by any Court may be executed within the local jurisdiction of such Court, and it shall authorise the attachment and sale of any such property outside such jurisdiction, when it is endorsed by the District Magistrate within whose local jurisdiction such property is found.

Effect
of such
warrant.

423. Notwithstanding anything contained in this Code or in any other law for the time being in force, when an offender has been sentenced to pay a fine by a Criminal Court in any territory to which this Code does not extend and the Court passing the sentence issues a warrant to the Collector of a district in the territories to which this Code extends, authorising him to realise the amount as if it were an arrear of land revenue, such warrant shall be deemed to be a warrant issued under clause (b) of sub-section (1) of section 421 by a Court in the territories to which this Code extends, and the provisions of sub-section (3) of the said section as to the execution of such warrant shall apply accordingly.

Warrant
for levy
of fine
issued by
a Court
in
any
territory
to which
this
Code
does not
extend.

Suspension of execution of sentence of imprisonment.

424. (1) When an offender has been sentenced to fine only and to imprisonment in default of payment of the fine, and the fine is not paid forthwith, the Court may—

(a) order that the fine shall be payable either in full on or before a date not more than thirty days from the date of the order, or in two or three instalments, of which the first shall be payable on or before a date not more than thirty days from the date of the order and the other or others at an interval or at intervals, as the case may be, of not more than thirty days;

(b) suspend the execution of the sentence of imprisonment and release the offender, on the execution by the offender of a bond, with or without sureties, as the Court thinks fit, conditioned for his appearance before the Court on the date or dates on or before which payment of the fine or the instalments thereof, as the case may be, is to be made; and if the amount of the fine or of any instalment, as the case may be, is not realised on or before the latest date on which it is payable under the order, the Court may direct the sentence of imprisonment to be carried into execution at once.

(2) The provisions of sub-section (1) shall be applicable also in any case in which an order for the payment of money has been made on non-recovery of which imprisonment may be awarded and the money is not paid forthwith; and, if the person against whom the order has been made, on being required to enter into a bond such as is referred to in that sub-section, fails to do so, the Court may at once pass sentence of imprisonment.

D.—General provisions regarding execution

Who may issue warrant.

425. Every warrant for the execution of a sentence may be issued either by the Judge or Magistrate who passed the sentence, or by his successor-in-office.

Sentence on escaped convict when to take effect.

426. (1) When a sentence of death, imprisonment for life or fine is passed under this Code on an escaped convict, such sentence shall, subject to the provisions hereinbefore contained, take effect immediately.

(2) When a sentence of imprisonment for a term is passed under this Code on an escaped convict,—

(a) if such sentence is severer in kind than the sentence which such convict was undergoing when he escaped, the new sentence shall take effect immediately;

(b) if such sentence is not severer in kind than the sentence which such convict was undergoing when he escaped, the new sentence shall take effect after he has suffered imprisonment for a further period equal to that which, at the time of his escape, remained unexpired of his former sentence.

(3) For the purposes of sub-section (2), a sentence of rigorous imprisonment shall be deemed to be severer in kind than a sentence of simple imprisonment.

427. (1) When a person already undergoing a sentence of imprisonment is sentenced on a subsequent conviction to imprisonment or imprisonment for life, such imprisonment or imprisonment for life shall commence at the expiration of the imprisonment to which he has been previously sentenced, unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence:

Provided that where a person who has been sentenced to imprisonment by an order under section 122 in default of furnishing security is, whilst undergoing such sentence, sentenced to imprisonment for an offence committed prior to the making of such order, the latter sentence shall commence immediately.

(2) When a person already undergoing a sentence of imprisonment for life is sentenced on a subsequent conviction to imprisonment for a term or imprisonment for life, the subsequent sentence shall run concurrently with such previous sentence.

428. Where an accused person has, on conviction, been sentenced to imprisonment for a term, the period of detention, if any, undergone by him during the investigation, inquiry or trial of the same case and before the date of such conviction, shall be set off against the term of imprisonment imposed on him on such conviction, and the liability of such person to undergo imprisonment on such conviction shall be restricted to the remainder, if any, of the term of imprisonment imposed on him.

Sentence on offender already sentenced for another offence.

Period of detention undergone by the accused to be set off against the sentence of imprisonment.

429. (1) Nothing in section 426 or section 427 shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

Saving.

(2) When an award of imprisonment in default of payment of a fine is annexed to a substantive sentence of imprisonment and the person undergoing the sentence is after its execution to undergo a further substantive sentence or further substantive sentences of imprisonment, effect shall not be given to the award of imprisonment in default of payment of the fine until the person has undergone the further sentence or sentences.

430. When a sentence has been fully executed, the officer executing it shall return the warrant to the Court from which it is issued, with an endorsement under his hand certifying the manner in which the sentence has been executed,

✓ S. 430. by Act 45 of 1974, §. 31.

Return of warrant on execution of sentence.

Money
ordered
to be
paid
recover-
able as
a fine.

431. Any money (other than a fine) payable by virtue of any order made under this Code, and the method of recovery of which is not otherwise expressly provided for, shall be recoverable as if it were a fine:

Provided that section 421 shall, in its application to an order under section 359, by virtue of this section, be construed as if in the proviso to sub-section (1) of section 421, after the words and figures "under section 357", the words and figures "or an order for payment of costs under section 359" had been inserted.

E.—Suspension, remission and commutation of sentences

Power to
suspend
or remit
sentences.

432. (1) When any person has been sentenced to punishment for an offence, the appropriate Government may, at any time, without conditions or upon any conditions which the person sentenced accepts, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced.

(2) Whenever an application is made to the appropriate Government for the suspension or remission of a sentence, the appropriate Government may require the presiding Judge of the Court before or by which the conviction was had or confirmed, to state his opinion as to whether the application should be granted or refused, together with his reasons for such opinion and also to forward with the statement of such opinion a certified copy of the record of the trial or of such record thereof as exists.

(3) If any condition on which a sentence has been suspended or remitted is, in the opinion of the appropriate Government, not fulfilled, the appropriate Government may cancel the suspension or remission, and thereupon the person in whose favour the sentence has been suspended or remitted may, if at large, be arrested by any police officer, without warrant and remanded to undergo the unexpired portion of the sentence.

(4) The condition on which a sentence is suspended or remitted under this section may be one to be fulfilled by the person in whose favour the sentence is suspended or remitted, or one independent of his will.

(5) The appropriate Government may, by general rules or special orders, give directions as to the suspension of sentences and the conditions on which petitions should be presented and dealt with:

Provided that in the case of any sentence (other than a sentence of fine) passed on a male person above the age of eighteen years, no such petition by the person sentenced or by any other person on his behalf shall be entertained, unless the person sentenced is in jail, and—

(a) where such petition is made by the person sentenced, it is presented through the officer in charge of the jail; or

(b) where such petition is made by any other person, it contains a declaration that the person sentenced is in jail.

(6) The provisions of the above sub-sections shall also apply to any order passed by a Criminal Court under any section of this Code or of any other law which restricts the liberty of any person or imposes any liability upon him or his property.

(7) In this section and in section 433, the expression "appropriate Government" means,—

(a) in cases where the sentence is for an offence against, or the order referred to in sub-section (6) is passed under, any law relating to a matter to which the executive power of the Union extends, the Central Government;

(b) in other cases, the Government of the State within which the offender is sentenced or the said order is passed.

433. The appropriate Government may, without the consent of the person sentenced, commute—

45 of 1860.

(a) a sentence of death, for any other punishment provided by the Indian Penal Code;

(b) a sentence of imprisonment for life, for imprisonment for a term not exceeding fourteen years or for fine;

(c) a sentence of rigorous imprisonment, for simple imprisonment for any term to which that person might have been sentenced, or for fine;

(d) a sentence of simple imprisonment, for fine.

Power to
commute
sentence.

434. The powers conferred by sections 432 and 433 upon the State Government may, in the case of sentences of death, also be exercised by the Central Government.

Concur-
rent
power of
Central
Govern-
ment in
case of
death
sen-
tences.

435. (1) The powers conferred by sections 432 and 433 upon the State Government to remit or commute a sentence, in any case where the sentence is for an offence—

25 of 1946.

(a) which was investigated by the Delhi Special Police Establishment constituted under the Delhi Special Police Establishment Act, 1946, or by any other agency empowered to make investigation into an offence under any Central Act other than this Code, or

(b) which involved the misappropriation or destruction of, or damage to, any property belonging to the Central Government, or

(c) which was committed by a person in the service of the Central Government while acting or purporting to act in the discharge of his official duty,

shall not be exercised by the State Government except after consultation with the Central Government.

(2) No order of suspension, remission or commutation of sentences passed by the State Government in relation to a person, who has been convicted of offences, some of which relate to matters to which the executive power of the Union extends, and who has been sentenced to separate terms of imprisonment which are to run concurrently, shall have effect

State
Govern-
ment to
act after
consul-
tation with
Central
Govern-
ment in
certain
cases.

by Sec. 45 of 1878, S. 32.

unless an order for the suspension, remission or commutation, as the case may be, of such sentences has also been made by the Central Government in relation to the offences committed by such person with regard to matters to which the executive power of the Union extends.

CHAPTER XXXIII

PROVISIONS AS TO BAIL AND BONDS

In what cases
bail
to be
taken.

436. (1) When any person other than a person accused of a non-bailable offence is arrested or detained without warrant by an officer in charge of a police station, or appears or is brought before a Court, and is prepared at any time while in the custody of such officer or at any stage of the proceeding before such Court to give bail, such person shall be released on bail:

Provided that such officer or Court, if he or it thinks fit, may, instead of taking bail from such person, discharge him on his executing a bond without sureties for his appearance as hereinafter provided:

Provided further that nothing in this section shall be deemed to affect the provisions of sub-section (3) of section 116.

(2) Notwithstanding anything contained in sub-section (1), where a person has failed to comply with the conditions of the bail-bond as regards the time and place of attendance, the Court may refuse to release him on bail, when on a subsequent occasion in the same case he appears before the Court or is brought in custody and any such refusal shall be without prejudice to the powers of the Court to call upon any person bound by such bond to pay the penalty thereof under section 446.

When
bail may
be taken
in case of
non-bail-
able
offence.

437. (1) When any person accused of or suspected of the commission of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before a Court other than the High Court or Court of Session, he may be released on bail, but he shall not be so released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life:

Provided that the Court may direct that any person under the age of sixteen years or any woman or any sick or infirm person accused of such an offence be released on bail:

Provided further that the mere fact that an accused person may be required for being identified by witnesses during investigation shall not be sufficient ground for refusing to grant bail if he is otherwise entitled to be released on bail and gives an undertaking that he shall comply with such directions as may be given by the Court.

(2) If it appears to such officer or Court at any stage of the investigation, inquiry or trial, as the case may be, that there are not reasonable grounds for believing that the accused has committed a non-bailable offence, but that there are sufficient grounds for further inquiry into his guilt, the accused shall, pending such inquiry, be released on bail, or, at

45 of 1860.

the discretion of such officer or Court, on the execution by him of a bond without sureties for his appearance as hereinafter provided.

(3) When a person accused or suspected of the commission of an offence punishable with imprisonment which may extend to seven years or more or of an offence under Chapter VI, Chapter XVI or Chapter XVII of the Indian Penal Code or abetment of, or conspiracy or attempt to commit, any such offence, is released on bail under sub-section (1), the Court may impose any condition which the Court considers necessary—

(a) in order to ensure that such person shall attend in accordance with the conditions of the bond executed under this Chapter, or

(b) in order to ensure that such person shall not commit an offence similar to the offence of which he is accused or of the commission of which he is suspected, or

(c) otherwise in the interests of justice.

(4) An officer or a Court releasing any person on bail under sub-section (1) or sub-section (2), shall record in writing his or its reasons for so doing.

(5) Any Court which has released a person on bail under sub-section (1) or sub-section (2), may, if it considers it necessary so to do, direct that such person be arrested and commit him to custody.

(6) If, in any case triable by a Magistrate, the trial of a person accused of any non-bailable offence is not concluded within a period of sixty days from the first date fixed for taking evidence in the case, such person shall, if he is in custody during the whole of the said period, be released on bail to the satisfaction of the Magistrate, unless for reasons to be recorded in writing, the Magistrate otherwise directs.

(7) If, at any time after the conclusion of the trial of a person accused of a non-bailable offence and before judgment is delivered, the Court is of opinion that there are reasonable grounds for believing that the accused is not guilty of any such offence, it shall release the accused, if he is in custody, on the execution by him of a bond without sureties for his appearance to hear judgment delivered.

438. (1) When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail.

(2) When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including—

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

Direction for grant of bail to person apprehending arrest.

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court;

(iv) such other condition as may be imposed under sub-section (3) of section 437, as if the bail were granted under that section.

(3) If such person is thereafter arrested without warrant by an officer in charge of a police station on such accusation, and is prepared either at the time of arrest or at any time while in the custody of such officer to give bail, he shall be released on bail; and if a Magistrate taking cognizance of such offence decides that a warrant should issue in the first instance against that person, he shall issue a bailable warrant in conformity with the direction of the Court under sub-section (1).

Special powers of High Court or Court of Session regarding bail.

439. (1) A High Court or Court of Session may direct—

(a) that any person accused of an offence and in custody be released on bail, and if the offence is of the nature specified in sub-section (3) of section 437, may impose any condition which it considers necessary for the purposes mentioned in that sub-section;

(b) that any condition imposed by a Magistrate when releasing any person on bail be set aside or modified:

Provided that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence which is triable exclusively by the Court of Session or which, though not so triable, is punishable with imprisonment for life, give notice of the application for bail to the Public Prosecutor unless it is, for reasons to be recorded in writing, of opinion that it is not practicable to give such notice.

(2) A High Court or Court of Session may direct that any person who has been released on bail under this Chapter be arrested and commit him to custody.

Amount of bond and reduction thereof.

440. (1) The amount of every bond executed under this Chapter shall be fixed with due regard to the circumstances of the case and shall not be excessive.

(2) The High Court or Court of Session may direct that the bail required by a police officer or Magistrate be reduced.

Bond of accused and sureties.

441. (1) Before any person is released on bail or released on his own bond, a bond for such sum of money as the police officer or Court, as the case may be, thinks sufficient shall be executed by such person, and, when he is released on bail, by one or more sufficient sureties conditioned that such person shall attend at the time and place mentioned in the bond, and shall continue so to attend until otherwise directed by the police officer or Court, as the case may be.

(2) Where any condition is imposed for the release of any person on bail, the bond shall also contain that condition.

(3) If the case so requires, the bond shall also bind the person released on bail to appear when called upon at the High Court, Court of Session or other Court to answer the charge.

(4) For the purpose of determining whether the sureties are fit or sufficient, the Court may accept affidavits in proof of the facts contained therein relating to the sufficiency or fitness of the sureties, or, if it considers necessary, may either hold an inquiry itself or cause an inquiry to be made by a Magistrate subordinate to the Court, as to such sufficiency or fitness.

442. (1) As soon as the bond has been executed, the person for whose appearance it has been executed shall be released; and, when he is in jail, the Court admitting him to bail shall issue an order of release to the officer in charge of the jail, and such officer on receipt of the orders shall release him.

Discharge
from
custody.

(2) Nothing in this section, section 436 or section 437 shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

443. If, through mistake, fraud, or otherwise, insufficient sureties have been accepted, or if they afterwards become insufficient, the Court may issue a warrant of arrest directing that the person released on bail be brought before it and may order him to find sufficient sureties, and, on his failing so to do, may commit him to jail.

Power to
order
sufficient
bail when
that first
taken in
insuffi-
cient.

Discharge
of
sureties.

444. (1) All or any sureties for the attendance and appearance of a person released on bail may at any time apply to a Magistrate to discharge the bond, either wholly or so far as relates to the applicants.

(2) On such application being made, the Magistrate shall issue his warrant of arrest directing that the person so released be brought before him.

(3) On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the bond to be discharged either wholly or so far as relates to the applicants, and shall call upon such person to find other sufficient sureties, and, if he fails to do so, may commit him to jail.

445. When any person is required by any Court or officer to execute a bond with or without sureties, such Court or officer may, except in the case of a bond for good behaviour, permit him to deposit a sum of money or Government promissory notes to such amount as the Court or officer may fix in lieu of executing such bond.

Deposit
instead of
recogni-
zance.

446. (1) Where a bond under this Code is for appearance, or for production of property, before a Court and it is proved to the satisfaction of that Court, or of any Court to which the case has subsequently been transferred, that the bond has been forfeited,

Proce-
dure
when
bond
has been
forfeited.

or where, in respect of any other bond under this Code, it is proved to the satisfaction of the Court by which the bond was taken, or of any Court to which the case has subsequently been transferred, or of the Court of any Magistrate of the first class, that the bond has been forfeited;

the Court shall record the grounds of such proof, and may call upon any person bound by such bond to pay the penalty thereof or to show cause why it should not be paid.

Explanation.—A condition in a bond for appearance, or for production of property, before a Court shall be construed as including a condition for appearance, or as the case may be, for production of property, before any Court to which the case may subsequently be transferred.

(2) If sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover the same as if such penalty were a fine imposed by it under this Code.

(3) The Court may, at its discretion, remit any portion of the penalty mentioned and enforce payment in part only.

(4) Where a surety to a bond dies before the bond is forfeited, his estate shall be discharged from all liability in respect of the bond.

(5) Where any person who has furnished security under section 106 or section 117 or section 360 is convicted of an offence the commission of which constitutes a breach of the conditions of his bond, or of a bond executed in lieu of his bond under section 448, a certified copy of the judgment of the Court by which he was convicted of such offence may be used as evidence in proceedings under this section against his surety or sureties, and, if such certified copy is so used, the Court shall presume that such offence was committed by him unless the contrary is proved.

**Procedure
in case of
insolvency
or death
of surety
or when
a bond is
forfeited.**

447. When any surety to a bond under this Code becomes insolvent or dies, or when any bond is forfeited under the provisions of section 446, the Court by whose order such bond was taken, or a Magistrate of the first class may order the person from whom such security was demanded to furnish fresh security in accordance with the directions of the original order, and if such security is not furnished, such Court or Magistrate may proceed as if there had been a default in complying with such original order.

**Bond
required
from
minor.**

448. When the person required by any Court, or officer to execute a bond is a minor, such Court or officer may accept, in lieu thereof, a bond executed by a surety or sureties only.

**Appeal
from
orders
under
section
446.**

449. All orders passed under section 446, shall be applicable,—

(i) in the case of an order made by a Magistrate, to the Sessions Judge;

(ii) in the case of an order made by a Court of Session, to the Court to which an appeal lies from an order made by such Court.

450. The High Court or Court of Session may direct any Magistrate to levy the amount due on a bond for appearance or attendance at such High Court or Court of Session.

Power to direct levy of amount due on certain recognizances.

CHAPTER XXXIV

DISPOSAL OF PROPERTY

451. When any property is produced before any Criminal Court during any inquiry or trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and, if the property is subject to speedy and natural decay, or if it is otherwise expedient so to do, the Court may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Explanation.—For the purposes of this section, “property” includes—

- (a) property of any kind or document which is produced before the Court or which is in its custody,
- (b) any property regarding which an offence appears to have been committed or which appears to have been used for the commission of any offence.

452. (1) When an inquiry or trial in any Criminal Court is concluded, the Court may make such order as it thinks fit for the disposal, by destruction, confiscation or delivery to any person claiming to be entitled to possession thereof or otherwise, of any property or document produced before it or in its custody, or regarding which any offence appears to have been committed, or which has been used for the commission of any offence.

Order for disposal of property by at conclusion of trial.

(2) An order may be made under sub-section (1) for the delivery of any property to any person claiming to be entitled to the possession thereof, without any condition or on condition that he executes a bond, with or without sureties, to the satisfaction of the Court, engaging to restore such property to the Court if the order made under sub-section (1) is modified or set aside on appeal or revision.

(3) A Court of Session may, instead of itself making an order under sub-section (1), direct the property to be delivered to the Chief Judicial Magistrate, who shall thereupon deal with it in the manner provided in sections 457, 458 and 459.

(4) Except where the property is livestock or is subject to speedy and natural decay, or where a bond has been executed in pursuance of sub-section (2), an order made under sub-section (1) shall not be carried out for two months, or when an appeal is presented, until such appeal has been disposed of.

(5) In this section, the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

Payment
to
innocent
purchaser
of money
found on
accused.

453. When any person is convicted of any offence which includes, or amounts to, theft or receiving stolen property, and it is proved that any other person bought the stolen property from him without knowing or having reason to believe that the same was stolen, and that any money has on his arrest been taken out of the possession of the convicted person, the Court may, on the application of such purchaser and on the restitution of the stolen property to the person entitled to the possession thereof, order that out of such money a sum not exceeding the price paid by such purchaser be delivered to him.

Appeal
against
orders
under
section
452 or sec-
tion 453.

454. (1) Any person aggrieved by an order made by a Court under section 452 or section 453, may appeal against it to the Court to which appeals ordinarily lie from convictions by the former Court.

(2) On such appeal, the Appellate Court may direct the order to be stayed pending disposal of the appeal, or may modify, alter or annul the order and make any further orders that may be just.

(3) The powers referred to in sub-section (2) may also be exercised by a Court of appeal, confirmation or revision while dealing with the case in which the order referred to in sub-section (1) was made.

Destruc-
tion of
libellous
and other
matter.

455. (1) On a conviction under section 292, section 293, section 501 or section 502 of the Indian Penal Code, the Court may order the destruction of all the copies of the thing in respect of which the conviction was had, and which are in the custody of the Court or remain in the possession or power of the person convicted.

45 of 1860.

(2) The Court may, in like manner, on a conviction under section 272, section 273, section 274 or section 275 of the Indian Penal Code, order the food, drink, drug or medical preparation in respect of which the conviction was had, to be destroyed.

45 of 1860.

Power to
restore
possession
of immov-
able
property.

456. (1) When a person is convicted of an offence attended by criminal force or show of force or by criminal intimidation, and it appears to the Court that, by such force or show of force or intimidation, any person has been dispossessed of any immovable property, the Court may, if it thinks fit, order that possession of the same be restored to that person after evicting by force, if necessary, any other person who may be in possession of the property:

Provided that no such order shall be made by the Court more than one month after the date of the conviction.

(2) Where the Court trying the offence has not made an order under sub-section (1), the Court of appeal, confirmation or revision may, if it thinks fit, make such order while disposing of the appeal, reference or revision, as the case may be.

(3) Where an order has been made under sub-section (1), the provisions of section 454 shall apply in relation thereto as they apply in relation to an order under section 453.

(4) No order made under this section shall prejudice any right or interest to or in such immoveable property which any person may be able to establish in a civil suit.

457. (1) Whenever the seizure of property by any police officer is reported to a Magistrate under the provisions of this Code, and such property is not produced before a Criminal Court during an inquiry or trial, the Magistrate may make such order as he thinks fit respecting the disposal of such property or the delivery of such property to the person entitled to the possession thereof, or if such person cannot be ascertained, respecting the custody and production of such property.

Pro-
cedure by
Police
upon
seizure of
property.

(2) If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit and if such person is unknown, the Magistrate may detain it and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto, to appear before him and establish his claim within six months from the date of such proclamation.

458. (1) If no person within such period establishes his claim to such property, and if the person in whose possession such property was found is unable to show that it was legally acquired by him, the Magistrate may by order direct that such property shall be at the disposal of the State Government and may be sold by that Government and the proceeds of such sale shall be dealt with in such manner as may be prescribed.

Procedure
where no
claimant
appears
within
six
months.

(2) An appeal shall lie against any such order to the Court to which appeals ordinarily lie from convictions by the Magistrate.

459. If the person entitled to the possession of such property is unknown or absent and the property is subject to speedy and natural decay, or if the Magistrate to whom its seizure is reported is of opinion that its sale would be for the benefit of the owner, or that the value of such property is less than ten rupees, the Magistrate may at any time direct it to be sold; and the provisions of sections 457 and 458 shall, as nearly as may be practicable, apply to the net proceeds of such sale.

Power to
sell peri-
shable
property.

CHAPTER XXXV

IRREGULAR PROCEEDINGS

460. If any Magistrate not empowered by law to do any of the following things, namely:—

- (a) to issue a search-warrant under section 94;
- (b) to order, under section 155, the police to investigate an offence;
- (c) to hold an inquest under section 176;
- (d) to issue process under section 187, for the apprehension of a person within his local jurisdiction who has committed an offence outside the limits of such jurisdiction;

Irregu-
larities
which do
not
initiate
proceed-
ings.

- (e) to take cognizance of an offence under clause (a) or clause (b) of sub-section (1) of section 190;
- (f) to make over a case under sub-section (2) of section 192;
- (g) to tender a pardon under section 306;
- (h) to recall a case and try it himself under section 410; or
- (i) to sell property under section 458 or section 459,

erroneously in good faith does that thing, his proceedings shall not be set aside merely on the ground of his not being so empowered.

Irregularities which vitiate proceedings.

461. If any Magistrate, not being empowered by law in this behalf, does any of the following things, namely:—

- (a) attaches and sells property under section 83;
- (b) issues a search-warrant for a document, parcel or other thing in the custody of a postal or telegraph authority;
- (c) demands security to keep the peace;
- (d) demands security for good behaviour;
- (e) discharges a person lawfully bound to be of good behaviour;
- (f) cancels a bond to keep the peace;
- (g) makes an order for maintenance;
- (h) makes an order under section 133 as to a local nuisance;
- (i) prohibits, under section 143, the repetition or continuance of a public nuisance;
- (j) makes an order under Part C or Part D of Chapter X;
- (k) takes cognizance of an offence under clause (c) of sub-section (1) of section 190;
- (l) tries an offender;
- (m) tries an offender summarily;
- (n) passes a sentence, under section 325, on proceedings recorded by another Magistrate;
- (o) decides an appeal;
- (p) calls, under section 397, for proceedings; or
- (q) revises an order passed under section 446,

his proceedings shall be void.

Proceedings in wrong place.

462. No finding, sentence or order of any Criminal Court shall be set aside merely on the ground that the inquiry, trial or other proceedings in the course of which it was arrived at or passed, took place in a wrong sessions division, district, sub-division or other local area, unless it appears that such error has in fact occasioned a failure of justice.

Non-compliance with provisions of section 164 or section 281.

463. (1) If any Court before which a confession or other statement of an accused person recorded, or purporting to be recorded under section 164 or section 281, is tendered, or has been received, in evidence finds that any of the provisions of either of such sections have not been complied with by the Magistrate recording the statement, it may, notwithstanding anything contained in section 91 of the Indian Evidence Act, 1872, take evidence in regard to such non-compliance, and may, if satisfied that such non-compliance has not injured the accused in his defence

on the merits and that he duly made the statement recorded, admit such statement.

(2) The provisions of this section apply to Courts of appeal, reference and revision.

464. (1) No finding, sentence or order by a Court of competent jurisdiction shall be deemed invalid merely on the ground that no charge was framed or on the ground of any error, omission or irregularity in the charge including any misjoinder of charges, unless, in the opinion of the Court of appeal, confirmation or revision, a failure of justice has in fact been occasioned thereby.

Effect of omission to frame, or absence of, or error in, charge.

(2) If the Court of appeal, confirmation or revision is of opinion that a failure of justice has in fact been occasioned, it may—

(a) in the case of an omission to frame a charge, order that a charge be framed and that the trial be recommenced from the point immediately after the framing of the charge;

(b) in the case of an error, omission or irregularity in the charge, direct a new trial to be had upon a charge framed in whatever manner it thinks fit:

Provided that if the Court is of opinion that the facts of the case are such that no valid charge could be preferred against the accused in respect of the facts proved, it shall quash the conviction.

465. (1) Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a Court of competent jurisdiction shall be reversed or altered by a Court of appeal, confirmation or revision on account of any error, omission or irregularity in the complaint, summons, warrant, proclamation, order, judgment or other proceedings before or during trial or in any inquiry or other proceedings under this Code, or any error, or irregularity in any sanction for the prosecution, unless in the opinion of that Court, a failure of justice has in fact been occasioned thereby.

Finding or sentence when reversible by reason of error, omission or irregularity.

(2) In determining whether any error, omission or irregularity in any proceeding under this Code, or any error, or irregularity in any sanction for the prosecution has occasioned a failure of justice, the Court shall have regard to the fact whether the objection could and should have been raised at an earlier stage in the proceedings.

466. No attachment made under this Code shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, writ of attachment or other proceedings relating thereto.

Defect or error not to make attachment unlawful.

CHAPTER XXXVI

LIMITATION FOR TAKING COGNIZANCE OF CERTAIN OFFENCES

467. For the purposes of this Chapter, unless the context otherwise requires, "period of limitation" means the period specified in section 468 Definitions, for taking cognizance of an offence.

Bar to taking cognizance after lapse of the period of limitation.

468. (1) Except as otherwise provided elsewhere in this Code, no Court shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation.

(2) The period of limitation shall be—

- (a) six months, if the offence is punishable with fine only;
- (b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;
- (c) three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.

Com-mence-ment of the period of limitation.

469. (1) The period of limitation, in relation to an offender, shall commence,—

- (a) on the date of the offence; or
- (b) where the commission of the offence was not known to the person aggrieved by the offence or to any police officer, the first day on which such offence comes to the knowledge of such person or to any police officer, whichever is earlier; or
- (c) where it is not known by whom the offence was committed, the first day on which the identity of the offender is known to the person aggrieved by the offence or to the police officer making investigation into the offence, whichever is earlier.

(2) In computing the said period, the day from which such period is to be computed shall be excluded.

Exclusion of time in certain cases.

470. (1) In computing the period of limitation, the time during which any person has been prosecuting with due diligence another prosecution, whether in a Court of first instance or in a Court of appeal or revision, against the offender, shall be excluded:

Provided that no such exclusion shall be made unless the prosecution relates to the same facts and is prosecuted in good faith in a Court which from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(2) Where the institution of the prosecution in respect of an offence has been stayed by an injunction or order, then, in computing the period of limitation, the period of the continuance of the injunction or order, the day on which it was issued or made, and the day on which it was withdrawn, shall be excluded.

(3) Where notice of prosecution for an offence has been given, or where, under any law for the time being in force, the previous consent or sanction of the Government or any other authority is required for the

46m. by Act 45 of 1968, S. 33.

institution of any prosecution for an offence, then, in computing the period of limitation, the period of such notice or, as the case may be, the time required for obtaining such consent or sanction shall be excluded.

Explanation.—In computing the time required for obtaining the consent or sanction of the Government or any other authority, the date on which the application was made for obtaining the consent or sanction and the date of receipt of the order of the Government or other authority shall both be excluded.

(4) In computing the period of limitation, the time during which the offender—

(a) has been absent from India or from any territory outside India which is under the administration of the Central Government, or

(b) has avoided arrest by absconding or concealing himself, shall be excluded.

471. Where the period of limitation expires on a day when the Court is closed, the Court may take cognizance on the day on which the Court re-opens.

Exclusion
of
date on
which
Court
is closed.

Explanation.—A Court shall be deemed to be closed on any day within the meaning of this section, if, during its normal working hours, it remains closed on that day.

472. In the case of a continuing offence, a fresh period of limitation shall begin to run at every moment of the time during which the offence continues.

Continuing
offence.

473. Notwithstanding anything contained in the foregoing provisions of this Chapter, any Court may take cognizance of an offence after the expiry of the period of limitation, if it is satisfied on the facts and in the circumstances of the case that the delay has been properly explained or that it is necessary so to do in the interests of justice.

Extension
of period
of limita-
tion
in certain
cases.

CHAPTER XXXVII

MISCELLANEOUS

474. When an offence is tried by the High Court otherwise than under section 407, it shall, in the trial of the offence, observe the same procedure as a Court of Session would observe if it were trying the case.

Trials
before
High
Courts.

46 of 1950.
62 of 1957.
45 of 1950.

475. (1) The Central Government may make rules consistent with this Code and the Army Act, 1950, the Navy Act, 1957, and the Air Force Act, 1950, and any other law, relating to the Armed Forces of the Union, for the time being in force, as to cases in which persons subject to military, naval or air force law, or such other law, shall be tried by a Court to which this Code applies or by a Court-martial; and when any

Delivery
to com-
manding
officers
of persons
liable
to be
tried by
Court-
martial,

person is brought before a Magistrate and charged with an offence for which he is liable to be tried either by a Court to which this Code applies or by a Court-martial, such Magistrate shall have regard to such rules, and shall in proper cases deliver him, together with a statement of the offence of which he is accused, to the commanding officer of the unit to which he belongs, or to the commanding officer of the nearest military, naval or air force station, as the case may be, for the purpose of being tried by a Court-martial.

Explanation.—In this section—

(a) “unit” includes a regiment, corps, ship, detachment, group, battalion or company,

(b) “Court-martial” includes any tribunal with the powers similar to those of a Court-martial constituted under the relevant law applicable to the Armed Forces of the Union.

(2) Every Magistrate shall, on receiving a written application for that purpose by the commanding officer of any unit or body of soldiers, sailors or airmen stationed or employed at any such place, use his utmost endeavours to apprehend and secure any person accused of such offence.

(3) A High Court may, if it thinks fit, direct that a prisoner detained in any jail situate within the State be brought before a Court-martial for trial or to be examined touching any matter pending before the Court-martial.

Forms.

476. Subject to the power conferred by article 227 of the Constitution, the forms set forth in the Second Schedule, with such variations as the circumstances of each case require, may be used for the respective purposes therein mentioned, and if used shall be sufficient.

**Power of
High
Court to
make
rules.**

477. (1) Every High Court may, with the previous approval of the State Government, make rules—

(a) as to the persons who may be permitted to act as petition-writers in the Criminal Courts subordinate to it;

(b) regulating the issue of licences to such persons, the conduct of business by them, and the scale of fees to be charged by them;

(c) providing a penalty for a contravention of any of the rules so made and determining the authority by which such contravention may be investigated and the penalties imposed;

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

(2) All rules made under this section shall be published in the Official Gazette.

478. If the State Legislature by a resolution so requires, the State Government may, after consultation with the High Court, by notification, direct that—

(a) references in sections 108, 109 and 110 to a Judicial Magistrate of the first class shall be construed as references to an Executive Magistrate;

Power to alter functions allocated to Judicial and Executive Magistrates in certain cases.

(b) references in sections 145 and 147 to an Executive Magistrate shall be construed as references to a Judicial Magistrate of the first class.

479. No Judge or Magistrate shall, except with the permission of the Court to which an appeal lies from his Court, try or commit for trial any case to or in which he is a party, or personally interested, and no Judge or Magistrate shall hear an appeal from any judgment or order passed or made by himself.

Case in which Judge or Magistrate is personally interested.

Explanation.—A Judge or Magistrate shall not be deemed to be a party to, or personally interested in, any case by reason only that he is concerned therein in a public capacity, or by reason only that he has viewed the place in which an offence is alleged to have been committed or any other place in which any other transaction material to the case is alleged to have occurred and made an inquiry in connection with the case.

480. No pleader who practises in the Court of any Magistrate shall sit as a Magistrate in that Court or in any Court within the local jurisdiction of that Court.

Practising pleader not to sit as Magistrate in certain Courts. Public servant concerned in sale not to purchase or bid for property.

481. A public servant having any duty to perform in connection with the sale of any property under this Code shall not purchase or bid for the property.

Saving of inherent powers of High Court.

482. Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

↓ Subs. by Act 45 of 1978, S. 34.

Duty of
High
Court to
exercise
continu-
ous
superin-
tendence
over
Courts of
Judicial
Magis-
trates.

Repeal
and
savings.

483. Every High Court shall so exercise its superintendence over the Courts of Judicial Magistrates subordinate to it as to ensure that there is an expeditious and proper disposal of cases by such Magistrates.

484. (1) The Code of Criminal Procedure, 1898, is hereby repealed.

5 of 1898.

(2) Notwithstanding such repeal,—

(a) if, immediately before the date on which this Code comes into force, there is any appeal, application, trial, inquiry or investigation pending, then, such appeal, application, trial, inquiry or investigation shall be disposed of, continued, held or made, as the case may be, in accordance with the provisions of the Code of Criminal Procedure, 1898, as in force immediately before such commencement, (hereinafter referred to as the Old Code), as if this Code had not come into force;

5 of 1898.

Provided that every inquiry under Chapter XVIII of the Old Code, which is pending at the commencement of this Code, shall be dealt with and disposed of in accordance with the provisions of this Code;

(b) all notifications published, proclamations issued, powers conferred, forms, prescribed, local jurisdictions defined, sentences passed and orders, rules and appointments, not being appointments as Special Magistrates, made under the Old Code and which are in force immediately before the commencement of this Code, shall be deemed, respectively, to have been published, issued, conferred, prescribed, defined, passed or made under the corresponding provisions of this Code;

(c) any sanction accorded or consent given under the Old Code in pursuance of which no proceeding was commenced under that Code, shall be deemed to have been accorded or given under the corresponding provisions of this Code and proceedings may be commenced under this Code in pursuance of such sanction or consent;

(d) the provisions of the Old Code shall continue to apply in relation to every prosecution against a Ruler within the meaning of article 363 of the Constitution.

(3) Where the period prescribed for an application or other proceeding under the Old Code had expired on or before the commencement of this Code, nothing in this Code shall be construed as enabling any such application to be made or proceeding to be commenced under this Code by reason only of the fact that a longer period therefor is prescribed by this Code or provisions are made in this Code for the extension of time.

THE FIRST SCHEDULE
CLASSIFICATION OF OFFENCES

- EXPLANATORY NOTE :** (1) In regard to offences under the Indian Penal Code, the entries in the second and third columns against a section the number of which is given in the first column are not intended as the definition of, and the punishment prescribed for, the offence in the Indian Penal Code, but merely as indication of the substance of the section.
- (2) In this Schedule, (i) the expression "Magistrate of the first class" and "Any Magistrate" include Metropolitan Magistrates but not Executive Magistrates; (ii) the word "cognizable" stands for "a police officer may arrest without warrant"; and (iii) the word "non-cognizable" stands for "a police officer shall not arrest without warrant".

I.—OFFENCES UNDER THE INDIAN PENAL CODE

Section	Offence	Punishment	Cognizable or non-cognizable	Bailable or non-bailable	By what Court triable
1	2	3	4	5	6

CHAPTER V—ABETMENT

109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment.	Same as for offence abetted	According as offence abetted is cognizable or non-cognizable.	According as offence abetted is bailable or non-bailable.	Court by which offence abetted is triable.
110	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor.	Ditto	Ditto	Ditto	Ditto.

111	A betment of any offence, when one act is abetted and a different act is done; subject to the proviso.	Same as for offence intended to be abetted.	Ditto	Ditto.	Ditto.
113	Abetment of any offence, when an effect is caused by the act abetted different from that intended by the abettor.	Same as for offence committed.	Ditto	Ditto	Ditto.
114	Abetment of any offence, if abettor is present when offence is committed.	Ditto	Ditto	Ditto	Ditto.
115	Abetment of an offence, punishable with death or imprisonment for life, if the offence be not committed in consequence of the abetment. If an act which causes harm be done in consequence of the abetment.	Imprisonment for 7 years and] fine Imprisonment for 14 years and fine	Ditto	Non-bailable	Ditto.
116	Abetment of an offence, punishable with imprisonment, if the offence be not committed in consequence of the abetment. If the abettor or the person abetted be a public servant whose duty it is to prevent the offence.	Imprisonment extending to a quarter part of the longest term provided for the offence, or fine, or both. Imprisonment extending to half of the longest term provided for the offence, or fine, or both.	Ditto	According as offence abetted is bailable or non-bailable.	Ditto.
117	Abetting the commission of an offence by the public, or by more than ten persons.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Ditto.

Section	Offence	Punishment	Cognizable or non-cognizable	Bailable or non-bailable	By what Court triable
1	2	3	4	5	6
118	Concealing a design to commit an offence punishable with death or imprisonment for life, if the offence be committed. If the offence be not committed	Imprisonment for 7 years and fine Imprisonment for 3 years and fine	According as offence abetted is cognizable or non-cognizable.	Non-bailable Bailable	Court by which offence abetted is triable. Ditto.
119	A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence be committed. If the offence be punishable with death or imprisonment for life. If the offence be not committed	Imprisonment extending to half of the longest term provided for the offence, or fine, or both. Imprisonment for 10 years Imprisonment extending to a quarter part of the longest term provided for the offence, or fine, or both.	Ditto Ditto Ditto	According as offence abetted is bailable or non-bailable. Non-bailable Bailable	Ditto. Ditto. Ditto.
120	Concealing a design to commit an offence punishable with imprisonment, if offence be committed. If the offence be not committed	Ditto Imprisonment extending to one-eighth part of the longest term provided for the offence, or fine, or both.	Ditto Ditto	According as offence abetted is bailable or non-bailable. Bailable	Ditto. Ditto.

CHAPTER VA—CRIMINAL CONSPIRACY

120B	Criminal conspiracy to commit an offence punishable with death, imprisonment for life or rigorous imprisonment for a term of 2 years or upwards.	Same as for abetment of the offence which is the object of the conspiracy.	According as the offence which is the object of conspiracy is cognizable or non-cognizable.	According as Court by which abetment of the offence which is object of the offence which is the object of conspiracy is triable.
	Any other criminal conspiracy	Imprisonment for 6 months, or fine, or both.	Non-cognizable	Bailable Magistrate of the first class.

CHAPTER VI—OFFENCES AGAINST THE STATE

121	Waging or attempting to wage war, or abetting the waging of war, against the Government of India.	Death, or imprisonment for life and fine.	Cognizable	Non-bailable	Court of Session.
121A	Conspiring to commit certain offences against the State.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
122	Collecting arms, etc., with the intention of waging war against the Government of India.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
123	Concealing with intent to facilitate a design to wage war.	Imprisonment for 10 years and fine	Ditto	Ditto	Ditto.
124	Assaulting President, Governor, etc., with intent to compel or restrain the exercise of any lawful power.	Imprisonment for 7 years and fine	Ditto	Ditto	Ditto.
124A	Sedition	Imprisonment for life and fine, or imprisonment for 3 years and fine, or fine.	Ditto	Ditto	Ditto.

Section 1	Offence 2	Punishment 3	Cognizable or non-cognizable 4	Bailable or non- bailable 5	By what Court triable 6
125	Waging war against any Asiatic power in alliance or at peace with the Government of India, or abetting the waging of such war.	Imprisonment for life and fine, or imprisonment for 7 years and fine, or fine.	Cognizable	Non-bailable	Court of Session.
126	Committing depredation on the territories of any power in alliance or at peace with the Government of India.	Imprisonment for 7 years and fine, and forfeiture of certain property.	Ditto	Ditto	Ditto.
127	Receiving property taken by war or depredation mentioned in sections 125 and 126.	Ditto	Ditto	Ditto	Ditto.
128	Public servant voluntarily allowing prisoner of State or war in his custody to escape.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
129	Public servant negligently suffering prisoner of State or war in his custody to escape.	Simple imprisonment for 3 years and fine.	Ditto	Bailable	Magistrate of the first class.
130	Aiding escape of, rescuing or harbouring, such prisoner, or offering any resistance to the recapture of such prisoner.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Non-bailable	Court of Session.

CHAPTER VII—OFFENCES RELATING TO THE ARMY, NAVY AND AIR FORCE

131	Abetting mutiny, or attempting to seduce an officer, soldier, sailor or airman from his allegiance or duty.	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of Session.
132	Abetment of mutiny, if mutiny is committed in consequence thereof.	Death, or imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.

133	Abetment of an assault by an officer, soldier, sailor or airman on his superior officer, when in the execution of his office.	Imprisonment for 3 years and fine.	Ditto	Ditto	Magistrate of the first class.
134	Abetment of such assault, if the assault is committed.	Imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.
135	Abetment of the desertion of an officer, soldier, sailor or airman.	Imprisonment for 2 years, or fine, or both.	Ditto	Bailable	Any Magistrate.
136	Harbouring such an officer, soldier, sailor or airman who has deserted.	Ditto	Ditto	Ditto	Ditto.
137	Deserter concealed on board merchant vessel, through negligence of master or person in charge thereof.	Fine of 500 rupees	Non-cognizable.	Ditto	Ditto.
138	Abetment of act of insubordination by an officer, soldier, sailor or airman, if the offence be committed in consequence.	Imprisonment for 6 months, or fine, or both.	Cognizable	Ditto	Ditto.
140	Wearing the dress or carrying any token used by a soldier, sailor or airman with intent that it may be believed that he is such a soldier, sailor or airman.	Imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto	Ditto	Ditto.

CHAPTER VIII—OFFENCES AGAINST THE PUBLIC TRANQUILLITY

143	Being member of an unlawful assembly	Imprisonment for 6 months, or fine, or both.	Cognizable	Bailable	Any Magistrate.
144	Joining an unlawful assembly armed with any deadly weapon.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto.

Section 1	Offence 2	Punishment 3	Cognizable or non-cognizable 4	Bailable or non- bailable 5	By what Court triable 6
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	Imprisonment for 2 years, or fine, or both.	Cognizable	Bailable	Any Magistrate.
147	Rioting.	Ditto.	Ditto	Ditto	Ditto.
148	Rioting, armed with a deadly weapon	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Magistrate of the first class.
149	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence.	The same as for the offence	According as offence is cognizable or non-cognizable.	According as offence is bailable or non-bailable.	The Court by which the offence is triable.
150	Hiring, engaging or employing persons to take part in an unlawful assembly.	The same as for a member of such assembly, and for any offence committed by any member of such assembly.	Cognizable	Ditto	Ditto.
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	Imprisonment for 6 months, or fine, or both.	Ditto	Bailable	Any Magistrate.
152	Assaulting or obstructing public servant when suppressing riot, etc.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Magistrate of the first class.
153	Want only giving provocation with intent to cause riot, if rioting be committed.	Imprisonment for 1 year, or fine, or both.	Ditto	Ditto	Any Magistrate.

	If not committed	Imprisonment for 6 months, or fine, or both.	Ditto	Ditto	Magistrate of the first class.
153A	Promoting enmity between classes	Imprisonment for 3 years, or fine, or both.	Ditto	Non-bailable	Ditto.
	Promoting enmity between classes in place of worship, etc.	Imprisonment for 5 years and fine.	Ditto	Ditto	Ditto.
153B	Imputations, assertions prejudicial to national integration.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Ditto.
	If committed in a place of public worship, etc.	Imprisonment for 5 years and fine.	Ditto	Ditto	Ditto.
154	Owner or occupier of land not giving information of riot, etc.	Fine of 1,000 rupees	Non-cognizable	Bailable	Any Magistrate.
155	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it.	Fine	Ditto	Ditto	Ditto.
156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Ditto	Ditto	Ditto	Ditto.
157	Harbouring persons hired for an unlawful assembly.	Imprisonment for 6 months, or fine, or both.	Cognizable	Ditto	Ditto.
158	Being hired to take part in an unlawful assembly or riot.	Ditto	Ditto	Ditto	Ditto.
	Or to go armed.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto.
160	Committing affray	Imprisonment for one month, or fine of 100 rupees, or both.	Ditto	Ditto	Ditto.
CHAPTER IX—OFFENCES BY OR RELATING TO PUBLIC SERVANTS					
161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Imprisonment for 3 years, or fine, or both.	Cognizable	Non-bailable	Magistrate of the first class.

Section 1	Offence 2	Punishment 3	Cognizable or Non-cognizable 4	Bailable or Non-bailable 5	By what Court triable 6
162	Taking a gratification in order, by corrupt or illegal means, to influence a public servant.	Imprisonment for 3 years, or fine, or both.	Cognizable	Non-bailable	Magistrate of the first class.
163	Taking a gratification for the exercise of personal influence with a public servant.	Simple imprisonment for 1 year, or fine, or both.	Ditto	Ditto	Ditto.
164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Ditto.
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant.	Ditto	Ditto	Ditto	Ditto.
165A	Punishment for abetment of offences punishable under section 161 or section 165.	Ditto	Ditto	Ditto	Ditto.
166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Simple imprisonment for 1 year, or fine, or both.	Non-cognizable	Bailable	Ditto.
167	Public servant framing an incorrect document with intent to cause injury.	Imprisonment for 3 years, or fine, or both.	Cognizable	Ditto	Ditto.
168	Public servant unlawfully engaging in trade	Simple imprisonment for 1 year, or fine, or both.	Non-cognizable	Ditto	Ditto.

169	Public Servant unlawfully buying or bidding for property.	Simple imprisonment for 2 years, or fine, or both and confiscation of property, if purchased.	Ditto	Ditto	Ditto.
170	Personating a public servant	prisonment for 2 years, or fine, or both.	Cognizable	Non-bailable	Any Magistrate.
171	Wearing garb or carrying token used by public servant with fraudulent intent.	Imprisonment for 3 months, or fine of 200 rupees, or both.	Ditto	Bailable	Ditto.

CHAPTER IX A—OFFENCES RELATING TO ELECTIONS

171E	Bribery	Imprisonment for 1 year, or fine, or both, or if treating only, fine only.	Non-cognizable	Ditto	Magistrate of the first class.
171F	Undue influence at an election	Imprisonment for one year, or fine , or both.	Ditto	Ditto	Ditto.
	Personation at an election	Imprisonment for one year, or fine, or both.	Cognizable	Ditto	Ditto.
171G	False statement in connection with an election.	Fine	Non-cognizable	Ditto	Ditto
171H	Illegal payments in connection with elections.	Fine of 500 rupees	Ditto	Ditto	Ditto.
171I	Failure to keep election accounts	Ditto	Ditto	Ditto	Ditto.

CHAPTER X—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS

172	Absconding to avoid service of summons or other proceeding from a public servant.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Non-cognizable	Bailable	Any Magistrate.
	If summons or notice require attendance in person, etc., in a Court of Justice.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto.

Section	Offence	Punishment	Cognizable or non-cognizable	Bailable or non-bailable	By what Court triable
1	2	3	4	5	6
173	Preventing the service or the affixing of any summons of notice, or the removal of it when it has been affixed, or preventing a proclamation.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Non-cognizable	Bailable	Any Magistrate.
	If summons, etc., require attendance in person, etc., in a Court of Justice.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto.
174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto	Ditto	Ditto.
	If the order requires personal attendance, etc., in a Court of Justice.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto.
175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto	Ditto	The Court in which the offence is committed, subject to the provisions of Chapter XXVI; or, if not committed in a Court, any Magistrate.
	If the document is required to be produced in or delivered to a Court of Justice.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto.

176	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto	Ditto	Any Magistrate.
	If the notice or information required respects the commission of an offence, etc.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto.
	If the notice or information is required by an order passed under sub-section (1) of section 356 of this Code.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto.
177	Knowingly furnishing false information to a public servant.	Ditto	Ditto	Ditto	Ditto.
	If the information required respects the commission of an offence, etc.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto.
178	Refusing oath when duly required to take oath by a public servant.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto	Ditto	The Court in which the offence is committed, subject to the provisions of Chapter XXVI; or, if not committed in a Court, any Magistrate.
179	Being legally bound to state truth, and refusing to answer questions.	Ditto	Ditto	Ditto	Ditto.
180	Refusing to sign a statement made to a public servant when legally required to do so.	Simple imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto	Ditto	Ditto.
181	Knowingly stating to a public servant on oath as true that which is false.	Imprisonment for 3 years and fine.	Ditto	Ditto	Magistrate of the first class.

Section 1	Offence 2	Punishment 3	Cognizable or non-cognizable 4	Bailable or non- bailable 5	By what Court triable 6
182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Non-cognizable	Bailable	Any Magistrate.
183	Resistance to the taking of property by the lawful authority of a public servant.	Ditto	Ditto	Ditto	Ditto
184	Obstructing sale of property offered for sale by authority of a public servant.	Imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto	Ditto	Ditto.
185	Bidding, by a person under a legal incapacity to purchase it, for property at a lawfully authorised sale, or bidding without intending to perform the obligations incurred thereby.	Imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto	Ditto	Ditto.
186	Obstructing public servant in discharge of his public functions.	Imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto	Ditto	Ditto.
187	Omission to assist public servant when bound by law to give such assistance.	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto	Ditto	Ditto.
	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, etc.	Simple imprisonment for 6 months, or fine of 500 rupees, or both.	Ditto	Ditto	Ditto.
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction, annoyance or injury to persons lawfully employed.	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Cognizable	Ditto	Ditto.

	If such disobedience causes danger to human life, health or safety, etc.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto.
189	Threatening a public servant with injury to him or one in whom he is interested, to induce him to do or forbear to do any official act.	Imprisonment for 2 years, or fine, or both.	Non-cognizable	Ditto	Ditto.
190	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Imprisonment for 1 year, or fine, or both.	Ditto	Ditto	Ditto.

CHAPTER XI—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE

193	Giving or fabricating false evidence in a judicial proceeding.	Imprisonment for 7 years and fine.	Non-cognizable	Bailable	Magistrate of the first class.
	Giving or fabricating false evidence in any other case.	Imprisonment for 3 years and fine	Ditto	Ditto	Any Magistrate.
194	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Imprisonment for life, or rigorous imprisonment for 10 years and fine.	Ditto	Non-bailable	Court of Session.
	If innocent person be thereby convicted and executed.	Death, or as above	Ditto	Ditto	Ditto.
195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with imprisonment for life or with imprisonment for 7 years or upwards.	The same as for the offence	Ditto	Ditto	Ditto.

Sec- tion 1	Offence 2	Punishment 3	Cognizable or non-cognizable 4	Bailable or non- bailable 5	By what Court triable 6
196	Using in a judicial proceeding evidence known to be false or fabricated.	The same as for giving or fabricating false evidence.	Non-cognizable	According as offence of giving such evidence is bailable or non-bailable.	Court by which offence of giving or fabricating false evidence is triable.
197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Ditto	Ditto	Bailable	Court by which offence of giving false evidence is triable.
198	Using as a true certificate one known to be false in a material point.	Ditto	Ditto	Ditto	Ditto.
199	False statement made in any declaration which is by law receivable as evidence.	Ditto	Ditto	Ditto	Ditto.
200	Using as true any such declaration known to be false.	Ditto	Ditto	Ditto	Ditto.
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	Imprisonment for 7 years and fine	According as the offence in relation to which disappearance of evidence is caused is cognizable or non-cognizable.	Ditto	Court of Session.
If punishable with imprisonment for life or imprisonment for 10 years.		Imprisonment for 3 years and fine	Non-cognizable	Ditto	Magistrate of the first class.

	If punishable with less than 10 years' imprisonment.	Imprisonment for a quarter of the longest term provided for the offence, or fine, or both.	Ditto	Ditto	Court by which the offence is triable.
202	Intentional omission to give information of an offence by a person legally bound to inform.	Imprisonment for 6 months, or fine, or both.	Ditto	Ditto	Any Magistrate.
203	Giving false information respecting an offence committed.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto.
204	Secreting or destroying any document to prevent its production as evidence.	Ditto	Ditto	Ditto	Magistrate of the first class.
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Ditto.
206	Fraudulent removal or concealment, etc., of property to prevent its seizure as a forfeiture or in satisfaction of a fine under sentence, or in execution of a decree.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Any Magistrate.
207	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto	Ditto	Ditto	Ditto.
208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	Ditto	Ditto	Ditto	Magistrate of the first class.
209	False claim in a Court of Justice	Imprisonment for 2 years and fine	Ditto	Ditto	Ditto.

Section	Offence	Punishment	Cognizable or non-cognizable	Bailable or non-bailable	By what Court triable
1	2	3	4	5	6
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Imprisonment for 2 years, or fine, or both.	Non-cognizable	Bailable	Magistrate of the first class.
211	False charge of offence made with intent to injure.	Ditto	Ditto	Ditto	Ditto.
	If offence charged be punishable with imprisonment for 7 years or upwards.	Imprisonment for 7 years and fine	Ditto	Ditto	Ditto.
	If offence charged be capital or punishable with imprisonment for life.	Ditto	Ditto	Ditto	Court of Session.
212	Harbouring an offender, if the offence be capital.	Imprisonment for 5 years and fine	Cognizable	Ditto	Magistrate of the first class.
	If punishable with imprisonment for life or with imprisonment for 10 years.	Imprisonment for 3 years and fine	Ditto	Ditto	Ditto.
	If punishable with imprisonment for 1 year and not for 10 years.	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Ditto	Ditto	Ditto.
213	Taking gift, etc., to screen an offender from punishment if the offence be capital.	Imprisonment for 7 years and fine	Ditto	Ditto	Ditto.
	If punishable with imprisonment for life or with imprisonment for 10 years.	Imprisonment for 3 years and fine	Ditto	Ditto	Ditto.

	If punishable with imprisonment for less than 10 years.	Imprisonment for a quarter of the longest term provided for the offence, or fine, or both.	Ditto	Ditto	Ditto.
214	Offering gift or restoration of property in consideration of screening offender if the offence be capital.	Imprisonment for 7 years and fine	Non-cognizable	Ditto	Ditto.
	If punishable with imprisonment for life or with imprisonment for 10 years.	Imprisonment for 3 years and fine	Ditto	Ditto	Ditto.
	If punishable with imprisonment for less than 10 years.	Imprisonment for a quarter of the longest term provided for the offence, or fine, or both.	Ditto	Ditto	Ditto.
215	Taking gift to help to recover movable property of which a person has been deprived by an offence without causing apprehension of offender.	Imprisonment for 2 years, or fine, or both.	Cognizable	Ditto	Ditto.
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	Imprisonment for 7 years and fine	Ditto	Ditto	Ditto.
	If punishable with imprisonment for life or with imprisonment for 10 years.	Imprisonment for 3 years, with or without fine.	Ditto	Ditto	Ditto.
	If punishable with imprisonment for 1 year and not for 10 years.	Imprisonment for a quarter of the longest term provided for the offence, or fine, or both.	Ditto	Ditto	Ditto.
216A	Harbouring robbers or dacoits	Rigorous imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.

Section I	Offence 2	Punishment 3	Cognizable or non-cognizable 4	Bailable or non- bailable 5	By what Court triable 6
217	Public servant disobeying a direction of law with intent to save person from punishment, or property from forfeiture.	Imprisonment for 2 years, or fine, or both.	Non-cognizable	Bailable	Any Magistrate.
218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	Imprisonment for 3 years, or fine, or both.	Cognizable	Ditto	Magistrate of the first class.
219	Public servant in a judicial proceeding corruptly making and pronouncing an order, report, verdict, or decision which he knows to be contrary to law.	Imprisonment for 7 years, or fine, or both.	Non-cognizable	Ditto	Ditto.
220	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law.	Ditto	Ditto	Ditto.	Ditto.
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital. If punishable with imprisonment for life or imprisonment for 10 years.	Imprisonment for 7 years, with or without fine.	According as the offence in relation to which such omission has been made is cognizable or non-cognizable.	Ditto	Ditto.
	If punishable with imprisonment for less than 10 years.	Imprisonment for 3 years, with or without fine.	Cognizable	Ditto	Ditto.
		Imprisonment for 2 years, with or without fine.	Ditto	Ditto	Ditto.

222	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice if under sentence of death.	Imprisonment for life, or imprisonment for 14 years, with or without fine.	Ditto.	Non-bailable	Court of Session.
	If under sentence of imprisonment for life or imprisonment for 10 years, or upwards.	Imprisonment for 7 years, with or without fine.	Ditto	Ditto	Magistrate of the first class.
	If under sentence of imprisonment for less than 10 years or lawfully committed to custody.	Imprisonment for 3 years, or fine or both.	Ditto	Bailable	Ditto.
223	Escape from confinement negligently suffered by a public servant.	Simple Imprisonment for 2 years, or Non-Cognizable fine, or both.	Ditto	Ditto	Any Magistrate.
224	Resistance or obstruction by a person to his or both.	Imprisonment for 2 years, or fine,	Cognizable	Ditto	Ditto.
225	Resistance or obstruction to the lawful apprehension of any person, or, rescuing him from lawful custody.	Ditto	Ditto	Ditto	Ditto.
	If charged with an offence punishable with imprisonment for life or imprisonment for 10 years.	Imprisonment for 3 years and fine	Ditto	Non-bailable	Magistrate of the first class.
	If charged with a capital offence	Imprisonment for 7 years and fine	Ditto	Ditto	Ditto.
	If the person is sentenced to imprisonment for life, or imprisonment for 10 years, or upwards.	Ditto	Ditto	Ditto	Ditto.
	If under sentence of death	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Court of Session.

Section	Offence	Punishment		Bailable or non-bailable	By what Court triable	
		1	2	3	4	5
225A	Omission to apprehend, or sufferance of escape on part of public servant, in cases not otherwise provided for:—					
	(a) in case of intentional omission or sufferance.	Imprisonment for 3 years, or fine, or both.	Non-cognizable	Bailable	Magistrate of the first class.	
	(b) in case of negligent omission or sufferance.	Simple imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Any Magistrate.	
225B	Resistance or obstruction to lawful apprehension, or escape or rescue in cases not otherwise provided for.	Imprisonment for 6 months, or fine, or both.	Cognizable	Ditto	Ditto	
227	Violation of condition of remission of punishment.	Punishment of original sentence, or if part of the punishment has been undergone, the residue.	Ditto	Non-bailable	The Court by which the original offence was triable.	
228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Non-cognizable	Bailable	The Court in which the offence is committed subject to the provisions of Chapter XXVI.	
229	Personation of a juror or assessor	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Magistrate of the first class.	
CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS						
231	Counterfeiting, or performing any part of the process of counterfeiting coin.	Cognizable	Non-bailable	Magistrate of the first class.		

232	Counterfeiting, or performing any part of the process of counterfeiting, Indian coin.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Court of Session.
233	Making, buying or selling instrument for the purpose of counterfeiting coin.	Imprisonment for 3 years and fine.	Ditto	Ditto	Magistrate of the first class.
234	Making, buying or selling instrument for the purpose of counterfeiting Indian coin.	Imprisonment for 7 years and fine.	Ditto	Ditto	Court of Session.
235	Possession of instrument or material for the purpose of using the same for counterfeiting coin.	Imprisonment for 3 years and fine.	Ditto	Ditto	Magistrate of the first class.
	If Indian coin	Imprisonment for 10 years and fine.	Ditto	Ditto	Court of Session.
236	Abetting, in India, the counterfeiting, out of India, of coin.	The punishment provided for abetting the counterfeiting of such coin within India.	Ditto	Ditto	Ditto.
237	Import or export of counterfeit coin, knowing the same to be counterfeit.	Imprisonment for 3 years and fine.	Ditto	Ditto	Magistrate of the first class.
238	Import or export of counterfeit of Indian coin, knowing the same to be counterfeit.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Court of Session.
239	Having any counterfeit coin known to be such when it came into possession, and delivering, etc., the same to any person.	Imprisonment for 5 years and fine.	Ditto	Ditto	Magistrate of the first class.
240	Same with respect to Indian coin	Imprisonment for 10 years and fine.	Ditto	Ditto	Court of Session.
241	Knowingly delivering to another any counterfeit coin as genuine, which, when first possessed, the deliverer did not know to be counterfeit.	Imprisonment for 2 years, or fine, or 10 times the value of the coin counterfeited, or both.	Ditto	Ditto	Any Magistrate.

Section 242	Offence Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.	Punishment Imprisonment for 3 years and fine	Cognizable Cognizable	Bailable or non-bailable Non-bailable	By what Court triable Magistrate of the first class.
1	2	3	4	5	6
243	Possession of Indian coin by a person who knew it to be counterfeit when he became possessed thereof.	Imprisonment for 7 years and fine	Ditto	Ditto	Ditto.
244	Person employed in a Mint causing coin to be of a different weight or composition from that fixed by law.	Ditto	Ditto	Ditto	Ditto.
245	Unlawfully taking from a Mint any coining instrument.	Ditto	Ditto	Ditto	Ditto.
246	Fraudulently diminishing the weight or altering the composition of any coin.	Imprisonment for 3 years and fine	Ditto	Ditto	Ditto.
247	Fraudulently diminishing the weight or altering the composition of Indian coin.	Imprisonment for 7 years and fine	Ditto	Ditto	Ditto.
248	Altering appearance of any coin with intent that it shall pass as a coin of a different description.	Imprisonment for 3 years and fine	Ditto	Ditto	Ditto.
249	Altering appearance of Indian coin with intent that it shall pass as a coin of a different description.	Imprisonment for 7 years and fine	Ditto	Ditto	Ditto.

250	Delivery to another of coin possessed with the knowledge that it is altered.	Imprisonment for 5 years and fine	Ditto	Ditto	Ditto.
251	Delivery of Indian coin possessed with the knowledge that it is altered.	Imprisonment for 10 years and fine	Ditto	Ditto	Court of Session.
252	Possession of altered coin by a person who knew it to be altered when he became possessed thereof.	Imprisonment for 3 years and fine	Ditto	Ditto	Magistrate of the first class.
253	Possession of Indian coin by a person who knew it to be altered when he became possessed thereof.	Imprisonment for 5 years and fine	Ditto	Ditto	Ditto.
254	Delivery to another of coin as genuine which, when first possessed, the deliverer did not know to be altered.	Imprisonment for 2 years, or fine, or 10 times the value of the coin.	Ditto	Ditto	Any Magistrate.
255	Counterfeiting a Government stamp.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Court of Session.
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	Imprisonment for 7 years and fine	Ditto	Ditto	Magistrate of the first class.
257	Making, buying or selling instrument for the purpose of counterfeiting a Government stamp.	Ditto	Ditto	Ditto	Ditto.
258	Sale of counterfeit Government stamp.	Ditto	Ditto	Ditto	Ditto.
259	Having possession of a counterfeit Government stamp.	Ditto	Ditto	Bailable	Ditto.
260	Using as genuine a Government stamp known to be counterfeit.	Imprisonment for 7 years, or fine, or both.	Ditto	Ditto	Ditto.

Section 1	Offence 2	Punishment 3	Cognizable or non-cognizable 4	Bailable or non- bailable 5	By what Court triable 6
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- 261 Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it, with intent to cause a loss to Government. Imprisonment for 3 years, or fine, or both. Cognizable Bailable Magistrate of the first class.
- 262 Using a Government stamp known to have been before used. Imprisonment for 2 years, or fine, or both. Ditto Ditto Any Magistrate.
- 263 Erasure of mark denoting that stamps have been used. Imprisonment for 3 years, or fine, or both. Ditto Ditto Magistrate of the first class.
- 263A Fictitious stamps Fine of 200 rupees* Ditto Ditto Any Magistrate.

CHAPTER XIII—OFFENCES RELATING TO WEIGHTS AND MEASURES

- 264 Fraudulent use of false instrument for weighing. Imprisonment for 1 year, or fine, or both. Non-cognizable Bailable Any Magistrate.
- 265 Fraudulent use of false weight or measure. Ditto Ditto Ditto Ditto Ditto.
- 266 Being in possession of false weights or measures for fraudulent use. Ditto Ditto Ditto Ditto Ditto.
- 267 Making or selling false weights or measures for fraudulent use. Ditto Cognizable Non-bailable Ditto.

CHAPTER XIV—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS

- 269 Negligently doing any act known to be likely to spread infection of any disease dangerous to life. Imprisonment for 6 months, or fine, or both. Cognizable Bailable Any Magistrate.

270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto.
271	Knowingly disobeying any quarantine rule.	Imprisonment for 6 months, or fine, or both.	Non-cognizable	Ditto	Ditto.
272	Adulterating food or drink intended for sale, so as to make the same noxious.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto.
273	Selling any food or drink as food and drink, knowing the same to be noxious.	Ditto	Ditto	Ditto	Ditto.
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Ditto	Ditto	Ditto	Ditto.
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Ditto	Ditto	Ditto	Ditto.
276	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	Ditto	Ditto	Ditto	Ditto.
277	Defiling the water of a public spring or reservoir.	Imprisonment for 3 months, or fine of 500 rupees, or both.	Cognizable	Ditto	Ditto.
278	Making atmosphere noxious to health.	Fine of 500 rupees	Non-cognizable	Ditto	Ditto.
279	Driving or riding on a public way so rashly or negligently as to endanger human life, etc.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Cognizable	Ditto	Ditto.

Section 1	Offence 2	Punishment 3	Cognizable or non-cognizable 4	Bailable or non- bailable 5	By what Court triable 6
280	Navigating any vessel so rashly or negligently as to endanger human life, etc.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Cognizable	Bailable	Any Magistrate.
281	Exhibition of a false light, mark or buoy	Imprisonment for 7 years, or fine, or both.	Ditto	Ditto	Magistrate of the first class.
282	Conveying for hire any person by water, in a vessel in such a state, or so loaded, as to endanger his life.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto	Ditto	Any Magistrate.
283	Causing danger, obstruction or, injury in any public way or line of navigation.	Fine of 200 rupees	Ditto	Ditto	Ditto.
284	Dealing with any poisonous substance so as to endanger human life, etc.	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto.
285	Dealing with fire or any combustible matter so as to endanger human life, etc.	Ditto	Ditto	Ditto	Ditto.
286	So dealing with any explosive substance	Ditto	Ditto	Ditto	Ditto.
287	So dealing with any machinery	Ditto	Non-cognizable	Ditto	Ditto.
288	A person omitting to guard against probable danger to human life by the fall of any building over which he has a right entitling him to pull it down or repair it.	Ditto	Ditto	Ditto	Ditto.

289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt, from such animal.	Ditto	Cognizable	Ditto	Ditto.
290	Committing a public nuisance	Fine of 200 rupees	Non-cognizable	Ditto	Ditto.
291	Continuance of nuisance after injunction to discontinue.	Simple imprisonment for 6 months, or fine, or both.	Cognizable	Ditto	Ditto.
292	Sale, etc., of obscene books, etc.	On first conviction, with imprisonment for 2 years, and with fine of 2,000 rupees, and, in the event of second or subsequent conviction, with imprisonment for five years and with fine of 5,000 rupees.	Ditto	Ditto	Ditto.
293	Sale, etc., of obscene objects to young persons	On first conviction with imprisonment for 3 years, and with fine of 2,000 rupees, and in the event of second or subsequent conviction, with imprisonment for 7 years, and with fine of 5,000 rupees.	Ditto	Ditto	Ditto.
294	Obscene songs	Imprisonment for 3 months, or fine, or both.	Ditto	Ditto	Ditto.
294A	Keeping a lottery office	Imprisonment for 6 months, or fine, or both.	Non-cognizable	Ditto	Ditto.
	Publishing proposals relating to lotteries	Fine of 1,000 rupees	Ditto	Ditto	Ditto.

CHAPTER XV—OFFENCES RELATING TO RELIGION

295	Destroying, damaging or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.	Imprisonment for 2 years, or fine, or both.	Cognizable	Non-bailable	Any Magistrate.
295A	Maliciously insulting the religion or the religious beliefs of any class.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Magistrate of the first class.
296	Causing a disturbance to an assembly engaged in religious worship.	Imprisonment for 1 year, or fine, or both.	Ditto	Bailable	Any Magistrate.

Section 1	Offence 2	Punishment 3	Cognizable or non-cognizable 4	Bailable or non- bailable 5	By what Court triable 6
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- 297 Trespassing in place of worship or sepulchre, disturbing funeral with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse.
 Imprisonment for 1 year, or fine, or both.
 Cognizable
 Bailable
 Any Magistrate.
- 298 Uttering any word or making any sound in the hearing or making any gesture, or placing any object in the sight of any person, with intention to wound his religious feeling.
 Ditto
 Non-cognizable
 Ditto
 Ditto.

CHAPTER XVI—OFFENCES AFFECTING THE HUMAN BODY

302 Murder	Death, or imprisonment for life, and fine.	Cognizable	Non-bailable	Court of Session.
303 Murder by a person under sentence of imprisonment for life.	Death	Ditto	Ditto	Ditto.
304 Culpable homicide not amounting to murder, if act by which the death is caused is done with intention of causing death, etc. If act is done with knowledge that it is likely to cause death, but without any intention to cause death, etc.	Imprisonment for life, or imprisonment for 10 years and fine. Imprisonment for 10 years, or fine, or both.	Ditto	Ditto	Ditto.
304 A Causing death by rash or negligent act	Imprisonment for 2 years, or fine, or both.	Ditto	Bailable	Magistrate of the first class
305 Abetment of suicide committed by child, or insane or delirious person or an idiot, or a person intoxicated.	Death, or imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Non-bailable	Court of Session.
306 Abetting the commission of suicide	Imprisonment for 10 years and fine	Ditto	Ditto	Ditto.

307	Attempt to murder If such act causes hurt to any person	Ditto Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto
	Attempt by life-convict to murder, if hurt is caused.	Death or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
308	Attempt to commit culpable homicide If such act causes hurt to any person	Imprisonment for 3 years, or fine, or both. Imprisonment for 7 years, or fine, or both.	Ditto	Ditto	Ditto.
309	Attempt to commit suicide	Simple imprisonment for 1 year, or fine, or both.	Ditto	Bailable	Any Magistrate.
311	Being a thug	Imprisonment for life and fine.	Ditto	Non-bailable	Court of Session.
312	Causing miscarriage If the woman be quick with child	Imprisonment for 3 years, or fine, or both. Imprisonment for 7 years and fine	Non-cognizable Ditto	Bailable Ditto	Magistrate of the first class. Ditto.
313	Causing miscarriage without woman's consent.	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of Session.
314	Death caused by an act done with intent to cause miscarriage, If act done without woman's consent	Imprisonment for 10 years and fine Imprisonment for life, or as above	Ditto	Ditto	Ditto.
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.	Imprisonment for 10 years, or fine, or both.	Ditto	Ditto	Ditto

Section 1	Offence 2	Punishment 3	Cognizable or non-cognizable 4	Bailable or non- bailable 5	By what Court triable 6
316	Causing death of a quick unborn child by an act amounting to culpable homicide.	Imprisonment for 10 years and fine	Cognizable	Non-bailable	Court of Session.
317	Exposure of a child under 12 years of age by parent or person having care of it with intention of wholly abandoning it.	Imprisonment for 7 years, or fine, or both.	Ditto	Bailable	Magistrate of the first class.
318	Concealment of birth by secret disposal of dead body.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto.
323	Voluntarily causing hurt	Imprisonment for 1 year, or fine of 1,000 rupees, or both.	Non-cognizable	Ditto	Any Magistrate.
324	Voluntarily causing hurt by dangerous weapons or means.	Imprisonment for 3 years, or fine, or both.	Cognizable	Ditto	Ditto.
325	Voluntarily causing grievous hurt	Imprisonment for 7 years and fine	Ditto	Ditto	Ditto.
326	Voluntarily causing grievous hurt by dangerous weapons or means.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Non-bailable	Magistrate of the first class.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal or which may facilitate the commission of an offence.	Imprisonment for 10 years and fine	Ditto	Ditto	Ditto.
328	Administering stupefying drug with intent to cause hurt, etc.	Ditto	Ditto	Ditto	Court of Session.

329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, etc.	Imprisonment for 7 years and fine [■ ■ ■ ■ ■]	Ditto	Bailable	Magistrate of the first class.
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, etc.	Imprisonment for 10 years and fine] [■]	Ditto	Non-bailable	Court of Session.
332	Voluntarily causing hurt to deter public servant from his duty.	Imprisonment for 3 years, or fine, or both.	Ditto	Bailable	Magistrate of the first class.
333	Voluntarily causing grievous hurt to deter public servant from his duty.	Imprisonment for 10 years and fine	Ditto	Non-bailable	Court of Session.
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Imprisonment for 1 month, or fine of 500 rupees, or both.	Non-cognizable	Bailable	Any Magistrate.
335	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Imprisonment for 4 years, or fine of 2,000 rupees, or both.	Cognizable	Ditto	Magistrate of the first class.
336	Doing any act which endangers human life or the personal safety of others.	Imprisonment for 3 months, or fine of 250 rupees, or both.	Ditto	Ditto	Any Magistrate.

Section	Offence	Punishment	Cognizable or non-cognizable	Bailable or non-bailable	By what Court triable
1	2	3	4	5	6
337	Causing hurt by an act which endangers human life, etc.	Imprisonment for 6 months, or fine of 500 rupees, or both.	Cognizable	Bailable	Any Magistrate.
338	Causing grievous hurt by an act which endangers human life, etc.	Imprisonment for 2 years, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto.
341	Wrongfully restraining any person.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Ditto	Ditto	Ditto.
342	Wrongfully confining any person.	Imprisonment for 1 year, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto.
343	Wrongfully confining for three or more days.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto.
344	Wrongfully confining for 10 or more days.	Imprisonment for 3 years and fine	Ditto	Ditto	Ditto.
345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Imprisonment for 2 years, in addition to imprisonment under any other section.	Ditto	Ditto	Magistrate of the first class
346	Wrongful confinement in secret.	Ditto	Ditto	Ditto	Ditto.
347	Wrongful confinement for the purpose of extorting property; or constraining to an illegal act, etc.	Imprisonment for 3 years and fine	Ditto	Ditto	Any Magistrate.
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, etc.	Ditto	Ditto	Ditto	Ditto.

352	Assault or use of criminal force otherwise than on grave provocation.	Imprisonment for 3 months, or fine of 500 rupees, or both.	Non-cognizable	Ditto	Ditto.
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	Imprisonment for 2 years, or fine, or both.	Cognizable	Ditto	Ditto.
354	Assault or use of criminal force to a woman with intent to outrage her modesty.	Ditto	Ditto	Ditto	Ditto.
355	Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation.	Ditto	Non-cognizable	Ditto	Ditto.
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	Ditto	Cognizable	Ditto	Ditto.
357	Assault or use of criminal force in attempt wrongfully to confine a person.	Imprisonment for 1 year, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto.
358	Assault or use of criminal force on grave and sudden provocation.	Simple imprisonment for one month, or fine of 200 rupees, or both.	Non-cognizable	Ditto	Ditto.
363	Kidnapping	Imprisonment for 7 years and fine	Cognizable	Ditto	Magistrate of the first class.
363A	Kidnapping or obtaining the custody of a minor in order that such minor may be employed or used for purposes of begging.	Imprisonment for 10 years and fine	Ditto	Non-bailable	Ditto.
	Maiming a minor in order that such minor may be employed or used for purposes of begging.	Imprisonment for life and fine	Ditto	Ditto	Court of Session.

Section 1	Offence 2	Punishment 3	Cognizable or non-cognizable 4	Bailable or non- bailable 5	By what Court triable 6
364	Kidnapping or abducting in order to murder	Imprisonment for life, or rigorous imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of Session.
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	Imprisonment for 7 years and fine	Ditto	Ditto	Magistrate of the first class.
366	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, etc.	Imprisonment for 10 years and fine	Ditto	Ditto	Court of Session.
366A	Procuration of minor girl	Ditto	Ditto	Ditto	Ditto.
366B	Importation of girl from foreign country	Ditto	Ditto	Ditto	Ditto.
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, etc.	Ditto	Ditto	Ditto	Ditto.
368	Concealing or keeping in confinement a kidnapped person.	Punishment for kidnapping or abduction.	Ditto	Ditto	Court by which the kidnapping or abduction is triable.
369	Kidnapping or abducting a child with intent to take property from the person of such child.	Imprisonment for 7 years and fine	Ditto	Ditto	Magistrate of the first class.
370	Buying or disposing of any person as a slave.	Ditto	Non-cognizable	Bailable	Ditto.

371 Habitual dealing in slaves	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of Session.
372 Selling or letting to hire a minor for purposes of prostitution, etc.	Imprisonment for 10 years and fine	Ditto	Ditto	Ditto.
373 Buying or obtaining possession of a minor for the same purposes.	Ditto	Ditto	Ditto	Ditto.
374 Unlawful compulsory labour	Imprisonment for 1 year, or fine, or both.	Ditto	Bailable	Any Magistrate.
376 Rape				
If the sexual intercourse was by a man with his own wife not being under 12 years of age.	Imprisonment for 2 years, or fine, or both.	Non-cognizable	Ditto	Court of Session.
If the sexual intercourse was by a man with his own wife being under 12 years of age.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
In any other case	Ditto	Cognizable	Non-bailable	Ditto.
377 Unnatural offences	Ditto	Ditto	Ditto	Magistrate of the first class.

CHAPTER XVII—OFFENCES AGAINST PROPERTY

379 Theft	Imprisonment for 3 years, or fine, or both.	Cognizable	Non-bailable	Any Magistrate.
380 Theft in a building, tent or vessel	Imprisonment for 7 years and fine	Ditto	Ditto	Ditto.
381 Theft by clerk or servant of property in possession of master or employer.	Ditto	Ditto	Ditto	Ditto.

Section	Offence	Punishment	Cognizable or non-cognizable	Bailable or non-bailable	By what Court triable
1	2	3	4	5	6
382	Theft, after preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt or of restraint, in order to the committing of such theft, or to retiring after committing it, or to retaining property taken by it.	Rigorous imprisonment for 10 years and fine.	Cognizable	Non-bailable	Magistrate of the first class.
384	Extortion	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Any Magistrate.
385	Putting or attempting to put in fear of injury, in order to commit extortion.	Imprisonment for 2 years, or fine or both.	Ditto	Bailable	Ditto.
386	Extortion by putting a person in fear of death or grievous hurt.	Imprisonment for 10 years and fine	Ditto	Non-bailable	Magistrate of the first class.
387	Putting or attempting to put a person in fear of death or grievous hurt in order to commit extortion.	Imprisonment for 7 years and fine	Ditto	Ditto	Ditto.
388	Extortion by threat of accusation of an offence punishable with death, imprisonment for life, or imprisonment for 10 years.	Imprisonment for 10 years and fine	Ditto	Bailable	Ditto.
If the offence threatened be an unnatural offence.		Imprisonment for life	Ditto	Ditto	Ditto.

389	Putting a person in fear of accusation of an offence punishable with death, imprisonment for life, or imprisonment for 10 years in order to commit extortion.	Imprisonment for 10 years and fine	Ditto	Ditto	Ditto.
	If the offence be an unnatural offence	Imprisonment for life	Ditto	Ditto	Ditto.
392	Robbery	Rigorous imprisonment for 10 years and fine.	Ditto	Non-bailable	Ditto.
	If committed on the highway between sunset and sunrise.	Rigorous imprisonment for 14 years and fine.	Ditto	Ditto	Ditto.
393	Attempt to commit robbery.	Rigorous imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person jointly concerned in such robbery.	Imprisonment for life, or rigorous imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
395	Dacoity	Ditto	Ditto	Ditto	Court of Session.
396	Murder in dacoity	Death, imprisonment for life, or rigorous imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
397	Robbery or dacoity, with attempt to cause death or grievous hurt.	Rigorous imprisonment for not less than 7 years.	Ditto	Ditto	Ditto.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.	Ditto	Ditto	Ditto	Ditto.

Sec- tion	Offence	Punishment	Cognizable or non-cognizable	Bailable or non- bailable	By what Court triable.
I	2	3	4	5	6
399	Making preparation to commit dacoity	Rigorous imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of Session.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	Imprisonment for life, or rigorous imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Rigorous imprisonment for 7 years and fine.	Ditto	Ditto	Magistrate of the first class.
402	Being one of five or more persons assembled for the purpose of committing dacoity.	Ditto	Ditto	Ditto	Court of Session.
403	Dishonest misappropriation of movable property, or converting it to one's own use.	Imprisonment for 2 years, or fine, Non-cognizable or both.		Bailable	Any Magistrate.
404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it. If by clerk or person employed by deceased	Imprisonment for 3 years and fine	Ditto	Ditto	Magistrate of the first class.
406	Criminal breach of trust	Imprisonment for 7 years and fine Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Ditto.
407	Criminal breach of trust by a carrier, wharfinger, etc.	Imprisonment for 7 years and fine	Ditto	Ditto	Ditto.
408	Criminal breach of trust by a clerk or servant.	Ditto	Ditto	Ditto	Ditto.

409	Criminal breach of trust by public servant or by banker, merchant or agent, etc.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
411	Dishonestly receiving stolen property knowing it to be stolen.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Any Magistrate.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	Imprisonment for life, or rigorous imprisonment for 10 years and fine.	Ditto	Ditto	Court of Session.
413	Habitually dealing in stolen property	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
414	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Any Magistrate.
417	Cheating	Imprisonment for 1 year, or fine, or both.	Non-cognizable	Bailable	Ditto.
418	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Ditto.
419	Cheating by personation	Ditto	Cognizable	Ditto	Ditto.
420	Cheating and thereby dishonestly inducing delivery of property, or the making, alteration or destruction of a valuable security.	Imprisonment for 7 years and fine	Ditto	Non-bailable	Magistrate of the first class.
421	Fraudulent removal or concealment of property, etc., to prevent distribution among creditors.	Imprisonment for 2 years, or fine, or both.	Non-cognizable	Bailable	Any Magistrate.

Section	Offence	Punishment	Cognizable or non-cognizable	Bailable or non-bailable	By what Court triable
1	2	3	4	5	6
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Imprisonment for 2 years, or fine, or both.	Non-cognizable	Bailable	Any Magistrate.
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto	Ditto	Ditto	Ditto.
424	Fraudulent removal or concealment of property, of himself or any other person or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	Ditto	Ditto	Ditto	Ditto.
426	Mischief	Imprisonment for 3 months, or fine, or both.	Ditto	Ditto	Ditto.
427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto.
428	Mischief by killing, poisoning, maiming or rendering useless any animal of the value of 10 rupees or upwards.	Ditto	Cognizable	Ditto	Ditto.
429	Mischief by killing, poisoning, maiming or rendering useless any elephant, camel, horse, etc., whatever may be its value, or any other animal of the value of 50 rupees or upwards.	Imprisonment for 5 years, or fine, or both.	Ditto	Ditto	Magistrate of the first class.

430	Mischief by causing diminution of supply of water for agricultural purposes, etc.	Ditto	Ditto	Ditto	Ditto.
431	Mischief by injury to public road, bridge, navigable river, or navigable channel, and rendering it impassable or less safe for travelling or conveying property.	Ditto	Ditto	Ditto	Ditto.
432	Mischief by causing inundation or obstruction to public drainage attended with damage.	Ditto	Ditto	Ditto	Ditto.
433	Mischief by destroying or moving or rendering less useful a lighthouse or sea-mark, or by exhibiting false lights.	Imprisonment for 7 years, or fine, or both.	Ditto	Ditto	Ditto.
434	Mischief by destroying or moving, etc., a landmark fixed by public authority.	Imprisonment for 1 year, or fine, or both.	Non-cognizable	Ditto	Any Magistrate.
435	Mischief by fire or explosive substance with intent to cause damage to an amount of 100 rupees or upwards, or, in case of agricultural produce, 10 rupees or upwards.	Imprisonment for 7 years and fine	Cognizable	Ditto	Magistrate of the first class.
436	Mischief by fire or explosive substance with intent to destroy a house, etc.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Non-bailable	Court of Session.
437	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of 20 tonnes burden.	Imprisonment for 10 years and fine	Ditto	Ditto	Ditto.

Section 1	Offence 2	Punishment 3	Cognizable or non-cognizable 4	Bailable or non- bailable 5	By what Court triable 6
438	The mischief described in the last section when committed by fire or any explosive substance.	Imprisonment for life, or imprisonment for 10 years, and fine.	Cognizable	Non-bailable	Court of Session.
439	Running vessel ashore with intent to commit theft, etc.	Imprisonment for 10 years and fine	Ditto	Ditto	Ditto.
440	Mischief committed after preparation made for causing death, or hurt, etc.	Imprisonment for 5 years and fine	Ditto	Bailable	Magistrate of the first class.
447	Criminal trespass	Imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto	Ditto	Any Magistrate.
448	House-trespass	Imprisonment for one year, or fine of 1,000 rupees, or both.	Ditto	Ditto	Ditto.
449	House-trespass in order to the commission of an offence punishable with death.	Imprisonment for life, or rigorous imprisonment for 10 years and fine.	Ditto	Non-bailable	Court of Session.
450	House-trespass in order to the commission of an offence punishable with imprisonment for life.	Imprisonment for 10 years and fine	Ditto	Ditto	Ditto.
451	House-trespass in order to the commission of an offence punishable with imprisonment.	Imprisonment for 2 years and fine	Ditto	Bailable	Any Magistrate.
	If the offence is theft	Imprisonment for 7 years and fine	Ditto	Non-bailable	Ditto.

452	House-trespass, having made preparation for causing hurt, assault, etc.	Imprisonment for 7 years and fine	Ditto	Ditto	Ditto.
453	Lurking house-trespass or house-breaking	Imprisonment for 2 years and fine	Ditto	Ditto	Ditto.
454	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.	Imprisonment for 3 years and fine	Ditto	Ditto	Ditto.
	If the offence be theft	Imprisonment for 10 years and fine	Ditto	Ditto	Magistrate of the [] first class.
455	Lurking house-trespass or house-breaking after preparation made for causing hurt, assault, etc.	Ditto	Ditto	Ditto	Ditto.
456	Lurking house-trespass or house-breaking by night.	Imprisonment for 3 years and fine	Ditto	Ditto	Any Magistrate.
457	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.	Imprisonment for 5 years and fine	Ditto	Ditto	Magistrate of the [] first class.
	If the offence is theft	Imprisonment for 14 years and fine	Ditto	Ditto	Ditto.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, etc.	Imprisonment for 14 years and fine	Ditto	Ditto	Ditto.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Court of Session.

Section	Offence	Punishment	Cognizable or non-cognizable	Bailable or non-bailable	By what court triable
1	2	3	4	5	6
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, etc.	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of Session.
461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Any Magistrate.
462	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same.	Imprisonment for 3 years, or fine, or both.	Ditto	Bailable	Ditto.
CHAPTER XVIII—OFFENCES RELATING TO DOCUMENTS AND TO PROPERTY MARKS					
465	Forgery	Imprisonment for 2 years, or fine, or both.	Non-cognizable	Bailable	Magistrate of the first class.
466	Forgery of a record of a Court of Justice or of a Registrar of Births, etc., kept by a public servant.	Imprisonment for 7 years and fine.	Ditto	Non-bailable	Ditto.
467	Forgery of a valuable security, will, or authority to make or transfer any valuable security, or to receive any money, etc.	Imprisonment for life, or imprisonment for 10 years and fine.	Ditto	Ditto	Ditto.
	When the valuable security is a promissory note of the Central Government.	Ditto	Cognizable	Ditto	Ditto.

468	Forgery for the purpose of cheating	Imprisonment for 7 years and fine	Ditto	Ditto	Ditto.
469	Forgery for the purpose of harming the reputation of any person or knowing that it is likely to be used for that purpose.	Imprisonment for 3 years and fine	Ditto	Bailable	Ditto.
471	Using as genuine a forged document which is known to be forged. When the forged document is a promissory note of the Central Government.	Punishment for forgery of such document. Ditto	Ditto	Ditto	Ditto.
472	Making or counterfeiting a seal, plate, etc., with intent to commit a forgery punishable under section 467 of the Indian Penal Code, or possessing with like intent any such seal, plate, etc., knowing the same to be counterfeit.	Imprisonment for life, or imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.
473	Making or counterfeiting a seal, plate, etc., with intent to commit a forgery punishable otherwise than under section 467 of the Indian Penal Code, or possessing with like intent any such seal, plate, etc., knowing the same to be counterfeit.	Imprisonment for 7 years and fine	Ditto	Ditto	Ditto.
474	Having possession of a document, knowing it to be forged, with intent to use it as genuine; if the document is one of the description mentioned in section 466 of the Indian Penal Code.	Ditto	Ditto	Ditto	Ditto.

Section	Offence	Punishment	Cognizable or non-cognizable	Bailable or non-bailable	By what Court triable
1	2	3	4	5	6
	If the document is one of the description mentioned in section 467 of the Indian Penal Code.	Imprisonment for life, or imprisonment for 7 years and fine.	Non-cognizable	Bailable	Magistrate of the first class.
475	Counterfeiting a device or mark used for authenticating documents described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto	Ditto	Ditto	Ditto.
476	Counterfeiting a device or mark used for authenticating documents other than those described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Imprisonment for 7 years and fine	Ditto	Non-bailable	Ditto.
477	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, etc.	Imprisonment for life, or imprisonment for 7 years and fine.	Ditto	Ditto	Ditto.
477A	Falsification of accounts	Imprisonment for 7 years, or fine, or both.	Ditto	Bailable	Ditto.
482	Using a false property mark with intent to deceive or injure any person.	Imprisonment for 1 year, or fine, or both.	Ditto	Ditto	Any Magistrate.
483	Counterfeiting a property mark used by another, with intent to cause damage or injury.	Imprisonment for 2 years, or fine, or both.	Ditto	Ditto	Ditto.

484	Counterfeiting a property mark used by a public servant, or any mark used by him to denote the manufacture, quality, etc., of any property.	Imprisonment for 3 years and fine	Ditto	Ditto	Magistrate of the first class.
485	Fraudulently making or having possession of any die, plate or other instrument for counterfeiting any public or private property mark.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Ditto.
486	Knowingly selling goods marked with a counterfeit property mark.	Imprisonment for 1 year, or fine, or both.	Ditto	Ditto	Any Magistrate.
487	Fraudulently making a false mark upon any package or receptacle containing goods, with intent to cause it to be believed that it contains goods which it does not contain, etc.	Imprisonment for 3 years, or fine, or both.	Ditto	Ditto	Ditto.
488	Making use of any such false mark	Ditto	Ditto	Ditto	Ditto.
489	Removing, destroying or defacing property mark with intent to cause injury.	Imprisonment for 1 year, or fine, or both.	Ditto	Ditto	Ditto.
489A	Counterfeiting currency-notes or bank-notes.	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of Session.
489B	Using as genuine forged or counterfeit currency-notes or bank-notes.	Ditto	Ditto	Ditto	Ditto.
489C	Possession of forged or counterfeit currency-notes or bank-notes.	Imprisonment for 7 years, or fine, or both.	Ditto	Bailable	Ditto.

Section 1	Offence 2	Punishment 3	Cognizable or non-cognizable 4	Bailable or non- bailable 5	By what Court triable 6
489D	Making or possessing machinery, instrument or material for forging or counterfeiting currency-notes or bank-notes.	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable	Non-bailable	Court of Session.
489E	Making or using documents resembling currency-notes or bank-notes.	Fine of 100 rupees	Non-cognizable	Bailable	Any Magistrate.
	On refusal to disclose the name and address of the printer.	Fine of 200 rupees	Ditto	Ditto	Ditto.
CHAPTER XIX—CRIMINAL BREACH OF CONTRACTS OF SERVICE					
491	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind or disease, and voluntarily omitting to do so.	Imprisonment for 3 months, or fine of 200 rupees, or both.	Non-cognizable	Bailable	Any Magistrate.
CHAPTER XX—OFFENCES RELATING TO MARRIAGE					
493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him and to cohabit with him in that belief.	Imprisonment for 10 years, and fine.	Non-cognizable	Non-bailable	Magistrate of the first class.
494	Marrying again during the lifetime of a husband or wife.	Imprisonment for 7 years and fine	Ditto	Bailable	Ditto.
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Imprisonment for 10 years, and fine	Ditto	Ditto	Ditto.

496	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.	Imprisonment for 7 years, and fine.	Ditto.	Ditto.	Ditto.
497	Adultery	Imprisonment for 5 years, or fine, or both.	Ditto.	Ditto.	Ditto.
498	Enticing or taking away or detaining with a criminal intent a married woman.	Imprisonment for 2 years, or fine, or both.	Ditto.	Ditto.	Any Magistrate.
CHAPTER XXI—DEFAMATION					
500	Defamation against the President or the Vice-President or the Governor of a State or Administrator of a Union Territory or a Minister in respect of his conduct in the discharge of his public functions when instituted upon a complaint made by the Public Prosecutor.	Simple imprisonment for 2 years, or fine, or both.	Non-cognizable	Bailable	Court of Session.
	Defamation in any other case.	Ditto.	Ditto.	Ditto.	Magistrate of the first class.
501	(a) Printing or engraving matter knowing it to be defamatory against the President or the Vice-President or the Governor of a State or Administrator of a Union Territory or a Minister in respect of his conduct in the discharge of his public functions when instituted upon a complaint made by the Public Prosecutor.	Ditto.	Ditto.	Ditto.	Court of Session.

Section	Offence	Punishment	Cognizable or non-cognizable	Bailable or non-bailable	By what Court triable
1	2	3	4	5	6
	(b) Printing or engraving matter knowing it to be defamatory, in any other case.	Simple imprisonment for 2 years, or fine, or both.	Non-cognizable	Bailable	Magistrate of the first class.
502	(a) Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter against the President or the Vice-President or the Governor of a State or <u>Administrator</u> of a Union Territory or a Minister in respect of his conduct in the discharge of his public functions when instituted upon a complaint made by the Public Prosecutor.	Ditto.	Ditto.	Ditto.	Court of Session.
	(b) Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter in any other case.	Ditto.	Ditto.	Ditto.	Magistrate of the first class.
	CHAPTER XXII—CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE				
504	Insult intended to provoke breach of the peace.	Imprisonment for 2 years, or fine, or both.	Non-cognizable	Bailable	Any Magistrate.
505	False statement, rumour, etc., circulated with intent to cause mutiny or offence against the public peace.	Imprisonment for 3 years, or fine, or both.	Ditto	Non-bailable	Ditto.
	False statement, rumour, etc., with intent to create enmity, hatred or ill-will between different classes.	Ditto.	Cognizable.	Ditto.	Ditto.
	False statement, rumour, etc., made in place of worship, etc., with intent to create enmity, hatred or ill-will.	Imprisonment for 5 years and fine	Ditto.	Ditto.	Ditto.

506	Criminal intimidation	Imprisonment for 2 years, or fine, or both.	Non-cognizable	Bailable	Ditto.
	If threat be to cause death or grievous hurt, etc.	Imprisonment for 7 years, or fine, or both.	Ditto.	Ditto.	Magistrate of the first class.
507	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Imprisonment for 2 years, in addition to the punishment under above section.	Ditto.	Ditto.	Ditto.
508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.	Imprisonment for 1 year, or fine, or both.	Ditto.	Ditto.	Any Magistrate.
509	Uttering any word or making any gesture intended to insult the modesty of a woman, etc.	Simple imprisonment for 1 year, or fine, or both.	Cognizable	Ditto.	Ditto.
510	Appearing in a public place, etc., in a state of intoxication, and causing annoyance to any person.	Simple imprisonment for 24 hours, or fine of 10 rupees, or both.	Non-cognizable	Ditto.	Ditto.

CHAPTER XXIII—ATTEMPTS TO COMMIT OFFENCES

511	Attempting to commit offences punishable with imprisonment for life or imprisonment, and in such attempt doing any act towards the commission of the offence.	Imprisonment for life or imprisonment not exceeding half of the longest term provided for the offence, or fine, or both.	According as the offence is cognizable or non-cognizable.	According as the offence attempted by the offender is bailable or not.	The Court by which the offence attempted is triable.
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II.—CLASSIFICATION OF OFFENCES AGAINST OTHER LAWS

Offence	Cognizable or non-cognizable	Bailable or non-bailable	By what Court triable
If punishable with death, imprisonment for life, or imprisonment for more than 7 years.	Cognizable	Non-bailable	Court of Session.
If punishable with imprisonment for 3 years and upwards but not more than 7 years.	Ditto.	Ditto.	Magistrate of the first class.
If punishable with imprisonment for less than 3 years or with fine only.	Non-cognizable	Bailable	Any Magistrate.

THE SECOND SCHEDULE

(See section 476)

FORM No. 1**SUMMONS TO AN ACCUSED PERSON**

(See section 61)

To (name of accused) of (address).

WHEREAS your attendance is necessary to answer to a charge of (state shortly the offence charged), you are hereby required to appear in person (or by pleader, as the case may be) before the (Magistrate) of _____ on the _____ day of _____. Herein fail not.

Dated, this _____ day of _____, 19 ____.

(Seal of the Court)

(Signature)

FORM No. 2**WARRANT OF ARREST**

(See section 70)

To (name and designation of the person or persons who is or are to execute the warrant).

WHEREAS (name of accused), of (address) stands charged with the offence of (state the offence), you are hereby directed to arrest the said _____, and to produce him before me. Herein fail not.

Dated, this _____ day of _____, 19 ____.

(Seal of the Court)

(Signature)

(See section 71)

This warrant may be endorsed as follows:—

If the said _____ shall give bail himself in the sum of rupees _____ with one surety in the sum of rupees _____ (or two sureties each in the sum of rupees _____) to attend before me on the _____ day of _____ and to continue so to attend until otherwise directed by me, he may be released.

Dated, this _____ day of _____, 19 ____.

(Seal of the Court)

(Signature)

FORM No. 3

BOND AND BAIL-BOND AFTER ARREST UNDER A WARRANT

(See section 81)

I, (name), of , being brought before the District Magistrate of (or as the case may be) under a warrant issued to compel my appearance to answer to the charge of , do hereby bind myself to attend in the Court of on the day of next, to answer to the said charge, and to continue so to attend until otherwise directed by the Court; and, in case of my making default herein, I bind myself to forfeit, to Government, the sum of rupees

Dated, this day of , 19 .

(Signature)

I do hereby declare myself surety for the above-named of , that he shall attend before in the Court of on the day of next, to answer to the charge on which he has been arrested, and shall continue so to attend until otherwise directed by the Court; and, in case of his making default therein, I bind myself to forfeit, to Government, the sum of rupees

Dated, this day of , 19 .

(Signature)

FORM No. 4

PROCLAMATION REQUIRING THE APPEARANCE OF A PERSON ACCUSED

(See section 82)

WHEREAS complaint has been made before me that (name, description and address) has committed (or is suspected to have committed) the offence of , punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (name) cannot be found, and whereas it has been shown to my satisfaction that the said (name) has absconded (or is concealing himself to avoid the service of the said warrant);

Proclamation is hereby made that the said of is required to appear at (place) before this Court (or before me) to answer the said complaint on the day of

Dated, this day of , 19 .

(Seal of the Court)

(Signature)

FORM No. 5

PROCLAMATION REQUIRING THE ATTENDANCE OF A WITNESS

(See sections 82, 87 and 90)

WHEREAS complaint has been made before me that (name, description and address) has committed (or is suspected to have committed) the offence of (mention the offence concisely) and a warrant has been issued

to compel the attendance of (name, description and address of the witness) before this Court to be examined touching the matter of the said complaint; and whereas it has been returned to the said warrant that the said (name of witness) cannot be served, and it has been shown to my satisfaction that he has absconded (or is concealing himself to avoid the service of the said warrant);

Proclamation is hereby made that the said (name) is required to appear at (place) before the Court of on the day of next at o'clock, to be examined touching the offence complained of.

Dated, this day of , 19 .

(Seal of the Court)

(Signature)

FORM No. 6

ORDER OF ATTACHMENT TO COMPEL THE ATTENDANCE OF A WITNESS

(See section 83)

To the officer in charge of the police station at

WHEREAS a warrant has been duly issued to compel the attendance of (name, description and address) to testify concerning a complaint pending before this Court, and it has been returned to the said warrant that it cannot be served; and whereas it has been shown to my satisfaction that he has absconded (or is concealing himself to avoid the service of the said warrant); and thereupon a Proclamation has been or is being duly issued and published requiring the said to appear and give evidence at the time and place mentioned therein;

This is to authorise and require you to attach by seizure the movable property belonging to the said to the value of rupees which you may find within the District of and to hold the said property under attachment pending the further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated, this day of , 19 .

(Seal of the Court)

(Signature)

FORM No. 7

ORDER OF ATTACHMENT TO COMPEL THE APPEARANCE OF A PERSON ACCUSED

(See section 83)

To (name and designation of the person or persons who is or are to execute the warrant).

WHEREAS complaint has been made before me that (name, description and address) has committed (or is suspected to have committed) the offence of punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (name) cannot be found; and whereas it has been shown to my satisfaction that the said (name) has absconded (or is concealing

himself to avoid the service of the said warrant) and thereupon a Proclamation has been or is being duly issued and published requiring the said to appear to answer the said charge within days; and whereas the said is possessed of the following property, other than land paying revenue to Government, in the village (or town), of , in the District of , viz., , and an order has been made for the attachment thereof;

You are hereby required to attach the said property in the manner specified in clause (a), or clause (c), or both*, of sub-section (2) of section 83, and to hold the same under attachment pending further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated, this day of , 19
 (Seal of the Court)

(Signature)

*Strike out the one which is not applicable, depending on the nature of the property to be attached.

FORM No. 8

ORDER AUTHORISING AN ATTACHMENT BY THE DISTRICT MAGISTRATE OR COLLECTOR

(See section 83)

To the District Magistrate/Collector of the District of
 WHEREAS complaint has been made before me that (name, description and address) has committed (or is suspected to have committed) the offence of , punishable under section of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (name) cannot be found; and whereas it has been shown to my satisfaction that the said (name) has absconded (or is concealing himself to avoid the service of the said warrant) and thereupon a Proclamation has been or is being duly issued and published requiring the said (name) to appear to answer the said charge within days; and whereas the said is possessed of certain land paying revenue to Government in the village (or town) of in the District of

You are hereby authorised and requested to cause the said land to be attached, in the manner specified in clause (a), or clause (c), or both*, of sub-section (4) of section 83, and to be held under attachment pending the further order of this Court, and to certify without delay what you may have done in pursuance of this order.

Dated, this day of , 19
 (Seal of the Court)

(Signature)

*Strike out the one which is not desired.

FORM No. 9

WARRANT IN THE FIRST INSTANCE TO BRING UP A WITNESS

(See section 87)

To (name and designation of the police officer or other person or persons who is or are to execute the warrant).

WHEREAS complaint has been made before me that (name and description of accused) of (address) has (or is suspected to have) committed the offence of (mention the offence concisely), and it appears

[or 1974]

Code of Criminal Procedure

249

likely that (name and description of witness) can give evidence concerning the said complaint; and whereas I have good and sufficient reason to believe that he will not attend as a witness on the hearing of the said complaint unless compelled to do so;

This is to authorise and require you to arrest the said (name of witness), and on the day of to bring him before this Court, to be examined touching the offence complained of.

Dated, this day of , 19

(Seal of the Court)

(Signature)

FORM No. 10

WARRANT TO SEARCH AFTER INFORMATION OF A PARTICULAR OFFENCE

(See section 93)

To (name and designation of the police officer or other person or persons who is or are to execute the warrant).

WHEREAS information has been laid (or complaint has been made) before me of the commission (or suspected commission) of the offence of (mention the offence concisely), and it has been made to appear to me that the production of (specify the thing clearly) is essential to the inquiry now being made (or about to be made) into the said offence (or suspected offence);

This is to authorise and require you to search for the said (the thing specified) in the (describe the house or place or part thereof to which the search is to be confined), and, if found, to produce the same forthwith before this Court, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Dated, this day of , 19

(Seal of the Court)

(Signature)

FORM No. 11

WARRANT TO SEARCH SUSPECTED PLACE OF DEPOSIT

(See section 94)

To (name and designation of a police officer above the rank of a constable).

WHEREAS information has been laid before me, and on due inquiry thereupon had, I have been led to believe that the (describe the house or other place) is used as a place for the deposit (or sale) of stolen property (or if for either of the other purposes expressed in the section, state the purpose in the words of the section);

This is to authorise and require you to enter the said house (or other place) with such assistance as shall be required, and to use, if necessary, reasonable force for that purpose, and to search every part of the said house (or other place, or if the search is to be confined to a part, specify the part clearly), and to seize and take possession of any property (or documents, or stamps, or seals, or coins, or obscene objects, as the case may be) (add, when the case requires it) and also of any instruments and materials which you may reasonably believe to be kept for the manufacture of forged documents, or counterfeit stamps, or false seals, or counterfeit coins or counterfeit currency notes (as the case may be), and forthwith to bring before this Court such of the said things as may be taken possession of, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Dated, this day of , 19

(Seal of the Court)

(Signature)

FORM No. 12

BOND TO KEEP THE PEACE

(See sections 106 and 107)

WHEREAS I, (name), inhabitant of (place), have been called upon to enter into a bond to keep the peace for the term of or until the completion of the inquiry in the matter of now pending in the Court of , I hereby bind myself not to commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term or until the completion of the said inquiry and, in case of my making default therein, I hereby bind myself to forfeit to Government the sum of rupees

Dated, this day of , 19

(Signature)

FORM No. 13

BOND FOR GOOD BEHAVIOUR

(See sections 108, 109 and 110)

WHEREAS I, (name), inhabitant of (place), have been called upon to enter into a bond to be of good behaviour to Government and all the citizens of India for the term of (state the period) or until the completion of the inquiry in the matter of now pending in the Court of , I hereby bind myself to be of good behaviour to Government and all the citizens of India during the said term or until the completion of the said inquiry; and, in case of my making default therein, I hereby bind myself to forfeit to Government the sum of rupees

Dated, this day of , 19

(Signature)

of 1974]

Code of Criminal Procedure

251

(Where a bond with sureties is to be executed, add).

We do hereby declare ourselves sureties for the above-named that he will be of good behaviour to Government and all the citizens of India during the said term or until the completion of the said inquiry; and, in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to Government the sum of rupees

Dated, this day of , 19

(Signature)

FORM No. 14

SUMMONS ON INFORMATION OF A PROBABLE BREACH OF THE PEACE

(See section 113)

To of

WHEREAS it has been made to appear to me by credible information that (state the substance of the information), and that you are likely to commit a breach of the peace (or by which act a breach of the peace will probably be occasioned), you are hereby required to attend in person (or by a duly authorised agent) at the office of the Magistrate of on the

day of 19 , at ten o'clock in the forenoon, to show cause why you should not be required to enter into a bond for rupees [when sureties are required, add, and also to give security by the bond of one (or two, as the case may be) surety (or sureties) in the sum of rupees (each if more than one)], that you will keep the peace for the term of

Dated, this day of , 19

(Seal of the Court)

(Signature)

FORM No. 15

WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY TO KEEP
THE PEACE

(See section 122)

To the officer in charge of the Jail at

WHEREAS (name and address) appeared before me in person (or by his authorised agent) on the day of in obedience to a summons calling upon him to show cause why he should not enter into a bond for rupees with one surety (or a bond with two sureties each in rupees), that he, the said (name), would keep the peace for the period of months; and whereas an order was then made requiring the said (name) to enter into and find such security (state the security ordered when it differs from that mentioned in the summons), and he has failed to comply with the said order;

This is to authorise and require you to receive the said (name) into your custody, together with this warrant, and him safely to keep in the

said Jail for the said period of (term of imprisonment) unless he shall in the meantime be lawfully ordered to be released, and to return this warrant with an endorsement certifying the manner of its execution.

Dated, this _____ day of _____, 19_____.

(Seal of the Court)

(Signature)

FORM No. 16

WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY FOR GOOD BEHAVIOUR

(See section 122)

To the officer in charge of the Jail at _____

WHEREAS it has been made to appear to me that (name and description), has been concealing his presence within the district of _____ and that there is reason to believe that he is doing so with a view to committing a cognizable offence;

or

WHEREAS evidence of the general character of (name and description), has been adduced before me and recorded, from which it appears that he is an habitual robber (or house-breaker, etc., as the case may be);

And whereas an order has been recorded stating the same and requiring the said (name) to furnish security for his good behaviour for the term of (state the period) by entering into a bond with one surety (or two or more sureties, as the case may be), himself for rupees _____, and the said surety (or each of the said sureties) for rupees _____, and the said (name) has failed to comply with the said order and for such default has been adjudged imprisonment for (state the term) unless the said security be sooner furnished;

This is to authorise and require you to receive the said (name) into your custody, together with this warrant and him safely to keep in the Jail, or if he is already in prison, be detained therein, for the said period of (term of imprisonment) unless he shall in the meantime be lawfully ordered to be released, and to return this warrant with an endorsement certifying the manner of its execution.

Dated, this _____ day of _____, 19_____.

(Seal of the Court)

(Signature)

FORM No. 17

WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY

(See sections 122 and 123)

To the Officer in charge of the Jail at (or other officer in whose custody the person is).

WHEREAS (name and description of prisoner) was committed to your custody under warrant of the Court, dated the day of 19 ; and has since duly given security under section of the Code of Criminal Procedure, 1973;

or

WHEREAS (name and description of prisoner) was committed to your custody under warrant of the Court, dated the day of 19 ; and there have appeared to me sufficient grounds for the opinion that he can be released without hazard to the community;

This is to authorise and require you forthwith to discharge the said (name) from your custody unless he is liable to be detained for some other cause.

Dated, this day of , 19 .

(Seal of the Court)

(Signature)

FORM No. 18

WARRANT OF IMPRISONMENT ON FAILURE TO PAY MAINTENANCE

(See section 125)

To the Officer in charge of the Jail at

WHEREAS (name, description and address) has been proved before me to be possessed of sufficient means to maintain his wife (name) [or his child (name) or his father or mother (name), who is by reason of (state the reason) unable to maintain herself (or himself)] and to have neglected (or refused) to do so, and an order has been duly made requiring the said (name) to allow to his said wife (or child or father or mother) for maintenance the monthly sum of rupees ; and whereas it has been further proved that the said (name) in wilful disregard of the said order has failed to pay rupees , being the amount of the allowance for the month (or months) of ;

And thereupon an order was made adjudging him to undergo imprisonment in the said Jail for the period of ;

This is to authorise and require you to receive the said (name) into your custody in the said Jail, together with this warrant, and there carry the said order into execution according to law, returning this warrant with an endorsement certifying the manner of its execution.

Dated, this day of , 19 .

(Seal of the Court)

(Signature)

FORM No. 19

WARRANT TO ENFORCE THE PAYMENT OF MAINTENANCE BY ATTACHMENT
AND SALE

(See section 125)

To (name and designation of the police officer or other person to execute the warrant).

WHEREAS an order has been duly made requiring (name) to allow to his said wife (or child or father or mother) for maintenance the monthly sum of rupees , and whereas the said (name) in wilful disregard of the said order has failed to pay rupees , being the amount of the allowance for the month (or months) of ;

This is to authorise and require you to attach any movable property belonging to the said (name) which may be found within the district of , and if within (state the number of days or hours allowed) next after such attachment the said sum shall not be paid (or forthwith), to sell the movable property attached, or so much thereof as shall be sufficient to satisfy the said sum, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Dated, this day of , 19 .

(Seal of the Court)

(Signature)

FORM No. 20

ORDER FOR THE REMOVAL OF NUISANCES

(See section 133)

To (name, description and address).

WHEREAS it has been made to appear to me that you have caused an obstruction (or nuisance) to persons using the public roadway (or other public place) which, etc., (describe the road or public place), by, etc., (state what it is that causes the obstruction or nuisance), and that such obstruction (or nuisance) still exists;

or

WHEREAS it has been made to appear to me that you are carrying on, as owner, or manager, the trade or occupation of (state the particular trade or occupation and the place where it is carried on), and that the same is injurious to the public health (or comfort) by reason (state briefly in what manner the injurious effects are caused), and should be suppressed or removed to a different place;

or

WHEREAS it has been made to appear to me that you are the owner (or are in possession of or have the control over) a certain tank (or well or excavation) adjacent to the public way (describe the thoroughfare), and that the safety of the public is endangered by reason of the said tank (or well or excavation) being without a fence (or insecurely fenced);

or

WHEREAS, etc., etc., (as the case may be);

I do hereby direct and require you within (state the time allowed) (state what is required to be done to abate the nuisance) or to appear at in the Court of on the day of next, and to show cause why this order should not be enforced;

or

I do hereby direct and require you within (state the time allowed) to cease carrying on the said trade or occupation at the said place, and not again to carry on the same, or to remove the said trade from the place where it is now carried on, or to appear, etc.;

or

I do hereby direct and require you within (state the time allowed) to put up a sufficient fence (state the kind of fence and the part to be fenced); or to appear, etc.;

or

I do hereby direct and require you, etc., etc., (as the case may be).

Dated, this day of , 19

(Seal of the Court)

(Signature)

FORM No. 21

MAGISTRATE'S NOTICE AND PEREMPTORY ORDER

(See section 141)

To (name, description and address).

I HEREBY give you notice that it has been found that the order issued on the day of requiring you (state substantially the requisition in the order) is reasonable and proper. Such order has been made absolute, and I hereby direct and require you to obey the said order within (state the time allowed), on peril of the penalty provided by the Indian Penal Code for disobedience thereto.

Dated, this day of , 19

(Seal of the Court)

(Signature)

FORM No. 22

INJUNCTION TO PROVIDE AGAINST IMMINENT DANGER PENDING INQUIRY

(See section 142)

To (name, description and address).

WHEREAS the inquiry into the conditional order issued by me on the day of , 19 , is pending, and it has been made to appear to me that the nuisance mentioned in the said order is attended with such imminent danger or injury of a serious kind to the public as to render necessary immediate measures to prevent such danger or injury, I do hereby, under the provisions of section 142 of the Code of Criminal Procedure,

1973, direct and enjoin you forthwith to (state plainly what is required to be done as a temporary safeguard), pending the result of the inquiry.

Dated, this _____ day of _____, 19_____,

(Seal of the Court)

(Signature)

FORM No. 23

MAGISTRATE'S ORDER PROHIBITING THE REPETITION, ETC., OF A NUISANCE

(See section 143)

To (name, description and address).

WHEREAS it has been made to appear to me that, etc. (state the proper recital, guided by Form No. 20 or Form No. 24, as the case may be);

I do hereby strictly order and enjoin you not to repeat or continue, the said nuisance.

Dated, this _____ day of _____, 19____

(Seal of the Court)

(Signature)

FORM No. 24

MAGISTRATE'S ORDER TO PREVENT OBSTRUCTION, RIOT, ETC.

(See section 144)

To (name, description and address).

WHEREAS it has been made to appear to me that you are in possession (or have the management) of (describe clearly the property), and that, in digging a drain on the said land, you are about to throw or place a portion of the earth and stones dug-up upon the adjoining public road, so as to occasion risk of obstruction to persons using the road;

01

WHEREAS it has been made to appear to me that you and a number of other persons (*mention the class of persons*) are about to meet and proceed in a procession along the public street, etc., (*as the case may be*) and that such procession is likely to lead to a riot or an affray;

9

WHEREAS, etc., etc., (as the case may be):

I do hereby order you not to place or permit to be placed any of the earth or stones dug from land on any part of the said road:

10

I do hereby prohibit the procession passing along the said street, and strictly warn and enjoin you not to take any part in such procession (or as the case recited may require).

Dated: this _____ day of _____, 19____

(Seal of the Court)

FORM No. 25

MAGISTRATE'S ORDER DECLARING PARTY ENTITLED TO RETAIN POSSESSION OF
LAND, ETC., IN DISPUTE

(See section 145)

It appears to me, on the grounds duly recorded, that a dispute likely to induce a breach of the peace, existed between (describe the parties by name and residence, or residence only if the dispute be between bodies of villagers) concerning certain (state concisely the subject of dispute), situate within my local jurisdiction, all the said parties were called upon to give in a written statement of their respective claims as to the fact of actual possession of the said (the subject of dispute), and being satisfied by due inquiry had thereupon, without reference to the merits of the claim of either of the said parties to the legal right of possession, that the claim of actual possession by the said (name or names or description) is true; I do decide and declare that he is (or they are) in possession of the said (the subject of dispute) and entitled to retain such possession until ousted by due course of law, and do strictly forbid any disturbance of his (or their) possession in the meantime.

Dated, this _____ day of _____, 19____

(Seal of the Court)

(Signature)

FORM No. 26

WARRANT OF ATTACHMENT IN THE CASE OF A DISPUTE AS TO THE POSSESSION OF
LAND, ETC.

(See section 146)

To the officer in charge of the police station at _____ (or, To the Collector of _____).

WHEREAS it has been made to appear to me that a dispute likely to induce a breach of the peace existed between (describe the parties concerned by name and residence, or residence only if the dispute be between bodies of villagers) concerning certain (state concisely the subject of dispute) situate within the limits of my jurisdiction, and the said parties were thereupon duly called upon to state in writing their respective claims as to the fact of actual possession of the said (the subject of dispute), and whereas, upon due inquiry into the said claims, I have decided that neither of the said parties was in possession of the said (the subject of dispute) (or I am unable to satisfy myself as to which of the said parties was in possession as aforesaid);

This is to authorise and require you to attach the said (the subject of dispute) by taking and keeping possession thereof, and to hold the same under attachment until the decree or order of a competent Court determining the rights of the parties, or the claim to possession, shall have been obtained, and to return this warrant with an endorsement certifying the manner of its execution.

Dated, this _____ day of _____, 19____

(Seal of the Court)

29 Law-34.

(Signature)

FORM No. 27

MAGISTRATE'S ORDER PROHIBITING THE DOING OF ANYTHING ON LAND OR
WATER

(See section 147)

A DISPUTE having arisen concerning the right of use of (state concisely the subject of dispute) situate within my local jurisdiction, the possession of which land (or water) is claimed exclusively by (describe the person or persons), and it appears to me, on due inquiry into the same, that the said land (or water) has been open to the enjoyment of such use by the public (or if by an individual or a class of persons, describe him or them) and (if the use can be enjoyed throughout the year) that the said use has been enjoyed within three months of the institution of the said inquiry (or if the use is enjoyable only at a particular season, say, "during the last of the seasons at which the same is capable of being enjoyed");

I do order that the said (the claimant or claimants of possession) or any one in their interest, shall not take (or retain) possession of the said land (or water) to the exclusion of the enjoyment of the right of use aforesaid, until he (or they) shall obtain the decree or order of a competent Court adjudging him (or them) to be entitled to exclusive possession.

Dated, this

day of

, 19

(Seal of the Court)

(Signature)

FORM No. 28

BOND AND BAIL-BOND ON A PRELIMINARY INQUIRY BEFORE A POLICE OFFICER
(See section 169)

I, (name), of , being charged with the offence of , and after inquiry required to appear before the Magistrate of

or

and after inquiry called upon to enter into my own recognizance to appear when required, do hereby bind myself to appear at , in the Court of , on the day of , next (or on such day as I may hereafter be required to attend) to answer further to the said charge, and in case of my making default herein, I bind myself to forfeit to Government, the sum of rupees .

Dated, this

day of

, 19

(Signature)

I hereby declare myself (or we jointly and severally declare ourselves and each of us) surety (or sureties) for the above said (name) that he shall attend at in the Court of , on the day of

next (or on such day as he may hereafter be required to attend), further to answer to the charge pending against him, and, in case of his making default therein, I hereby bind myself (or we hereby bind ourselves) to forfeit to Government the sum of rupees .

Dated, this

day of

, 19

(Signature)

FORM No. 29

BOND TO PROSECUTE OR GIVE EVIDENCE

(See section 170)

I, (name), of (place) , do hereby bind myself to attend at in the Court of at o'clock on the day of next and then and there to prosecute (or to prosecute and give evidence) (or to give evidence) in the matter of a charge of against one A.B., and, in case of making default herein, I bind myself to forfeit to Government the sum of rupees

Dated, this day of , 19 .

(Signature)

FORM No. 30

SPECIAL SUMMONS TO A PERSON ACCUSED OF A PETTY OFFENCE

(See section 206)

To

(Name of the accused)

of

(address)

WHEREAS your attendance is necessary to answer a charge of a petty offence (state shortly the offence charged), you are hereby required to appear in person (or by pleader) before (Magistrate) of on the day of 19 , or if you desire to plead guilty to the charge without appearing before the Magistrate, to transmit before the aforesaid date the plea of guilty in writing and the sum of rupees as fine, or if you desire to appear by pleader and to plead guilty through such pleader, to authorise such pleader in writing to make such a plea of guilty on your behalf and to pay the fine through such pleader. Herein fail not.

Dated, this day of , 19 .
(Seal of the Court) (Signature)

(Note.—The amount of fine specified in this summons shall not exceed one hundred rupees.)

FORM No. 31

NOTICE OF COMMITMENT BY MAGISTRATE TO PUBLIC PROSECUTOR

(See section 209)

The Magistrate of hereby gives notice that he has committed one for trial at the next Sessions; and the Magistrate hereby instructs the Public Prosecutor to conduct the prosecution of the said case.

The charge against the accused is that, etc. (state the offence as in the charge).

Dated, this day of , 19 .
(Seal of the Court) (Signature)

FORM No. 32

CHARGES

(See sections 211, 212 and 213)

I. CHARGES WITH ONE HEAD

(1) (a) I, (name and office of Magistrate, etc.), hereby charge you (name of accused person) as follows:—

(b) that you, on or about the day of , at , waged war against the Government of India and thereby committed an offence punishable under section 121 of the Indian Penal Code, and within the cognizance of this Court.

On section 121.

(c) And I hereby direct that you be tried by this Court on the said charge.

[Signature and Seal of the Magistrate]

[To be substituted for (b):—]

On section
124.

(2) That you, on or about the day of , at , with the intention of inducing the President of India [or, as the case may be, the Governor of (name of State)] to refrain from exercising a lawful power as such President (or, as the case may be, the Governor), assaulted President (or, as the case may be, the Governor), and thereby committed an offence punishable under section 124 of the Indian Penal Code, and within the cognizance of this Court.

On section
161.

(3) That you, being a public servant in the Department, directly accepted from (state the name) for another party (state the name) gratification other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 161 of the Indian Penal Code, and within the cognizance of this Court.

On section
166.

(4) That you, on or about the day of , at , did (or omitted to do, as the case may be) , such conduct being contrary to the provisions of Act , section , and known by you to be prejudicial to , and thereby committed an offence punishable under section 166 of the Indian Penal Code, and within the cognizance of this Court.

On section
193.

(5) That you, on or about the day of , at , in the course of the trial of before , stated in evidence that " " which statement you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of this Court.

On section
304.

(6) That you, on or about the day of , at , committed culpable homicide not amounting to murder, causing the death of , and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of this Court.

On section
306.

(7) That you, on or about the day of , at , abetted the commission of suicide by A.B., a person in a state of intoxication, and thereby committed an offence punishable under section 306 of the Indian Penal Code, and within the cognizance of this Court.

On section
325.

(8) That you, on or about the day of , at , voluntarily caused grievous hurt to , and thereby committed an offence punishable under section 325 of the Indian Penal Code, and within the cognizance of this Court.

On section
392.

(9) That you, on or about the day of , at , robbed (state the name), and thereby committed an offence punishable under section 392 of the Indian Penal Code, and within the cognizance of this Court.

On section
395.

(10) That you, on or about the day of , at , committed dacoity, an offence punishable under section 395 of the Indian Penal Code, and within the cognizance of this Court.

II. CHARGES WITH TWO OR MORE HEADS

(1) (a) I, (name and office of Magistrate, etc.), hereby charge you (name of accused person) as follows:—

(b) *First*—That you, on or about the day of , at , knowing a coin to be counterfeit, delivered the same to another person, by name, A.B., as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the Court of Session.

On
section
241.

Secondly—That you, on or about the day of , at , knowing a coin to be counterfeit attempted to induce another person, by name, A.B., to receive it as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the Court of Session.

(c) And I hereby direct that you be tried by the said Court on the said charge.

(Signature and seal of the Magistrate)

[To be substituted for (b)]:—

(2) *First*—That you, on or about the day of , at , committed murder by causing the death of , and thereby committed an offence punishable under section 302 of the Indian Penal Code, and within the cognizance of the Court of Session.

On sec-
tions 302
and 304.

Secondly—That you, on or about the day of , at , by causing the death of , committed culpable homicide not amounting to murder, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session.

(3) *First*—That you, on or about the day of , at , committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the Court of Session.

On
sections
379 and
382.

Secondly—That you, on or about the day of , at , committed theft, having made preparation for causing death to a person in order to the committing of such theft and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

Thirdly—That you, on or about the day of , at , committed theft, having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

Fourthly—That you, on or about the day of , at , committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

Alter- (4) That you, on or about the day of , at , in the
 native course of the inquiry into , before , stated in evidence that
 change on " ", and that you, on or about the day of , at , in
 section 193. the course of the trial of , before , stated in the evidence that
 " ", one of which statements you either knew or believed to be false,
 or did not believe to be true, and thereby committed an offence punishable
 under section 193 of the Indian Penal Code, and within the cognizance
 of the Court of Session.

(In cases tried by Magistrates substitute "within my cognizance", for
 "within the cognizance of the Court of Session".)

III. CHARGES FOR THEFT AFTER PREVIOUS CONVICTION

I, (name and office of Magistrate, etc.), hereby charge you (name of accused person) as follows:—

That you, on or about the day of , at , committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the Court of Session (or Magistrate, as the case may be).

And you, the said (name of accused), stand further charged that you, before the committing of the said offence, that is to say, on the day of had been convicted by the (state Court by which conviction was had) at of an offence punishable under Chapter XVII of the Indian Penal Code with imprisonment for a term of three years, that is to say, the offence of house-breaking by night (describe the offence in the words used in the section under which the accused was convicted), which conviction is still in full force and effect, and that you are thereby liable to enhanced punishment under section 75 of the Indian Penal Code.

And I hereby direct that you be tried, etc.

FORM No. 33

SUMMONS TO WITNESS

(See sections 61 and 244)

To

WHEREAS complaint has been made before me that (name of the accused) of (address) has (or is suspected to have) committed the offence of (state the offence concisely with time and place), and it appears to me that you are likely to give material evidence or to produce any document or other thing for the prosecution;

You are hereby summoned to appear before this Court on the day of next at ten o'clock in the forenoon, to produce such document or thing or to testify what you know concerning the matter of the said complaint, and not to depart thence without leave of the Court; and you are hereby warned that, if you shall without just excuse neglect or refuse to appear on the said date, a warrant will be issued to compel your attendance.

Dated, this

day of

, 19

(Seal of the Court)

(Signature)

FORM No. 34

WARRANT OF COMMITMENT ON A SENTENCE OF IMPRISONMENT OR FINE IF PASSED
BY A MAGISTRATE [COURT] ↴

(See sections 248 and 255)

To the Officer in charge of the Jail at

WHEREAS on the day of , (name of prisoner), the 1st, 2nd, 3rd, as the case may be) prisoner in case No. of the Calendar for 19 , was convicted before me (name and official designation) of the offence of (mention the offence or offences concisely) under section (or sections) of the Indian Penal Code (or of Act), and was sentenced to (state the punishment fully and distinctly);

This is to authorise and require you to receive the said (prisoner's name) into your custody in the said Jail, together with this warrant, and thereby carry the aforesaid sentence into execution according to law.

Dated, this day of , 19 .

(Seal of the Court)

(Signature)

FORM No. 35

WARRANT OF IMPRISONMENT ON FAILURE TO PAY COMPENSATION

(See section 250)

To the Officer in charge of the Jail at

WHEREAS (name and description) has brought against (name and description of the accused person) the complaint that (mention it concisely) and the same has been dismissed on the ground that there was no reasonable ground for making the accusation against the said (name) and the order of dismissal awards payment by the said (name of complainant) of the sum of rupees as compensation; and whereas the said sum has not been paid and an order has been made for his simple imprisonment in Jail for the period of days, unless the aforesaid sum be sooner paid;

This is to authorise and require you to receive the said (name) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (term of imprisonment), subject to the provisions of section 69 of the Indian Penal Code, unless the said sum be sooner paid, and on the receipt thereof, forthwith to set him at liberty, returning this warrant with an endorsement certifying the manner of its execution.

Dated, this day of , 19 .

(Seal of the Court)

(Signature)

↓ Satis. by Act 45 of 1878, S. 35

FORM No. 36

ORDER REQUIRING PRODUCTION IN COURT OF PERSON IN PRISON FOR ANSWERING TO CHARGE OF OFFENCE

(See section 267)

To

The Officer in charge of the Jail at

WHEREAS the attendance of (name of prisoner) at present confined/detained in the above-mentioned prison, is required in this Court to answer to a charge of (state shortly the offence charged) or for the purpose of a proceeding (state shortly the particulars of the proceeding);

You are hereby required to produce the said under safe and sure conduct before this Court on the day of , 19 , by A.M. there to answer to the said charge, or for the purpose of the said proceeding, and after this Court has dispensed with his further attendance, cause him to be conveyed under safe and sure conduct back to the said prison.

And you are further required to inform the said of the contents of this order and deliver to him the attached copy thereof.

Dated; this day of , 19 .

(Seal of the Court)

(Signature)

Countersigned.

(Seal)

(Signature)

FORM No. 37

ORDER REQUIRING PRODUCTION IN COURT OF PERSON IN PRISON FOR GIVING EVIDENCE

(See section 267)

To

The Officer in charge of the Jail at

WHEREAS complaint has been made before this Court that (name of the accused) of has committed the offence of (state offence concisely with time and place) and it appears that (name of prisoner) at present confined/detained in the above-mentioned prison, is likely to give material evidence for the prosecution/defence;

You are hereby required to produce the said under safe and sure conduct before this Court at on the day of , 19 , by A.M. there to give evidence in the matter now pending before this Court, and after this Court has dispensed with his further attendance, cause him to be conveyed under safe and sure conduct back to the said prison.

And you are further required to inform the said ~~officer of the Court~~ of the contents of this order and deliver to him the attached copy thereof.

Dated, this _____ day of _____, 19_____.

(Seal of the Court)

(Signature)

Countersigned.

(Seal)

(Signature)

FORM No. 38

WARRANT OF COMMITMENT IN CERTAIN CASES OF CONTEMPT WHEN A FINE IS IMPOSED

(See section 345)

To the Officer in charge of the Jail at _____.

WHEREAS at a Court held before me on this day (*name and description of the offender*) in the presence (or view) of the Court committed wilful contempt;

And whereas for such contempt the said (*name of the offender*) has been adjudged by the Court to pay a fine of rupees _____, or in default to suffer simple imprisonment for the period of (*state the number of months or days*);

This is to authorise and require you to receive the said (*name of offender*) into your custody, together with this warrant, and him safely to keep in the said Jail for the said period of (*term of imprisonment*), unless the said fine be sooner paid; and, on the receipt thereof, forthwith to set him at liberty, returning this warrant with an endorsement certifying the manner of its execution.

Dated, this _____ day of _____, 19_____.

(Seal of the Court)

(Signature)

FORM No. 39

MAGISTRATE'S OR JUDGE'S WARRANT OF COMMITMENT OF WITNESS REFUSING TO ANSWER OR TO PRODUCE DOCUMENT

(See section 349)

To (*name and designation of officer of Court*)

WHEREAS (*name and description*), being summoned (or brought before this Court) as a witness and this day required to give evidence on an inquiry into an alleged offence, refused to answer a certain question (or certain questions) put to him touching the said alleged offence, and duly recorded, or having been called upon to produce any document has refused to produce such document, without alleging any just excuse for such refusal, and for his refusal has been ordered to be detained in custody for (*term of detention adjudged*);

This is to authorise and require you to take the said (name) into custody, and him safely to keep in your custody for the period of days, unless in the meantime he shall consent to be examined and to answer the questions asked of him, or to produce the document called for from him, and on the last of the said days, or forthwith on such consent being known, to bring him before this Court to be dealt with according to law, returning this warrant with an endorsement certifying the manner of its execution.

Dated, this day of , 19

(Seal of the Court)

(Signature)

FORM No. 40

WARRANT OF COMMITMENT UNDER SENTENCE OF DEATH

(See section 366)

To the Officer in charge of the Jail at

WHEREAS at the Session held before me on the day of , 19 , (name of prisoner), the (1st, 2nd, 3rd, as the case may be) prisoner in case No. of the Calendar for 19 at the said Session, was duly convicted of the offence of culpable homicide amounting to murder under section of the Indian Penal Code, and sentenced to death, subject to the confirmation of the said sentence by the Court of

This is to authorise and require you to receive the said (prisoner's name) into your custody in the said Jail, together with this warrant, and him there safely to keep until you shall receive the further warrant or order of this Court, carrying into effect the order of the said Court.

Dated, this day of , 19

(Seal of the Court)

(Signature)

FORM No. 41

WARRANT AFTER A COMMUTATION OF A SENTENCE

(See section 386)

To the Officer in charge of the Jail at

WHEREAS at a Session held on the day of , 19 , (name of prisoner), the (1st, 2nd, 3rd, as the case may be) prisoner in case No. of the Calendar for 19 at the said Session, was convicted of the offence of , punishable under section of the Indian Penal Code, and sentenced to , and was thereupon committed to your custody; and whereas by the order of the Court of (a duplicate of which is hereunto annexed) the punishment adjudged by the said sentence has been commuted to the punishment of imprisonment for life;

This is to authorise and require you safely to keep the said (prisoner's name) in your custody in the said Jail, as by law is required,

4/10/1978 S. 35

until he shall be delivered over by you to the proper authority and custody for the purpose of his undergoing the punishment of imprisonment for life under the said order,

or

if the mitigated sentence is one of imprisonment, say, after the words "custody in the said Jail", "and there to carry into execution the punishment of imprisonment under the said order according to law".

Dated, this day of , 19 .

(Seal of the Court)

(Signature)

FORM No. 42

WARRANT OF EXECUTION OF A SENTENCE OF DEATH

(See section 414)

The Officer in charge of the Jail at

WHEREAS (name of prisoner), the (1st, 2nd, 3rd, as the case may be) prisoner in case No. of the Calendar for 19 at the Session held before me on the day of , 19 , has been by a warrant of the Court, dated the day of , committed to your custody under sentence of death; and whereas the order of the High Court at confirming the said sentence has been received by this Court;

This is to authorise and require you to carry the said sentence into execution by causing the said to be hanged by the neck until he be dead, at (time and place of execution), and to return this warrant to the Court with an endorsement certifying that the sentence has been executed.

Dated, this day of , 19 .

(Seal of the Court)

(Signature)

FORM No. 43

WARRANT TO LEVY A FINE BY ATTACHMENT AND SALE

(See section 421)

To (name and designation of the police officer or other person or persons who is or are to execute the warrant).

WHEREAS (name and description of the offender) was on the day of , 19 , convicted before me of the offence of (mention the offence concisely), and sentenced to pay a fine of rupees ; and whereas the said (name), although required to pay the said fine, has not paid the same or any part thereof;

This is to authorise and require you to attach any movable property belonging to the said (name), which may be found within the district of ; and, if within (state the number of days or hours allowed) next after such attachment the said sum shall not be paid (or forthwith), to sell the movable property attached, or so much thereof as shall be sufficient to satisfy the said fine, returning this warrant, with an

✓ Subs. by Act 45 of 1878, S. 35.

endorsement certifying what you have done under it, immediately upon its execution.

Dated, this _____ day of _____, 19 _____. .

(Seal of the Court)

(Signature)

FORM No. 44

WARRANT FOR RECOVERY OF FINE

(See section 421)

To the Collector of the district of _____

WHEREAS (name, address and description of the offender) was on the day of _____, 19 _____, convicted before me of the offence of (mention the offence concisely), and sentenced to pay a fine of rupees _____; and

WHEREAS the said (name), although required to pay the said fine, has not paid the same or any part thereof;

You are hereby authorised and requested to realise the amount of the said fine as arrears of land revenue from the movable or immovable property, or both, of the said (name) and to certify without delay what you may have done in pursuance of this order.

Dated, this _____ day of _____, 19 _____. .

(Seal of the Court)

(Signature)

FORM No. 45

BOND AND BAIL-BOND FOR ATTENDANCE BEFORE OFFICER IN CHARGE OF POLICE STATION OR COURT

[See sections 436, 437, 438(3) and 441]

I, (name), of (place), having been arrested or detained without warrant by the Officer in charge of _____ police station (or having been brought before the Court of _____), charged with the offence of _____, and required to give security for my attendance before such Officer or Court on condition that I shall attend such Officer or Court on every day on which any investigation or trial is held with regard to such charge, and in case of my making default herein, I bind myself to forfeit to Government the sum of rupees _____.

Dated, this _____ day of _____, 19 _____. .

✓ Due by Acct 45 of 15/8, 5.35.

(Signature)

I hereby declare myself (or we jointly and severally) declare ourselves and each of us) surety (or sureties) for the above said (name) that he shall attend the Officer in charge of police station or the Court of on every day on which any investigation into the charge is made or any trial on such charge is held, that he shall be, and appear, before such officer or Court for the purpose of such investigation or to answer the charge against him (as the case may be), and, in case of his making default herein, I hereby bind myself (or we, hereby bind ourselves) to forfeit to Government the sum of rupees

Dated, this day of , 19 .

(Signature)

FORM No. 46

WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY

(See section 442)

To the Officer in charge of the Jail at

(or other officer in whose custody the person is)
WHEREAS (name and description of prisoner) was committed to your custody under warrant of this Court, dated the day of , and has since with his surety (or sureties) duly executed a bond under section 441 of the Code of Criminal Procedure;

This is to authorise and require you forthwith to discharge the said (name) from your custody, unless he is liable to be detained for some other matter.

Dated, this day of , 19 .

(Seal of the Court)

(Signature)

4 Jan. by Act 45 of 1972, S. 35.

38. 4 M 78, S. 2 + Sch. I

Rep. by Act.....

THE NATIONAL CO-OPERATIVE DEVELOPMENT CORPORATION (AMENDMENT) ACT, 1974

No. 3 OF 1974

[13th March, 1974]

An Act further to amend the National Co-operative Development Corporation Act, 1962.

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

**Short title
and
commencement.**

1. (1) This Act may be called the National Co-operative Development Corporation (Amendment) Act, 1974.

(2) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

**Subst.
tution of
long title.**

2. In the National Co-operative Development Corporation Act, 1962 (hereinafter referred to as the principal Act), for the long title, the following shall be substituted, namely:—

26 of 1962.

“An Act to provide for the incorporation and regulation of a corporation for the purpose of planning and promoting programmes for the production, processing, marketing, storage, export and import of agricultural produce, foodstuffs and certain other commodities on co-operative principles and for matters connected therewith.”

¹All the provisions of the Act other than those specified below, came into force on 1-4-1974 vide Notification No G.S.R. 148(E), dated the 26th March, 1974.

- Section 3(ii) in so far as it relates to the definition of “Board”;
- Section 3(iii);
- Section 3(iv) in so far as it relates to the definition of “General Council”;
- Section 4;
- Section 6;
- Section 7(iii);
- Section 9;
- Section 13;
- Section 14;
- Section 15 (i);
- Section 15 (iii); and
- Section 16(i).

The remaining Provisions of the Act came into force on 7-4-1975 vide Notification No. G.S.R. 191(E) dated the 4th April, 1975.

~~REPEALED~~

~~REPEALED~~

[ACT 3 OF 1974] National Co-operative Development Corporation (Amendment) 271

3. In section 2 of the principal Act,—

Amend-
ment of
section 2.

(i) in clause (a),—

(1) for the words "means any of the following", the words "includes the following" shall be substituted;

(2) in item (i), the words "foodstuffs, including" shall be omitted;

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

'(aa) "bank" means a nationalised bank and includes a scheduled bank;

(ab) "Board" means the Board of Management of the Corporation constituted under section 10;';

(iii) in clause (d), for the word and figure "section 3", the words, brackets and figures "sub-section (1) of section 3" shall be substituted;

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

'(da) "foodstuffs", include—

(i) coconuts and areca-nuts;

(ii) eggs and egg products;

(iii) fish, whether fresh, frozen, dried or preserved;

(iv) fruits, whether fresh, dried or dehydrated;

(v) honey;

(vi) meat, whether fresh, frozen, dried or preserved;

(vii) milk and milk products;

(viii) vegetables;

(db) "General Council" means the General Council of the Corporation constituted under sub-section (4) of section 3;

(dc) "managing director" means the managing director of the Corporation;

(dd) "nationalised bank" means a corresponding new bank as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970;'

(v) in clause (e), after the words "agricultural produce", the words "and foodstuffs" shall be inserted;

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

'(ga) "scheduled bank" means a bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934.'

~~REPEALED~~

272 National Co-operative Development Corporation (Amendment) [ACT 3]

Amend-
ment of
section 3.

4. In section 3 of the principal Act, for sub-sections (3), (4) and (5), the following sub-sections shall be substituted, namely:—

(3) The Corporation shall carry on its functions through the General Council and the Board.

(4) The General Council shall consist of the following members, namely:—

(i) a President and a Vice-President, both to be nominated by the Central Government;

(ii) eight members, *ex officio*, to be nominated by the Central Government from such of its Ministries dealing with economic matters as it may think fit;

(iii) Deputy Governor of the Reserve Bank in charge of rural credit, *ex officio*;

(iv) Managing Director of the State Bank, *ex officio*;

(v) Managing Director of the Food Corporation of India, constituted under the Food Corporations Act, 1964, *ex officio*;

(vi) Managing Director of the Central Warehousing Corporation, constituted under the Warehousing Corporations Act, 1962, *ex officio*;

(vii) Chairman of the Industrial Finance Corporation of India, constituted under the Industrial Finance Corporation Act, 1948, *ex officio*;

(viii) a member representing banks, to be nominated by the Central Government;

(ix) Chairman of the National Co-operative Union of India, *ex officio*;

(x) Chairman of the National Agricultural Co-operative Marketing Federation, *ex officio*;

(xi) Chairman of the National Federation of Co-operative Sugar Factories, *ex officio*;

(xii) Chairman of the All India Federation of Co-operative Spinning Mills, *ex officio*;

(xiii) Chairman of the All India State Co-operative Banks' Federation, *ex officio*;

(xiv) eleven members, other than those nominated under clause (xv), representing the States and the Union territories, to be nominated by the Central Government, provided that not more than one person shall be so nominated from each State or Union territory;

(xv) eleven members to be nominated by the Central Government from among the Chairmen of the State level co-operative federations from the States and Union territories, provided that not more than one person shall be so nominated from each State or Union territory;

(xvi) four members representing persons having special knowledge of, or practical experience in, agricultural co-operative development, to be nominated by the Central Government;

37 of 1964

59 of 1962

15 of 1948

~~REPEALED~~

(xvii) three members representing national level organisations engaged or interested in the promotion and development of co-operative programmes, to be nominated by the Central Government;

(xviii) the managing director.

(5) The powers and functions of the Corporation shall be exercised or discharged, as the case may be, by the General Council, and references elsewhere in this Act to the Corporation shall, unless the context otherwise requires, be construed as references to the General Council.

(6) Notwithstanding the expiry of the prescribed term of his office, every member of the General Council shall continue to hold office as such, until his successor in such office has assumed charge of such office.

(7) Members of the General Council, other than the managing director, shall be entitled to receive such sitting fees as may be specified by regulations made by the Corporation under this Act, for attending any meeting of the General Council, Board or any committee of the Corporation:

Provided that no official member shall be entitled to receive any sitting fee.”.

5. In section 4 of the principal Act, in clause (iii), before the words “if he is a salaried official”, the words “except in the case of managing director,” shall be inserted.

Amend-
ment of
section 4

6. In section 7 of the principal Act,—

(i) in sub-section (1), for the words “shall meet at such times”, the words “shall ordinarily meet twice a year at such times” shall be substituted;

(ii) in sub-sections (2) and (3), for the words “Chairman” and “Vice-Chairman”, wherever they occur, the words “President” and “Vice-President” shall, respectively, be substituted.

Amend-
ment of
section 7.

7. In section 8 of the principal Act,—

(i) in sub-section (1), for the words “Secretary of the Corporation”, the words “managing director” shall be substituted;

(ii) in sub-section (3), in clause (a), for the word “Secretary”, the words “managing director” shall be substituted;

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

“(4) The managing director shall exercise such powers and perform such duties as the Board may entrust or delegate to him.”.

Amend-
ment of
section 8.

~~REPEALED~~

274 *National Co-operative Development Corporation (Amendment)* [ACT 3]

Amend-
ment of
section 9.

8. In section 9 of the principal Act,—

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

“(1) Subject to the provisions of this Act, the functions of the Corporation shall be to plan and promote programmes, through co-operative societies, for—

(a) the production, processing, marketing, storage, export and import of agricultural produce, foodstuffs, poultry feed and notified commodities;

(b) the collection, processing, marketing, storage and export of minor forest produce.”;

(ii) in sub-section (2),—

(a) in clause (b), for the words “agricultural produce”, the words “agricultural produce, foodstuffs” shall be substituted;

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

“(d) provide loans and grants directly to the national level co-operative societies and other co-operative societies having objects extending beyond one State;

(e) provide loans to co-operative societies on the guarantee of State Governments or in the case of co-operative societies in the Union territories, on the guarantee of Central Government;

(f) participate in the share capital of the national level co-operative societies and other co-operative societies having objects extending beyond one State.”.

Substitu-
tion of
new sec-
tion for
section 10.

Board
of Manage-
ment
of the
Corpora-
tion.

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

“10. (1) There shall be a Board of Management of the Corporation which shall consist of the following members, namely:—

(i) the Vice-President of the General Council, who shall be the Chairman;

(ii) three members of the General Council, to be nominated by the Central Government from among the members referred to in clause (ii) of sub-section (4) of section 3;

(iii) the member of the General Council, referred to in clause (iii) of sub-section (4) of section 3;

(iv) one member of the General Council, to be nominated by the Central Government from among the members referred to in clauses (ix), (x), (xi), (xii) and (xiii) of sub-section (4) of section 3;

(v) two members of the General Council, to be nominated by the Central Government from among the members referred to in clause (xiv) of sub-section (4) of section 3;

(vi) two members of the General Council, to be nominated by the Central Government from among the members referred to in clause (xv) of sub-section (4) of section 3;

REPEALED

OF 1974] *National Co-operative Development Corporation (Amendment)* 275

(vii) one member of the General Council, to be nominated by the Central Government from among the members referred to in clauses (xvi) and (xvii) of sub-section (4) of section 3;

(viii) the managing director.

(2) The Vice-Chairman of the Board shall be nominated by the Central Government.

(3) Subject to the general control, direction and superintendence of the General Council, the Board shall be competent to deal with any matter within the competence of the Corporation.

(4) The Board shall meet at such times and at such places and shall observe such procedure in regard to transaction of business at its meetings (including the quorum at meetings) as may be provided by regulations made by the Corporation under this Act.

(5) The confirmed minutes of every meeting of the Board shall be laid before the General Council at its next following meeting.”.

10. In section 12 of the principal Act,—

(i) in clause (a), the word “and” occurring at the end shall be omitted;

(ii) in clause (b), the word “and” shall be inserted at the end;

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

“(c) such additional grants, if any, for the purposes of this Act.”.

11. After section 12 of the principal Act, the following section shall be inserted, namely:—

“12A. (1) The Corporation may, for the purposes of carrying out its functions under this Act, and with the previous approval of, and subject to the directions of the Central Government, borrow money from—

(a) the public by the issue or sale of bonds or debentures, or both, carrying interest at such rates as may be specified therein;

(b) any bank or other financial institution;

(c) any other authority, organisation or institution as may be specially approved by the Central Government in this behalf.

(2) The Central Government may guarantee the repayment of the moneys borrowed by the Corporation under clause (a) or clause (b) or clause (c) of sub-section (1) and the payment of interest thereon and other incidental charges.”.

12. In section 13 of the principal Act,—

(i) in sub-section (1),—

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

“(ba) all moneys borrowed under section 12A;”;

Amend-
ment of
section 12.

Insertion
of new
section
12A.

Power of
Corpora-
tion to
borrow
money.

Amend-
ment of
section 13.

REPEALED

276 National Co-operative Development Corporation (Amendment) [ACT 3 OF 1974]

Amend-
ment of
section 18.

- (b) in clause (d), after the words "or dividends", the words "or other realisations" shall be inserted;
- (ii) in sub-section (2), in clause (b), for the word "officers", the words "managing director, the officers" shall be substituted;
- (iii) in sub-section (3), for the words "State Bank", the words "State Bank or a nationalised bank" shall be substituted.

13. In section 18 of the principal Act, for the words "the Corporation", the words "the General Council, the Board or any of the committees of the Corporation" shall be substituted.

Amend-
ment of
section 19.

14. In section 19 of the principal Act, for the words "Chairman or the Vice-Chairman", the words "President or the Vice-President" shall be substituted.

Amend-
ment of
section 22.

15. In sub-section (2) of section 22 of the principal Act,—
- (i) clauses (a), (b) and (c) shall be omitted;
 - (ii) in clause (e), for the words "Secretary to the Corporation", the words "managing director" shall be substituted;
 - (iii) clause (f) shall be omitted.

Amend-
section 23.
section 23.

16. In sub-section (2) of section 23 of the principal Act,—
- (i) in clause (a), for the words "the Corporation, the Executive Committee and other committees thereof", the words "the General Council, the Board and other committees of the Corporation" shall be substituted;
 - (ii) in clause (b), for the word "Secretary", the words "managing director" shall be substituted.

**THE ESSO (ACQUISITION OF UNDERTAKINGS IN
INDIA) ACT, 1974**

No. 4 of 1974

[13th March, 1974]

An Act to provide for the acquisition and transfer of the right, title and interest of Esso Eastern Inc. in relation to its undertakings in India with a view to ensuring co-ordinated distribution and utilisation of petroleum products distributed and marketed in India by Esso Eastern Inc. and for matters connected therewith or incidental thereto.

WHEREAS Esso Eastern Inc., a foreign company, is carrying on, in India the business of distributing and marketing petroleum products manufactured by Esso Standard Refining Company of India Limited and Lube India Limited, and has, for that purpose, established places of business at Bombay and other places in India;

AND WHEREAS it is expedient in the public interest that the undertakings, in India, of Esso Eastern Inc. should be acquired in order to ensure that the ownership and control of the petroleum products distributed and marketed in India by the said company are vested in the State and thereby so distributed as best to subserve the common good;

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

CHAPTER I

PRELIMINARY

Short title.

1. This Act may be called the Esso (Acquisition of Undertakings in India) Act, 1974.

Definitions.

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

(a) "appointed day" means the date of commencement of this Act;

(b) "Esso" means Esso Eastern Inc., a foreign company within the meaning of section 591 of the Companies Act, 1956, incorporated under the laws of the State of Delaware in the United States of America, and having its principal office at 2401 South Gessner, City of Houston, State of Texas, in the United States of America; 1 of 19

(c) "Esso Standard" means Esso Standard Refining Company of India Limited, being a company as defined in the Companies Act, 1956, and having its registered office at Administration Building, Mahul, Bombay 400 074; 1 of 1

(d) "Government company" means a company as defined in section 617 of the Companies Act, 1956; 1 of 1

(e) "Lube India" means Lube India Limited, being a company as defined in the Companies Act, 1956, and having its registered office at Administration Building, Corridor Road, Mahul, Bombay 400 074; 1 of 19

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

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

CHAPTER II

ACQUISITION OF THE UNDERTAKINGS IN INDIA OF ESSO

Transfer and vesting in the Central Government of the undertakings of Esso in General effect of vesting.

3. On the appointed day, the right, title and interest of Esso, in relation to its undertakings in India, shall stand transferred to, and shall vest in, the Central Government.

4. (1) The undertakings referred to in section 3 shall be deemed, save as otherwise provided in sub-section (2), to include all assets, rights, powers, authorities and privileges and all property, movable and immovable, cash balances, reserve funds, investments and all other rights and interests in, or arising out of, such property as were, immediately before the appointed day, in the ownership, possession, power or control of Esso, in relation to its undertakings in India, and all books of account, registers, records and all other documents of whatever nature relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of Esso in relation to its undertakings in India.

(2) The undertakings referred to in sub-section (1) shall not include the following, namely:—

(a) any share held by Esso in the equity capital of Esso Standard or Lube India;

(b) any trade mark, and any right of Esso to use any trade mark in India, specified in the First Schedule;

(c) all patents and designs registered in India in the name of Esso.

(3) Unless otherwise expressly provided by this Act, all deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature in relation to the undertakings of Esso in India, subsisting or having effect immediately before the appointed day, and to which Esso is a party or which are in favour of Esso shall be of as full force and effect against or in favour of the Central Government and may be enforced or acted upon as fully and effectually as if in the place of Esso the Central Government had been a party thereto or as if they had been issued in favour of the Central Government.

(4) If, on the appointed day, any suit, appeal or other proceeding of whatever nature, in relation to the undertakings of Esso in India, which have been transferred to and vested in the Central Government under section 3, is pending by or against Esso, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the undertakings of Esso or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Central Government, or, where any undertaking is directed under section 7 to vest in any Government company, ~~against the concerned Government company.~~ [by or against the concerned Govt Company]

5. (1) Where any property is held in India by Esso under any lease or under any right of tenancy, the Central Government shall, on and from the appointed day, be deemed to have become the lessee or tenant, as the case may be, in respect of such property as if the lease or tenancy in relation to such property had been granted to the Central Government, and thereupon all the rights under such lease or tenancy shall be deemed to have been transferred to and vested in the Central Government.

Central Government to be lessee or tenant under certain circumstances.

(2) On the expiry of the term of any lease or tenancy referred to in sub-section (1), such lease or tenancy shall, if so desired by the Central Government, be renewed on the same terms and conditions on which the lease or tenancy was held by Esso immediately before the appointed day.

Removal of doubts.

6. (1) For the removal of doubts, it is hereby declared that the provisions of sections 3, 4 and 5 shall apply to the extent to which any property appertains to the business carried on by Esso in India; and to the rights and powers acquired, and to debts, liabilities and obligations incurred, and to contracts, agreements and other instruments made, by Esso in India, and to legal proceedings relating to those matters pending in any court or tribunal in India.

(2) If any question arises as to whether any property appertains, on the appointed day, to any business of Esso in India, or, whether any rights, powers, liabilities or obligations were acquired or incurred or any contract, agreement or other instrument was made by Esso for the purposes of its business in India, or whether any documents relate to those purposes, the question shall be referred to the Central Government which shall, after giving an opportunity of being heard to the persons interested in the matter, decide it in such manner as it may think fit.

Power of Central Government to

7. (1) Notwithstanding anything contained in sections 3, 4 and 5, the Central Government may, if it is satisfied that a Government company is willing to comply, or has complied, with such terms and conditions as

1 subs. by Act 38 of 1978, S.3 + Sch II.

direct
vesting
of the
under-
takings of
Esso in a
Govern-
ment
company.

Payment
of
amount.

Transfer
of service
of existing
employees
of Esso.

that Government may think fit to impose, direct, by notification, that the right, title and interest and the liabilities of Esso in relation to any undertaking in India shall, instead of continuing to vest in the Central Government, vest in the Government company either on the date of the notification or on such earlier or later date (not being a date earlier than the appointed day) as may be specified in the notification.

(2) Where the right, title and interest and the liabilities of Esso in relation to its undertakings in India vest in a Government company under sub-section (1), the Government company shall, on and from the date of such vesting, be deemed to have become the owner, tenant or lessee, as the case may be, in relation to such undertakings, and all the rights and liabilities of the Central Government in relation to such undertakings shall, on and from the date of such vesting, be deemed to have become the rights and liabilities, respectively, of the Government company.

(3) The provisions of sub-section (2) of section 5 shall apply to a lease or tenancy, which vests in a Government company, as they apply to a lease or tenancy vested in the Central Government and reference therein to the "Central Government" shall be construed as a reference to the Government company.

8. (1) For the transfer and vesting in the Central Government, under sections 3 and 4, of the right, title and interest of Esso in relation to its undertakings in India, and for the vesting in the Central Government, under section 5, of the rights specified therein, there shall be paid by the Central Government to Esso an amount of rupees two crores and fifty-nine lakhs in such instalments and in such manner as is specified in the Second Schedule.

(2) The amount specified in sub-section (1) shall carry interest, free of income-tax, at the rate of six and a half per cent. per annum from the appointed day till the date of payment in the manner specified in the Second Schedule.

CHAPTER III

PROVISIONS RELATING TO EMPLOYEES OF ESSO

9. (1) Every whole-time officer or other employee of Esso who was, immediately before the appointed day, employed by Esso in connection with its undertakings in India, and every whole-time officer or other employee of Esso who was, immediately before the appointed day, temporarily holding any assignment outside India, shall, on the appointed day, become an officer or other employee, as the case may be, of the Central Government or, as the case may be, the Government company in which the right, title and interest of Esso in relation to its undertakings in India have vested under this Act and shall hold office or service under the Central Government or the Government company, as the case may be, on the same terms and conditions and with the same rights to pension, gratuity and other matters as would have been admissible to him if there had been no such vesting and shall continue to do so unless and until his employment under the Central Government or the Government company, as the case may be, is duly terminated or until his remuneration and conditions of service are duly altered by the Central Government or the Government company, as the case may be.

(2) If any question arises as to whether any person was a whole-time officer or other employee or as to whether any officer or other employee

was employed wholly or mainly in connection with the undertakings of Esso in India immediately before the appointed day, or whether any whole-time officer or other employee of Esso was temporarily holding any assignment outside India, the question shall be referred, within a period of two years from the appointed day and not thereafter, to the Central Government which shall, after giving an opportunity of being heard to the person concerned in the matter, decide it in such manner as it thinks fit and such decision shall be final.

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947, the Payment of Gratuity Act, 1972, or in any other law for the time being in force, the transfer of the services of any officer or other employee under sub-section (1) shall not entitle any such officer or other employee to any compensation or gratuity under those Acts or such other law, and no such claim shall be entertained by any court, tribunal or other authority.

10. (1) Where a provident, superannuation, welfare or other fund has been established by Esso for the benefit of the persons employed by it in connection with its undertakings in India, the moneys relatable to the employees, whose services are transferred by or under this Act to the Central Government or a Government company, shall, out of the moneys standing, on the appointed day, to the credit of such provident, superannuation, welfare or other fund, stand transferred to and vest in the Central Government or the Government company, as the case may be, free from any trust that may have been constituted by Esso in respect thereof.

(2) The moneys which stand transferred, under sub-section (1), to the Central Government or a Government company shall be dealt with by the Central Government or that company, as the case may be, in such manner as may be prescribed.

(3) The Government company in which the undertakings of Esso in India are directed to be vested shall, as soon as may be after the date of vesting, constitute, in respect of the moneys and other assets which are transferred to and vested in it under this section, one or more trusts having objects as similar to the objects of the existing trusts as in the circumstances may be practicable, so, however, that the rights and interests of the beneficiaries of the trust referred to in sub-section (1) are not, in any way, prejudiced or diminished.

(4) Where all the moneys and other assets belonging to an existing trust are transferred to and vested in the Central Government or a Government company under this section, the trustees of such trust shall, as from the date of such vesting, stand discharged from the trust except as respects things done or omitted to be done before the date of such vesting.

Provi-
dent,
superan-
nuation,
welfare
fund, etc.

CHAPTER IV

MISCELLANEOUS

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

Effect of
Act
on other
laws.

Duty to deliver. 12. (1) Where any property, appertaining to any undertaking of Esso in India has been transferred to, and vested in, the Central Government or a Government company under this Act, every person in whose possession, custody or control any such property may be, shall, on a demand by the Central Government or that company, as the case may be, deliver the property to the Central Government or the Government company, as the case may be, forthwith;

- (a) every person in whose possession, custody or control any such property may be, shall, on a demand by the Central Government or that company, as the case may be, deliver the property to the Central Government or the Government company, as the case may be, forthwith;
- (b) any person who, immediately before such vesting, has in his possession, custody or control any books, documents or other papers relating to the undertakings of Esso in India, shall be liable to account for the said books, documents and papers to the Central Government or the Government company, as the case may be, and shall deliver them up to the Central Government or that company or to such person as the Central Government or that company may authorise in this behalf.

(2) Without prejudice to the other provisions contained in this section, it shall be lawful for the Central Government or the Government company to take all necessary steps for taking possession of all properties which have been transferred to and vested in it under this Act.

Contracts to continue unless terminated by Central Government. 13. (1) Every contract entered into by Esso for any service, sale or supply in India, and in force immediately before the appointed day, shall, unless terminated, under sub-section (2), within one hundred and [eighty days] from the appointed day, continue to be of full force and effect against or in favour of the Central Government or the Government company in which the undertakings of Esso in India have vested under this Act.

(2) The Central Government may, if it is satisfied that any contract referred to in sub-section (1) is unduly onerous or has been entered into in bad faith or is detrimental to the interests of that Government or the Government company, by order in writing, either terminate such contract or make such alterations or modifications therein as it may think fit:

Provided that the Central Government shall not terminate any contract or make any alteration or modification therein except after giving to the parties to the contract a reasonable opportunity of being heard and except after recording, in writing, its reasons for such termination, alteration or modification, as the case may be.

Penalties.

14. Any person who,—

- (a) having in his possession, custody or control any property forming part of any undertaking of Esso in India, wrongfully withholds such property from the Central Government or the Government company; or
- (b) wrongfully obtains possession of or retains any property forming part of any undertaking of Esso in India; or
- (c) wilfully withholds or fails to furnish to the Central Government or the Government company or any person specified by the Central Government or that company, any books, documents or other papers relating to any undertaking of Esso in India which may be in his possession, custody or control; or

¹Subs. by Act 40 of 1974, S.2 for "Eighty days".

- (d) fails to deliver to the Central Government or the Government company any assets, books of account, registers or other documents in his possession, custody or control relating to any undertaking of Esso in India; or
- (e) wrongfully removes or destroys any property pertaining to any undertaking of Esso in India; or
- (f) wrongfully uses any property forming part of the undertakings of Esso in India,

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

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

Offences
by com-
panies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

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

Explanation.—For the purposes of this section,—

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

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

16. No suit, prosecution or other legal proceeding shall lie against the Central Government or the Government company or any of its officers or other employees for anything which is in good faith done or intended to be done under this Act.

Protection
of action
taken in
good
faith.

of 1898.

17. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, no court shall take cognizance of any offence against this Act except on a complaint, in writing, made by the Central Government or any officer authorised in this behalf by that Government.

Cogni-
zance of
offences.

Indemnity.

18. Every officer of the Central Government and every officer or other employees of the Government company shall be indemnified by the Central Government or the Government company, as the case may be, against all losses and expenses incurred by him in, or in relation to, the discharge of his duties under this Act except such as have been caused by his own wilful act or default.

Power to remove difficulties.

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

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

Power to make rules.

20. (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE FIRST SCHEDULE

[See section 4(2)]

TRADE MARKS WHICH ESSO IS ENTITLED TO USE IN INDIA AND WHICH SHALL NOT VEST IN THE CENTRAL GOVERNMENT OR THE GOVERNMENT COMPANY

(a) The right of Esso to use in India the Trade Marks registered under the Trade and Merchandise Marks Act, 1958, by Exxon Corporation, a Corporation incorporated in the State of New Jersey, United States of America, and having its principal office in New York, United States of America.

(b) All Trade Marks registered in India by Esso under the Trade and Merchandise Marks Act, 1958.

THE SECOND SCHEDULE

(See section 8)

1. The amount specified in section 8 shall be deemed to correspond to thirty lakhs, eighty-four thousand, six hundred, and ninety dollars (hereafter in this Schedule referred to as the principal amount).

2. The amount referred to in the foregoing paragraph and the interest due thereon shall be remitted by the Central Government to Esso at its principal office at 2401 South Gessner, City of Houston, State of Texas, in the United States of America, on the dates and in instalments specified in the corresponding entries in the Table below, namely:—

THE TABLE

<i>Date of payment</i>	<i>Instalments</i>
(i) First anniversary of the appointed day,	200,504.85 dollars towards interest on the principal amount.
(ii) Second anniversary of the appointed day.	(i) 2,691,660.00 dollars towards the principal amount, and (ii) 200,504.85 dollars towards interest.
(iii) Third anniversary of the appointed day.	(i) 393,030.00 dollars towards the principal amount, and (ii) 25,546.95 dollars towards interest.

Explanation.—In this Schedule, “dollar” means the unit of currency in the United States of America.

Beg. by Act..... 38. 1978, S. 24 Sch. I

THE PRESIDENTIAL AND VICE-PRESIDENTIAL
ELECTIONS (AMENDMENT) ACT, 1974

No. 5 OF 1974

[23rd March, 1974]

An Act to amend the Presidential and Vice-Presidential Elections
Act, 1952.

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

Short
title.

1. This Act may be called the Presidential and Vice-Presidential Elec-
tions (Amendment) Act, 1974.

Amend-
ment
of sec-
tion 2.

2. In section 2 of the Presidential and Vice-Presidential Elections Act, 31 of 1952.
1952 (hereinafter referred to as the principal Act),—

(a) in clause (d), for the words "a member of either House of
Parliament", the words and figures "a member of the electoral col-
lege referred to in article 66" shall be substituted;

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

"(ff) "public holiday" means any day which is a public holi-
day for the purposes of section 25 of the Negotiable Instruments
Act, 1881;";

26 of 1881.

(c) in clause (g), for the word "authorised", the word "compe-
tent" shall be substituted.

~~REPEALED~~

[Act 5 of 1974] Presidential and Vice-Presidential Elections
(Amendment)

287

3. In section 4 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment of section 4.

"(1) The Election Commission shall, by notification in the Official Gazette, appoint for every election—

(a) the last date for making nominations, which shall be the fourteenth day after the date of publication of the notification under this sub-section, or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(b) the date for the scrutiny of nominations, which shall be the day immediately following the last date for making nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(c) the last date for the withdrawal of candidatures, which shall be the second day after the date for the scrutiny of nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(d) the date on which a poll shall, if necessary, be taken, which shall be a date not earlier than the fifteenth day after the last date for the withdrawal of the candidatures.”

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

Substitution of new sections for section 5.

5. On the issue of a notification under sub-section (1) of section 4, the returning officer for the election shall give public notice of the intended election in such form and in such manner as may be prescribed, inviting nominations of candidates for such election and specifying the place at which the nomination papers are to be delivered.

Public notice of election,

5A. Any person may be nominated as a candidate for election to the office of President or Vice-President if he is qualified to be elected to that office under the Constitution.

Nomination of Candidates.

5B. (1) On or before the date appointed under clause (a) of sub-section (1) of section 4, each candidate shall, either in person or by any of his proposers or seconds, between the hours of eleven o'clock in the forenoon and three o'clock in the afternoon, deliver to the returning officer at the place specified in this behalf in the public notice issued under section 5 a nomination paper completed in the prescribed form and subscribed by the candidate as assenting to the nomination, and

Presentation of nomination papers and requirements for a valid nomination.

(a) in the case of Presidential election, also by at least ten electors as proposers and at least ten electors as seconds;

(b) in the case of Vice-Presidential election, also by at least five electors as proposers and at least five electors as seconds:

Provided that no nomination paper shall be presented to the returning officer on a day which is a public holiday.

REPEALED

288

Presidential and Vice-Presidential Elections

[ACT 5]

(Amendment)

(2) Each nomination paper shall be accompanied by a certified copy of the entry relating to the candidate in the electoral roll for the parliamentary constituency in which the candidate is registered as an elector.

(3) The returning officer shall not accept any nomination paper which is presented on any day before eleven o'clock in the forenoon and after three o'clock in the afternoon.

(4) Any nomination paper which is not received before three o'clock in the afternoon on the last date appointed under clause (a) of sub-section (1) of section 4 or to which the certified copy referred to in sub-section (2) of this section is not attached shall be rejected and a brief note relating to such rejection shall be recorded on the nomination paper itself.

(5) No elector shall subscribe, whether as proposer or as seconder, more than one nomination paper at the same election and, if he does, his signature shall be inoperative on any paper other than the one first delivered.

(6) Nothing in this section shall prevent any candidate from being nominated by more than one nomination paper for the same election:

Provided that not more than four nomination papers shall be presented by or on behalf of any candidate or accepted by the returning officer.

Deposit. 5C. (1) A candidate shall not be deemed to be duly nominated for election unless he deposits or causes to be deposited a sum of two thousand five hundred rupees:

Provided that where a candidate has been nominated by more than one nomination paper for the same election, not more than one deposit shall be required of him under this sub-section.

(2) The sum required to be deposited under sub-section (1) shall not be deemed to have been deposited under that sub-section unless at the time of presentation of the nomination paper under sub-section (1) of section 5B, the candidate has either deposited or caused to be deposited that sum with the returning officer in cash or enclosed with the nomination paper a receipt showing that the said sum has been deposited by him or on his behalf in the Reserve Bank of India or in a Government Treasury.

**Notice
of nomi-
nations
and the
time and
place for
their
scrutiny.**

5D. On the presentation of a nomination paper, the returning officer shall—

(a) sign thereon a certificate stating the date and time of presentation of the nomination paper and enter thereon its serial number;

(b) inform the person or persons presenting the nomination paper of the date, time and place fixed for the scrutiny of nominations; and

(c) cause to be affixed in some conspicuous place in his office a copy of the nomination paper as certified and numbered under clause (a).

5E. (1) On the date fixed for the scrutiny of nominations under sub-section (1) of section 4, the candidates, one proposer or one seconder of each candidate and one other person duly authorised in writing by each candidate, but no other person, shall be entitled to be present at the time of scrutiny of nominations and the returning officer shall give them all reasonable facilities for examining the nomination papers of all candidates which have not been rejected under sub-section (4) of section 5B.

Scrutiny of
nominations.

(2) For the removal of doubts, it is hereby declared that it shall not be necessary to scrutinise on the date fixed for the scrutiny of nominations the nomination papers already rejected under sub-section (4) of section 5B.

(3) The returning officer shall then examine the nomination papers and shall decide all objections which may be made to any nomination paper and may, either on such objection or on his own motion, after such summary inquiry, if any, as he thinks necessary, reject any nomination on any of the following grounds:—

(a) that, on the date fixed for the scrutiny of nominations, the candidate is not eligible for election as President or Vice-President, as the case may be, under the Constitution; or

(b) that any of the proposers or seconders is not qualified to subscribe a nomination paper under sub-section (1) of section 5B; or

(c) that the nomination paper is not subscribed by the required number of proposers or seconders; or

(d) that the signature of the candidate or any of the proposers or seconders is not genuine or has been obtained by fraud; or

(e) that there has been a failure to comply with any of the provisions of section 5B or section 5C.

(4) Nothing contained in clauses (b) to (e) of sub-section (3) shall be deemed to authorise the rejection of the nomination of any candidate on the ground of any irregularity in respect of a nomination paper, if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

(5) The returning officer shall not reject any nomination paper on the ground of any defect which is not of a substantial character.

(6) The returning officer shall hold the scrutiny on the date appointed in this behalf under clause (b) of sub-section (1) of section 4 and shall not allow any adjournment of the proceedings except when

such proceedings are interrupted or obstructed by riot or open violence or by causes beyond his control:

Provided that in case an objection is raised by the returning officer or is made by any other person the candidate concerned may be allowed time to rebut it not later than the next day but one following the date fixed for scrutiny, and the returning officer shall record his decision on the date to which the proceedings have been adjourned.

(7) The returning officer shall endorse on each nomination paper his decision accepting or rejecting the same and if the nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection.

(8) For the purposes of this section, a certified copy of an entry in the electoral roll for the time being in force shall be conclusive evidence of the fact that the person referred to in that entry is an elector for that constituency, unless it is proved that he is subject to any of the disqualifications mentioned in section 16 of the Representation of the People Act, 1950." 43 of 1955

**Amend-
ment of
section 6.**

5. In section 6 of the principal Act,—

(a) in sub-section (1), for the words "by his proposer or seconder", the words "by any one of his proposers or seconds" shall be substituted;

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

"(3) The Returning Officer shall, on being satisfied as to the genuineness of a notice of withdrawal and the identity of the person delivering it under sub-section (1), cause the notice to be affixed in some conspicuous place in his office."

**Amend-
ment of
section 14.**

6. In section 14 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) An election petition calling in question an election may be presented on one or more of the grounds specified in sub-section (1) of section 18 and section 19 to the Supreme Court by any candidate at such election, or—

(i) in the case of Presidential election, by twenty or more electors joined together as petitioners;

(ii) in the case of Vice-Presidential election, by ten or more electors joined together as petitioners."

**Amend-
ment
of sec-
tion 18.**

7. For sub-section (1) of section 18 of the principal Act, the following sub-section shall be substituted, namely:—

"(1) If the Supreme Court is of opinion,—

(a) that the offence of bribery or undue influence at the election has been committed by the returned candidate or by any person with the consent of the returned candidate; or

(b) that the result of the election has been materially affected—

(i) by the improper reception or refusal of a vote; or

or 1974] Presidential and Vice-Presidential Elections. 291
(Amendment)

(ii) by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act; or

(iii) by reason of the fact that the nomination of any candidate (other than the successful candidate), who has not withdrawn his candidature, has been wrongly accepted; or

(c) that the nomination of any candidate has been wrongly rejected or the nomination of the successful candidate has been wrongly accepted;

the Supreme Court shall declare the election of the returned candidate to be void.”.

8. In Part IV of the principal Act, before the existing section 21, the following section shall be inserted, namely:—

Inser-
tion
of new
section
20A.

“20A. (1) The deposit made under section 5C shall either be returned to the person making it or his legal representative or be forfeited to the Central Government in accordance with the provisions of this section.

Return
or for-
feiture
of candi-
dates'
deposit.

(2) Except in cases hereafter mentioned in this section, the deposit shall be returned as soon as practicable after the result of the election is declared.

(3) If the candidate is not shown in the list referred to in clause (b) of section 8, or if he dies before the commencement of the poll, the deposit shall be returned as soon as practicable after the publication of the list or after his death, as the case may be.

(4) Subject to the provisions of sub-section (3), the deposit shall be forfeited if at the election where the poll has been taken, the candidate is not elected, and the number of valid votes polled by such candidate does not exceed one-sixth of the number of votes necessary to secure the return of a candidate at such election.”.

9. In section 21 of the principal Act,—

Amend-
ment
of sec-
tion 21.

(1) in sub-section (2),—

(a) in clause (b), for the words “members of both Houses of Parliament”, the words and figures “members of the electoral college referred to in article 66” shall be substituted;

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

“(cc) the form and manner in which public notice under section 5 shall be given by the returning officer;”;

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

“(g) the place and hours of polling, the manner in which votes are to be given both generally and in the case of illiterate voters or voters not conversant with the language in which ballot papers are printed or voters under physical or other disability and the procedure as to voting to be followed at elections;”;

REPEALED

292 Presidential and Vice-Presidential Elections [Act 5 of 1974]
(Amendment)

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

"(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session 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 WATER (PREVENTION AND CONTROL OF POLLUTION) ACT, 1974

ARRANGEMENT OF SECTIONS

SECTIONS

CHAPTER I

PRELIMINARY

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

CHAPTER II

THE CENTRAL AND STATE BOARDS FOR PREVENTION AND CONTROL OF WATER POLLUTION

3. Constitution of Central Board.
4. Constitution of State Boards.
5. Terms and conditions of service of members.
6. Disqualifications.
7. Vacant of seats by members.
8. Meetings of Board.
9. Constitution of committees.
10. Temporary association of persons with Board for particular purposes.
11. Vacancy in Board not to invalidate acts or proceedings.
II A. Delegation of Powers to Chairman.
12. Member-secretary and officers and other employees of Board.

CHAPTER III

JOINT BOARDS

13. Constitution of Joint Boards.
14. Composition of Joint Boards.
15. Special provision relating to giving of directions.

SECTIONS

CHAPTER IV

POWERS AND FUNCTIONS OF BOARDS

16. Functions of Central Board.
17. Functions of State Board.
18. Powers to give directions.

CHAPTER V

PREVENTION AND CONTROL OF WATER POLLUTION

19. Power of State Government to restrict the application of the Act to certain areas.
20. Power to obtain information.
21. Power to take samples of effluents and procedure to be followed in connection therewith.
22. Reports of the result of analysis on samples taken under section 21.
23. Power of entry and inspection.
24. Prohibition on use of stream or well for disposal of polluting matter, etc.
25. Restrictions on new outlets and new discharges.
26. Provision regarding existing discharge of sewage or trade effluent.
27. Refusal or withdrawal of consent by State Board.
28. Appeals.
29. Revision.
30. Power of State Board to carry out certain works.
31. Furnishing of information to State Board and other agencies in certain cases.
32. Emergency measures in case of pollution of stream or well.
33. Power of Board to make application to courts for restraining apprehended pollution of water in streams or wells.

CHAPTER VI

FUNDS, ACCOUNTS AND AUDIT

34. Contributions by Central Government.
35. Contributions by State Government.
36. Fund of Central Board.

SECTIONS

- 37. Fund of State Board.
- 38. Budget.
- 39. Annual report.
- 40. Accounts and audit.

CHAPTER VII

PENALTIES AND PROCEDURE

- 41. Failure to comply with directions under sub-section (2) or sub-section (3) of section 20 or orders issued under clause (c) of sub-section (1) of section 32.
- 42. Penalty for certain acts.
- 43. Penalty for contravention of provisions of section 24.
- 44. Penalty for contravention of section 25 or section 26.
- 45. Enhanced penalty after previous conviction.
- 46. Publication of names of offenders.
- 47. Offences by companies.
- 48. Offences by Government departments.
- 49. Cognizance of offences.
- 50. Members, officers and servants of Board to the public servants.

CHAPTER VIII

MISCELLANEOUS

- 51. Central Water Laboratory.
- 52. State Water Laboratory.
- 53. Analysts.
- 54. Reports of analysts.
- 55. Local authorities to assist.
- 56. Compulsory acquisition of land for the State Board.
- 57. Returns and reports.
- 58. Bar of jurisdiction.
- 59. Protection of action taken in good faith.
- 60. Overriding effect.
- 61. Power of Central Government to supersede the Central Board and Joint Boards.
- 62. Power of State Government to supersede State Board.
- 63. Power of Central Government to make rules.
- 64. Power of State Government to make rules.

THE WATER (PREVENTION AND CONTROL OF POLLUTION) ACT, 1974

No. 6 of 1974

[23rd March, 1974]

An Act to provide for the prevention and control of water pollution and the maintaining or restoring of wholesomeness of water, for the establishment, with a view to carrying out the purposes aforesaid, of Boards for the prevention and control of water pollution, for conferring on and assigning to such Boards powers and functions relating thereto and for matters connected therewith.

WHEREAS it is expedient to provide for the prevention and control of water pollution and the maintaining or restoring of wholesomeness of water, for the establishment, with a view to carrying out the purposes aforesaid, of Boards for the prevention and control of water pollution and for conferring on and assigning to such Boards powers and functions relating thereto;

AND WHEREAS Parliament has no power to make laws for the States with respect to any of the matters aforesaid except as provided in articles 249 and 250 of the Constitution;

AND WHEREAS in pursuance of clause (1) of article 252 of the Constitution resolutions have been passed by all the Houses of the Legislatures of the States of Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Karnataka, Kerala, Madhya Pradesh, Rajasthan, Tripura and West Bengal to the effect that the matters aforesaid should be regulated in those States by Parliament by law;

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Water (Prevention and Control of Pollution) Act, 1974.

(2) It applies in the first instance to the whole of the States of Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Karnataka, Kerala, Madhya Pradesh, Rajasthan, Tripura and West Bengal and the Union territories; and it shall apply to such other State which adopts this Act by resolution passed in that behalf under clause (1) of article 252 of the Constitution.

(3) It shall come into force, at once in the States of Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Karnataka, Kerala, Madhya Pradesh, Rajasthan, Tripura and West Bengal and in the Union territories, and in any other State which adopts this Act under clause (1) of article 252 of the Constitution on the date of such adoption and any reference in this Act to the commencement of this Act shall, in relation to any State or Union territory, mean the date on which this Act comes into force in such State or Union territory.

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

Short title,
application and
commencement.

Definitions.

(a) "Board" means the Central Board or a State Board;

(b) "Central Board" means the Central Board for the Prevention and Control of Water Pollution constituted under section 3;

(c) "member" means a member of a Board and includes the chairman thereof;

(d) "occupier" in relation to any factory or premises means the person who has control over the affairs of the factory or the premises and where the said affairs are entrusted to a managing agent, such agent shall be deemed to be the occupier of the factory or the premises;

(e) "pollution" means such contamination of water or such alteration of the physical, chemical or biological properties of water or such discharge of any sewage or trade effluent or of any other liquid, gaseous or solid substance into water (whether directly or indirectly);

as may, or is likely to, create a nuisance or render such water harmful or injurious to public health or safety, or to domestic, commercial, industrial, agricultural or other legitimate uses, or to the life and health of animals or plants or of aquatic organisms;

(f) "prescribed" means prescribed by rules made under this Act by the Central Government or, as the case may be, the State Government;

(g) "sewage effluent" means effluent from any sewerage system or sewage disposal works and includes sullage from open drains;

(h) "State Board" means a State Board for the Prevention and Control of Water Pollution constituted under section 4;

(i) "State Government" in relation to a Union territory means the Administrator thereof appointed under article 239 of the Constitution;

(j) "stream" includes—

(i) river;

(ii) water course (whether flowing or for the time being dry);

(iii) inland water (whether natural or artificial);

(iv) sub-terranean waters;

(v) sea or tidal waters to such extent or, as the case may be, to such point as the State Government may, by notification in the Official Gazette, specify in this behalf;

(k) "trade effluent" includes any liquid, gaseous or solid substance which is discharged from any premises used for carrying on any trade or industry, other than domestic sewage.

CHAPTER II

THE CENTRAL AND STATE BOARDS FOR PREVENTION AND CONTROL OF WATER POLLUTION

Constitu-
tion of
Central
Boards.

3. (1) The Central Government shall, with effect from such date (being a date not later than six months of the commencement of this Act in the States of Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Karnataka, Kerala, Madhya Pradesh, Rajasthan, Tripura and West Bengal and in the Union territories) as it may, by notification in the Official Gazette, appoint, constitute a Central Board to be called the Central Board for the Prevention and Control of Water Pollution to exercise the powers conferred on and perform the functions assigned to that Board under this Act.

✓ Due by Act 44 of 1978, S. 2.

(2) The Central Board shall consist of the following members, namely:—

- (a) a full-time chairman, being a person having special knowledge or practical experience in respect of matters relating to the use and conservation of water resources or the prevention and control of water pollution or a person having knowledge and experience in administering institutions dealing with the matters aforesaid, to be nominated by the Central Government;
- (b) five officials to be nominated by the Central Government to represent that Government;
- (c) such number of persons, not exceeding five, to be nominated by the Central Government, from amongst the members of the State Boards, of whom not exceeding two shall be from those referred to in clause (c) of sub-section (2) of section 4;
- (d) three non-officials to be nominated by the Central Government, to represent the interests of agriculture, fishery or industry or trade or any other interest which, in the opinion of the Central Government, ought to be represented;
- (e) two persons to represent the companies or corporations owned, controlled or managed by the Central Government, to be nominated by that Government;
- (f) a full-time member-secretary qualified in public health engineering and having administrative experience, to be appointed by the Central Government.

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

(3xx)

Constitu-
tion of
State
Board.

4. (1) The State Government shall, with effect from such date (theinafter a date not later than six months of the commencement of this Act in the State) as it may, by notification in the Official Gazette, appoint, constitute a State Board, under such name as may be specified in the notification, to exercise the powers conferred on and perform the functions assigned to that Board under this Act.

(2) A State Board shall consist of the following members, namely:—

- 3xx
- (a) a full-time chairman, being a person having special knowledge or practical experience in respect of matters relating to the use and conservation of water resources or the prevention and control of water pollution or a person having knowledge and experience in administering institutions dealing with the matters aforesaid, to be nominated by the State Government;
 - (b) five officials to be nominated by the State Government to represent that Government;
 - (c) five persons to be nominated by the State Government from amongst the members of the local authorities functioning within the State;

4 Subs. by Act 44 of 1972, S.3.

2 Omitted by S.4, 1972, (w.e.f. 1-4-1972).

3 Omitted, subs. & ins. by 1972.

(d) three non-officials to be nominated by the State Government to represent the interests of agriculture, fishery or industry or trade or any other interest which, in the opinion of the State Government, ought to be represented;

(e) two persons to represent the companies or corporations owned, controlled or managed by the State Government, to be nominated by that Government;

(f) a full-time member-secretary qualified in public health engineering and having administrative experience, to be appointed by the State Government.

(3) Every State Board shall be a body corporate with the name specified by the State Government in the notification under sub-section (1), having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract, and may, by the said name, sue or be sued.

(4) Notwithstanding anything contained in this section, no State Board shall be constituted for a Union territory and in relation to a Union territory, the Central Board shall exercise the powers and perform the functions of a State Board for that Union territory:

Provided that in relation to any Union territory the Central Board may delegate all or any of its powers and functions under this sub-section to such person or body of persons as the Central Government may specify.

**Terms
and
condi-
tions of
service
of mem-
bers.**

5. (1) Save as otherwise provided by or under this Act, a member of a Board, other than a member-secretary, shall hold office for a term of three years from the date of his nomination:

Provided that a member shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

(2) The term of office of a member of a Board nominated under clause (b) of sub-section (2) of section 3 or clause (b) of sub-section (2) of section 4 shall come to an end as soon as he ceases to hold the office under the Central Government or, as the case may be, the State Government, by virtue of which he was nominated.

(3) The Central Government or, as the case may be, the State Government may, if it thinks fit, remove any member of a Board before the expiry of his term of office, after giving him a reasonable opportunity of showing cause against the same.

(4) A member of a Board, other than the member-secretary, may at any time resign his office by writing under his hand addressed—

(a) in the case of the chairman to the Central Government or, as the case may be, the State Government; and

(b) in any other case, to the chairman of the Board;
and the seat of the chairman or such other member shall thereupon become vacant.

1 Subs. by Act No. 13 of 1978, S. 4.

2 Subs. by S. 5, Clrd.

(5) A member of a Board, other than the member-secretary, shall be deemed to have vacated his seat if he is absent without reason, sufficient in the opinion of the Board, from three consecutive meetings of the Board, or where he is nominated under clause (c) of sub-section (2) of section 3 or under clause (c) of sub-section (2) of section 4, if he ceases to be a member of the State Board, or as the case may be, of the local authority.

(6) A casual vacancy in a Board shall be filled by a fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term for which the member in whose place he was nominated.

(7) A member of a Board shall not be eligible for renomination for more than two terms.

(8) The other terms and conditions of service of a member of a Board, other than the chairman and member-secretary, shall be such as may be prescribed.

(9) The other terms and conditions of service of the chairman shall be such as may be prescribed.

6. (1) No person shall be a member of a Board, who—

Disqualifications.

(a) is, or at any time has been adjudged insolvent or has suspended payment of his debts or has compounded with his creditors, or

(b) is of unsound mind and stands so declared by a competent court, or

(c) is, or has been, convicted of an offence which, in the opinion of the Central Government or, as the case may be, of the State Government, involves moral turpitude, or

(d) is, or at any time has been, convicted of an offence under this Act, or

(e) has directly or indirectly by himself or by any partner, any share or interest in any firm or company carrying on the business of manufacture, sale or hire of machinery, plant, equipment, apparatus or fittings for the treatment of a sewage or trade effluents, or

(f) is a director or a secretary, manager or other salaried officer or employee of any company or firm having any contract with the Board, or with the Government constituting the Board, or with a local authority in the State, or with a company or corporation owned, controlled or managed by the Government, for the carrying out of sewerage schemes or for the installation of plants for the treatment of sewage or trade effluents, or

(g) has so abused, in the opinion of the Central Government or as the case may be, of the State Government, his position as a member, as to render his continuance on the Board detrimental to the interest of the general public.

↑ Subs. by Act 44 of 1978, S. 5.

(2) No order of removal shall be made by the Central Government or the State Government, as the case may be, under this section unless the member concerned has been given a reasonable opportunity of showing cause against the same.

(3) Notwithstanding anything contained in sub-sections (1) and (7) of section 5, a member who has been removed under this section shall not be eligible for renomination as a member.

Vacation
of seats by
members.

7. If a member of a Board becomes subject to any of the disqualifications specified in section 6, his seat shall become vacant.

Meetings
of Board.

8. A Board shall meet at least once in every three months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed:

Provided that if, in the opinion of the chairman, any business of an urgent nature is to be transacted, he may convene a meeting of the Board at such time as he thinks fit for the aforesaid purpose.

Constitu-
tion of
commit-
tees.

9. (1) A Board may constitute as many committees consisting wholly of members or wholly of other persons or partly of members and partly of other persons, and for such purpose or purposes as it may think fit.

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

Tempo-
rary asso-
ciation of
persons
with
Board for
particular
purposes.

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

10. (1) A Board may associate with itself in such manner, and for such purposes, as may be prescribed any person whose assistance or advice it may desire to obtain in performing any of its functions under this Act.

(2) A person associated with the Board under sub-section (1) for any purpose shall have a right to take part in the discussions of the Board relevant to that purpose, but shall not have a right to vote at a meeting of the Board, and shall not be a member for any other purpose.

Vacancy
in Board
not to
invalidate
acts or
proceed-
ings.

11. No act or proceeding of a Board or any committee thereof shall be called in question on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Board or such committee, as the case may be.

Member-
secretary
and offi-
cers and
other em-
ployees of
Board.

12. (1) The terms and conditions of service of the member-secretary shall be such as may be prescribed.

(2) The member-secretary shall exercise such powers and perform such duties as may be prescribed or as may, from time to time, be delegated to him by the Board or its chairman.

3 x x x)

(3) Subject to such rules as may be made by the Central Government or, as the case may be, the State Government in this behalf, a Board may appoint such officers and employees as it considers necessary for the efficient performance of its functions and the rules so made may provide

1. Sua. by Act 44 of 1978, s. 6

2. Sua. by s. 17, 1981

3. Amended by S. 8, 1981

~~for the salaries and allowances and other terms and conditions of service of such officers and employees.~~

(4) Subject to such conditions as may be prescribed, a Board may from time to time appoint any qualified person to be a consulting engineer to the Board and pay him such salaries and allowances and subject him to such other terms and conditions of service as it thinks fit.

CHAPTER III

JOINT BOARDS

13. (1) Notwithstanding anything contained in this Act, an agreement may be entered into—

Constitution of Joint Board.

(a) by two or more Governments of contiguous States, or

(b) by the Central Government (in respect of one or more Union territories) and one or more Governments of States contiguous to such Union territory or Union territories,

to be in force for such period and to be subject to renewal for such further period, if any, as may be specified in the agreement to provide for the constitution of a Joint Board,—

(i) in a case referred to in clause (a), for all the participating States, and

(ii) in a case referred to in clause (b), for the participating Union territory or Union territories and the State or States.

(2) An agreement under this section may—

(a) provide, in a case referred to in clause (a) of sub-section (1), for the apportionment between the participating States and in a case referred to in clause (b) of that sub-section, for the apportionments between the Central Government and the participating State Government or State Governments, of the expenditure in connection with the Joint Board;

(b) determine, in a case referred to in clause (a) of sub-section (1), which of the participating State Governments and in a case referred to in clause (b) of that sub-section, whether the Central Government or the participating State Government (if there are more than one participating State, also which of the participating State Governments) shall exercise and perform the several powers and functions of the State Government under this Act and the references in this Act to the State Government shall be construed accordingly;

(c) provide for consultation, in a case referred to in clause (a) of sub-section (1), between the participating State Governments and in a case referred to in clause (b) of that sub-section, between the Central Government and the participating State Government or State Government either generally or with reference to particular matters arising under this Act;

(d) make such incidental and ancillary provisions, not inconsistent with this Act, as may be deemed necessary or expedient for giving effect to the agreement.

↓ S. 303, by Act 44 of 1978, S. 8.

Composition
of
Joint
Boards.

(3) An agreement under this section shall be published, in a case referred to in clause (a) of sub-section (1), in the Official Gazette of the participating States and in a case referred to in clause (b) of that sub-section, in the Official Gazette of the participating Union territory or Union territories and the participating State or States.

14. (1) A Joint Board constituted in pursuance of an agreement entered into under clause (a) of sub-section (1) of section 13 shall consist of the following members, namely:—

(a) a full-time chairman, being a person having special knowledge or practical experience in respect of matters relating to the use and conservation of water resources or the prevention and control of water pollution or a person having knowledge and experience in administering institutions dealing with the matters aforesaid, to be nominated by the Central Government;

(b) two officials from each of the participating States to be nominated by the concerned participating State Government to represent that Government;

(c) one person to be nominated by each of the participating State Governments from amongst the members of the local authorities functioning within the State concerned;

(d) one non-official to be nominated by each of the participating State Governments to represent the interests of agriculture, fishery or industry or trade in the State concerned or any other interest which, in the opinion of the participating State Government, is to be represented;

(e) two persons to be nominated by the Central Government to represent the companies or corporations owned, controlled or managed by the participating State Governments;

(f) a full-time member-secretary qualified in public health engineering and having administrative experience, to be appointed by the Central Government.

(2) A Joint Board constituted in pursuance of an agreement entered into under clause (b) of sub-section (1) of section 13 shall consist of the following members, namely:—

(a) a full-time chairman, being a person having special knowledge or practical experience in respect of matters relating to the use and conservation of water resources or the prevention and control of water pollution or a person having knowledge and experience in administering institutions dealing with the matters aforesaid, to be nominated by the Central Government;

(b) two officials to be nominated by the Central Government from the participating Union territory or each of the participating Union territories, as the case may be, and two officials to be nominated, from the participating State or each of the participating States, as the case may be, by the concerned participating State Government;

(c) one person to be nominated by the Central Government from amongst the members of the local authorities functioning within the participating Union territory or each of the participating Union territories, as the case may be, and one person to be nominated, from amongst the members of the local authorities functioning within the participating State or each of the participating States, as the case may be, by the concerned participating State Government;

✓ Sub. by Act 44 of 1978, S.9.

(d) one non-official to be nominated by the Central Government and one person to be nominated by the participating State Government or State Governments to represent the interests of agriculture, fishery or industry or trade in the Union territory or in each of the Union territories or the State or in each of the States, as the case may be, or any other interest which in the opinion of the Central Government or, as the case may be, of the State Government is to be represented;

(e) two persons to be nominated by the Central Government to represent the companies or corporations owned, controlled or managed by the Central Government and situate in the participating Union territory or territories and two persons to be nominated by the Central Government to represent the companies or corporations owned, controlled or managed by the participating State Governments;

(f) a full-time member-secretary qualified in public health engineering and having administrative experience, to be appointed by the Central Government.

(3) When a Joint Board is constituted in pursuance of an agreement under clause (b) of sub-section (1) of section 13, the provisions of sub-section (4) of section 4 shall cease to apply in relation to the Union territory for which the Joint Board is constituted.

(4) Subject to the provisions of sub-section (3), the provisions of sub-section (3) of section 4 and sections 5 to 12 (inclusive) shall apply in relation to the Joint Board and its member-secretary as they apply in relation to a State Board and its member-secretary.

(5) Any reference in this Act to the State Board shall, unless the context otherwise requires, be construed as including a Joint Board.

15. Notwithstanding anything contained in this Act where any Joint Board is constituted under section 13,—

(a) the Government of the State for which the Joint Board is constituted shall be competent to give any direction under this Act only in cases where such direction relates to a matter within the exclusive territorial jurisdiction of the State;

(b) the Central Government alone shall be competent to give any direction under this Act where such direction relates to a matter within the territorial jurisdiction of two or more States or pertaining to a Union territory.

Special provision relating to giving of directions.

CHAPTER IV

POWERS AND FUNCTIONS OF BOARDS

16. (1) Subject to the provisions of this Act, the main function of the Central Board shall be to promote cleanliness of streams and wells in different areas of the States.

Functions of Central Board.

(2) In particular and without prejudice to the generality of the foregoing function, the Central Board may perform all or any of the following functions, namely:—

(a) advise the Central Government on any matter concerning the prevention and control of water pollution;

- (b) co-ordinate the activities of the State Boards and resolve disputes among them;
- (c) provide technical assistance and guidance to the State Boards, carry out and sponsor investigations and research relating to problems of water pollution and prevention, control or abatement of water pollution;
- (d) plan and organise the training of persons engaged or to be engaged in programmes for the prevention, control or abatement of water pollution on such terms and conditions as the Central Board may specify;
- (e) organise through mass media a comprehensive programme regarding the prevention and control of water pollution;
- (f) collect, compile and publish technical and statistical data relating to water pollution and the measures devised for its effective prevention and control and prepare manuals, codes or guides relating to treatment and disposal of sewage and trade effluents and disseminate information connected therewith;
- (g) lay down, modify or annul, in consultation with the State Government concerned, the standards for a stream or well:

Provided that different standards may be laid down for the same stream or well or for different streams or wells, having regard to the quality of water, flow characteristics of the stream or well and the nature of the use of the water in such stream or well or streams or wells;

- (h) plan and cause to be executed a nation-wide programme for the prevention, control or abatement of water pollution;
- (i) perform such other functions as may be prescribed.

(3) The Board may establish or recognise a laboratory or laboratories to enable the Board to perform its functions under this section efficiently including the analysis of samples of water from any stream or well or of samples of any sewage or trade effluents.

**Functions
of State
Board.**

17. (1) Subject to the provisions of this Act, the functions of a State Board shall be—

- (a) to plan a comprehensive programme for the prevention, control or abatement of pollution of streams and wells in the State and to secure the execution thereof;
- (b) to advise the State Government on any matter concerning the prevention, control or abatement of water pollution;
- (c) to collect and disseminate information relating to water pollution and the prevention, control or abatement thereof;
- (d) to encourage, conduct and participate in investigations and research relating to problems of water pollution and prevention, control or abatement of water pollution;
- (e) to collaborate with the Central Board in organising the training of persons engaged or to be engaged in programmes relating,

to prevention, control or abatement of water pollution and to organise mass education programmes relating thereto;

(f) to inspect sewage or trade effluents, works and plants for the treatment of sewage and trade effluents and to review plans, specifications or other data relating to plants set up for the treatment of water, works for the purification thereof and the system for the disposal of sewage or trade effluents or in connection with the grant of any consent as required by this Act;

(g) to lay down, modify or annul effluent standards for the sewage and trade effluents and for the quality of receiving waters (not being water in an inter-State stream) resulting from the discharge of effluents and to classify waters of the State;

(h) to evolve economical and reliable methods of treatment of sewage and trade effluents, having regard to the peculiar conditions of soils, climate and water resources of different regions and more especially the prevailing flow characteristics of water in streams and wells which render it impossible to attain even the minimum degree of dilution;

(i) to evolve methods of utilisation of sewage and suitable trade effluents in agriculture;

(j) to evolve efficient methods of disposal of sewage and trade effluents on land, as are necessary on account of the predominant conditions of scant stream flows that do not provide for major part of the year the minimum degree of dilution;

(k) to lay down standards of treatment of sewage and trade effluents to be discharged into any particular stream taking into account the minimum fair weather dilution available in that stream and the tolerance limits of pollution permissible in the water of the stream, after the discharge of such effluents;

(l) to make, vary or revoke any order—

(i) for the prevention, control or abatement of discharges of waste into streams or wells;

(ii) requiring any person concerned to construct new systems for the disposal of sewage and trade effluents or to modify, alter or extend any such existing system or to adopt such remedial measures as are necessary to prevent, control or abate water pollution;

(m) to lay down effluent standards to be complied with by persons while causing discharge of sewage or sullage or both and to lay down, modify or annul effluent standards for the sewage and trade effluents;

(n) to advise the State Government with respect to the location of any industry the carrying on of which is likely to pollute a stream or well;

(o) to perform such other functions as may be prescribed or as may, from time to time, be entrusted to it by the Central Board or the State Government.

(2) The Board may establish or recognise a laboratory or laboratories to enable the Board to perform its functions under this section efficiently, including the analysis of samples of water from any stream or well or of samples of any sewage or trade effluents.

**Powers
to give
directions.**

18. In the performance of its functions under this Act—

(a) the Central Board shall be bound by such directions in writing as the Central Government may give to it; and

(b) every State Board shall be bound by such directions in writing as the Central Board or the State Government may give to it:

Provided that where a direction given by the State Government is inconsistent with the direction given by the Central Board, the matter shall be referred to the Central Government for its decision.

CHAPTER V

PREVENTION AND CONTROL OF WATER POLLUTION

**Power
of State
Govern-
ment to
restrict
the appli-
cation of
the Act to
certain
areas.**

19. (1) Notwithstanding anything contained in this Act, if the State Government, after consultation with, or on the recommendation of, the State Board, is of opinion that the provisions of this Act need not apply to the entire State, it may, by notification in the Official Gazette, restrict the application of this Act to such area or areas as may be declared therein as water pollution, prevention and control area or areas and thereupon the provisions of this Act shall apply only to such area or areas.

(2) Each water pollution, prevention and control area may be declared either by reference to a map or by reference to the line of any watershed or the boundary of any district or partly by one method and partly by another.

(3) The State Government may, by notification in the Official Gazette,—

(a) alter any water pollution, prevention and control area whether by way of extension or reduction; or

(b) define a new water pollution, prevention and control area in which may be merged one or more water pollution, prevention and control areas, or any part or parts thereof.

**Power to
obtain
informa-
tion.**

20. (1) For the purpose of enabling a State Board to perform the functions conferred on it by or under this Act, the State Board or any officer empowered by it in that behalf, may make surveys of any area and gauge and keep records of the flow or volume and other characteristics of any stream or well in such area, and may take steps for the measurement and recording of the rainfall in such area or any part thereof and for the installation and maintenance for those purposes of gauges or other apparatus and works connected therewith, and carry out stream surveys and may take such other steps as may be necessary in order to obtain any information required for the purposes aforesaid.

(2) A State Board may give directions requiring any person who in its opinion is abstracting water from any such stream or well in the area in quantities which are substantial in relation to the flow or volume of that stream or well or is discharging sewage or trade effluent into any

such stream or well, to give such information as to the abstraction or discharge at such times and in such form as may be specified in the directions.

(3) Without prejudice to the provisions of sub-section (2), a State Board may, with a view to preventing or controlling pollution of water, give directions requiring any person in charge of any establishment where any industry or trade is carried on, to furnish to it information regarding the construction, installation or operation of such establishment or of any disposal system or of any extension or addition thereto in such establishment and such other particulars as may be prescribed.

21. (1) A State Board or any officer empowered by it in this behalf shall have power to take for the purpose of analysis samples of water from any stream or well or samples of any sewage or trade effluent which is passing from any plant or vessel or from or over any place into any such stream or well. Power to take samples of effluents and procedure to be followed in connection therewith.

(2) The result of any analysis of a sample of any sewage or trade effluent taken under sub-section (1) shall not be admissible in evidence in any legal proceeding unless the provisions of sub-sections (3), (4) and (5) are complied with.

(3) Subject to the provisions of sub-sections (4) and (5), when a sample (composite or otherwise as may be warranted by the process used) of any sewage or trade effluent is taken for analysis under sub-section (1), the person taking the sample shall—

(a) serve on the person in charge of, or having control over, the plant or vessel or in occupation of the place (which person is hereinafter referred to as the occupier) or any agent of such occupier, a notice, then and there in such form as may be prescribed of his intention to have it so analysed;

(b) in the presence of the occupier or his agent, divide the sample into two parts;

(c) cause each part to be placed in a container which shall be marked and sealed and shall also be signed both by the person taking the sample and the occupier or his agent;

(d) send one container forthwith,—

(i) in a case where such sample is taken from any area situated in a Union territory, to the laboratory established or recognised by the Central Board under section 16; and

(ii) in any other case, to the laboratory established or recognised by the State Board under section 17;

(e) on the request of the occupier or his agent, send the second container,—

(i) in a case where such sample is taken from any area situated in a Union territory, to the laboratory established or specified under sub-section (1) of section 51; and

(ii) in any other case, to the laboratory established or specified under sub-section (1) of section 52.

(4) When a sample of any sewage or trade effluent is taken for analysis under sub-section (1) and the person taking the sample serves on the occupier or his agent, a notice under clause (a) of sub-section (3) and the occupier or his agent wilfully absents himself, then, the sample so taken shall be placed in a container which shall be marked and sealed and shall also be signed by the person taking the sample and the same shall be sent forthwith by such person for analysis to the laboratory referred to in sub-clause (i) or sub-clause (ii), as the case may be, of clause (e) of sub-section (3) and such person shall inform the Government analyst appointed under sub-section (1) or sub-section (2), as the case may be, of section 53, in writing about the wilful absence of the occupier or his agent.

(5) When a sample of any sewage or trade effluent is taken for analysis under sub-section (1) and the person taking the sample serves on the occupier or his agent a notice under clause (a) of sub-section (3) and the occupier or his agent who is present at the time of taking the sample does not make a request for dividing the sample into two parts as provided in clause (b) of sub-section (3), then, the sample so taken shall be placed in a container which shall be marked and sealed and shall also be signed by the person taking the sample and the same shall be sent forthwith by such person for analysis to the laboratory referred to in sub-clause (i) or sub-clause (ii), as the case may be, of clause (d) of sub-section (3).

Reports
of the
result of
analysis
on
samples
taken
under
section 21.

22. (1) Where a sample of any sewage or trade effluent has been sent for analysis to the laboratory established or recognised by the Central Board or, as the case may be, the State Board, the concerned Board analyst appointed under sub-section (3) of section 53 shall analyse the sample and submit a report in the prescribed form of the result of such analysis in triplicate to the Central Board or the State Board, as the case may be.

(2) On receipt of the report under sub-section (1), one copy of the report shall be sent by the Central Board or the State Board, as the case may be, to the occupier or his agent referred to in section 21, another copy shall be preserved for production before the court in case any legal proceedings are taken against him and the other copy shall be kept by the concerned Board.

(3) Where a sample has been sent for analysis under clause (e) of sub-section (3) or sub-section (4) of section 21 to any laboratory mentioned therein, the Government analyst referred to in that sub-section shall analyse the sample and submit a report in the prescribed form of the result of the analysis in triplicate to the Central Board or, as the case may be, the State Board which shall comply with the provisions of sub-section (2).

(4) If there is any inconsistency or discrepancy between, or variation in the results of, the analysis carried out by the laboratory established or recognised by the Central Board or the State Board, as the case may be, and that of the laboratory established or specified under section 51 or section 52, as the case may be, the report of the latter shall prevail.

(5) Any cost incurred in getting any sample analysed at the request of the occupier or his agent shall be payable by such occupier or his agent and in case of default the same shall be recoverable from him as arrears of land revenue or of public demand.

Subs. by Act 44 of 1978, S. 10.

Power of entry and inspection.

23. (1) Subject to the provisions of this section, any person empowered by a State Board in this behalf shall have a right at any time to enter, with such assistance as he considers necessary, any place—

(a) for the purpose of performing any of the functions of the Board entrusted to him;

(b) for the purpose of determining whether and if so in what manner, any such functions are to be performed or whether any provisions of this Act or the rules made thereunder of any notice, order, direction or authorisation served, made, given, or granted under this Act is being or has been complied with;

(c) for the purpose of examining any plant, record, register, document or any other material object or for conducting a search of any place in which he has reason to believe that an offence under this Act or the rules made thereunder has been or is being or is about to be committed and for seizing any such plant, record, register, document or other material object, if he has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act or the rules made thereunder:

Provided that the right to enter under this sub-section for the inspection of a well shall be exercised only at reasonable hours in a case where such well is situated in any premises used for residential purposes and the water thereof is used exclusively for domestic purposes.

5 of 1898.

(2) The provisions of the Code of Criminal Procedure, 1898, or, in relation to the State of Jammu and Kashmir, the provisions of any corresponding law in force in that State, shall, so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 98 of the said Code, or, as the case may be, under the corresponding provisions of the said law.

[Section 94]

Explanation.—For the purposes of this section, “place” includes vessel.

24. (1) Subject to the provisions of this section,—

(a) no person shall knowingly cause or permit any poisonous, noxious or polluting matter determined in accordance with such standards as may be laid down by the State Board to enter (whether directly or indirectly) into any stream or well; or

(b) no person shall knowingly cause or permit to enter into any stream any other matter which may tend, either directly or in combination with similar matters, to impede the proper flow of the water of the stream in a manner leading or likely to lead to a substantial aggravation of pollution due to other causes or of its consequences.

Prohibition on use of stream or well for disposal of polluting matter, etc.

(2) A person shall not be guilty of an offence under sub-section (1), by reason only of having done or caused to be done any of the following acts, namely:—

(a) constructing, improving or maintaining in or across or on the bank or bed of any stream any building, bridge, weir, dam, sluice, dock, pier, drain or sewer or other permanent works which he has a right to construct, improve or maintain;

✓ S. 24. by Act 44 of 1978, S. 11.

(b) depositing any materials on the bank or in the bed of any stream for the purpose of reclaiming land or for supporting, repairing or protecting the bank or bed of such stream provided such materials are not capable of polluting such stream;

(c) putting into any stream any sand or gravel or other natural deposit which has flowed from or been deposited by the current of such stream;

(d) causing or permitting, with the consent of the State Board, the deposit accumulated in a well, pond or reservoir to enter into any stream.

(3) The State Government may, after consultation with, or on the recommendation of, the State Board, exempt, by notification in the Official Gazette, any person from the operation of sub-section (1) subject to such conditions, if any, as may be specified in the notification and any condition so specified may by a like notification be altered, varied or amended.

Restrictions on new outlets and new discharges.

25. (1) Subject to the provisions of this section no person shall, without the previous consent of the State Board, bring into use any new or altered outlet for the discharge of sewage or trade effluent into a stream or well or begin to make any new discharge of sewage or trade effluent into a stream or well.

(2) An application for consent of the State Board under sub-section (1) shall be made in the prescribed form and shall contain particulars regarding the proposed construction, installation or operation of the industrial or commercial establishment or of any treatment and disposal system or of any extension or addition thereto and such other particulars as may be prescribed.

(3) The State Board may make such inquiry as it may deem fit in respect of the application for consent referred to in sub-section (1) and in making any such inquiry shall follow such procedure as may be prescribed.

(4) The State Board may grant its consent referred to in sub-section (1), subject to such conditions as it may impose, being—

(a) in the case of a new or altered outlet, conditions as to the point of discharge into the stream or well or the construction of the outlet, or as to the use of that outlet or any other outlet for sewage or trade effluent from the same land or premises; and

(b) in the case of a new discharge, conditions as to the nature and composition, temperature, volume or rate of discharge of the effluent from the land or premises from which the new discharge is to be made,

and any such conditions imposed shall be binding on any person using the outlet, or discharging the effluent from the land or premises aforesaid.

(5) Where, without the consent of the State Board, a new or altered outlet is brought into use for the discharge of sewage or trade effluent into a stream or well or a new discharge of sewage or trade effluent is made, the State Board may serve on the person using the outlet or making the discharge, as the case may be, a notice imposing any such conditions as it might have imposed on an application for its consent in respect to such outlet or discharge.

↓ Subs. at S. 1978, S/2.

(6) Every State Board shall maintain a register containing such particulars of the conditions imposed under this section in relation to outlets or in relation to effluent from land or premises in its jurisdiction and as are for the time being in force (other than the conditions to be satisfied before an outlet is brought into use or a new discharge is made) and so much of the register as relates to any outlet, or to any effluent from such land or premises shall be open to inspection at all reasonable hours by any person interested in, or affected by, the outlet, or in the land or premises, as the case may be, or by any person authorised by him in this behalf and the conditions so contained in such register shall be conclusive proof that the consent was granted subject to such conditions.

(7) The consent referred to in sub-section (1) shall, unless given or refused earlier, be deemed to have been given unconditionally on the expiry of a period of four months of the making of an application in this behalf complete in all respects to the State Board.

(8) For the purposes of this section and sections 27 and 30,—

(a) the expression "new or altered outlet" means any outlet which is wholly or partly constructed on or after the commencement of this Act or which (whether so constructed or not) is substantially altered after such commencement;

(b) the expression "new discharge" means a discharge which is not, as respects the nature and composition, temperature, volume, and rate of discharge of the effluent substantially a continuation of a discharge made within the preceding twelve months (whether by the same or a different outlet), so however that a discharge which is in other respects a continuation of previous discharge made as aforesaid shall not be deemed to be a new discharge by reason of any reduction of the temperature or volume or rate of discharge of the effluent as compared with the previous discharge.

26. Where immediately before the commencement of this Act any person was discharging any sewage or trade effluent into a stream or well, the provisions of section 25 shall, so far as may be, apply in relation to such person as they apply in relation to the person referred to in that section subject to the modification that the application for consent to be made under sub-section (2) of that section shall be made within a period of three months of the constitution of the State Board.

Provision regarding existing discharge of sewage or trade effluent.

27. (1) A State Board shall not grant its consent to the bringing into use of a new or altered outlet unless the outlet is so constructed as to comply with any conditions imposed by the Board to enable it to exercise its right to take samples of the effluent.

Refusal or withdrawal of consent by State Board.

(2) A State Board may from time to time review any condition imposed under section 25 (other than a condition to be satisfied before an outlet is brought into use or a new discharge is made), or under section 26 and may serve on the person using the outlet or making the discharge, as the case may be, a notice, making any reasonable variation of or revoking any such condition.

(3) Any condition imposed under section 25 or section 26 shall be subject to any variation made under sub-section (2) and shall continue in force until revoked under that sub-section.

29 Law—41.

*To S. 26. by Act 44 of 1970, S. 13.
I S. 26. by S. 14, Lbed.*

Appeals.

28. (1) Any person aggrieved by an order made by the State Board under section 25, section 26 or section 27 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to such authority (hereinafter referred to as the appellate authority) as the State Government may think fit to constitute:

Provided that the appellate authority may entertain the appeal after the expiry of the said period of thirty days if such authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) ~~An appellate authority shall consist of three persons.~~

(3) The form and manner in which an appeal may be preferred under sub-section (1), the fees payable for such appeal and the procedure to be followed by the appellate authority shall be such as may be prescribed.

(4) On receipt of an appeal preferred under sub-section (1), the appellate authority shall, after giving the appellant and the State Board an opportunity of being heard, dispose of the appeal as expeditiously as possible.

(5) If the appellate authority determines that any condition imposed, or the variation of any condition, as the case may be, was unreasonable, then,—

(b) where the appeal is in respect of the unreasonableness of any condition imposed, such authority may direct either that the condition shall be treated as annulled or that there shall be substituted for it such condition as appears to it to be reasonable;

(b) where the appeal is in respect of the unreasonableness of any variation of a condition, such authority may direct either that the condition shall be treated as continuing in force unvaried or that it shall be varied in such manner as appears to it to be reasonable.

Revision.

29. (1) The State Government may at any time either of its own motion or on an application made to it in this behalf, call for the records of any case where an order has been made by the State Board under section 25, section 26 or section 27 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 may think fit:

Provided that the State Government shall not pass any order under this sub-section without affording the State Board and the person who may be affected by such order a reasonable opportunity of being heard in the matter.

(2) The State Government shall not revise any order made under section 25, section 26 or section 27 where an appeal against that order lies to the appellate authority, but has not been preferred or where an appeal has been preferred such appeal is pending before the appellate authority.

Power
of State
Board to
carry out
certain
works.

30. (1) Where under this Act any conditions have been imposed on any person for bringing into use any new or altered outlet for the discharge of sewage or trade effluent into a stream or well or for making any new discharge of sewage or trade effluent into a stream or well or on any person who, immediately before the commencement of this Act, was

↓ Satis. by Act 44 of 1978, S. 15.

discharging any sewage or trade effluent in a stream or well and such conditions require such person to execute any work in connection therewith and such work has not been executed within such time as may be specified in this behalf, the State Board may serve on the person concerned a notice requiring him within such time (not being less than thirty days) as may be specified in the notice to execute the work specified therein.

(2) If the person concerned fails to execute the work as required in the notice referred to in sub-section (1), then, after the expiration of the time specified in the said notice, the State Board may itself execute or cause to be executed such work:

(3) All expenses incurred by the State Board for the execution of the aforesaid work, together with interest, at such rate as the State Government may, by order, fix, from the date when a demand for the expenses is made until it is paid, may be recovered by that Board from the person concerned, as arrears of land revenue, or of public demand.

31. (1) If at any place where any industry or trade is being carried on, due to accident or other unforeseen act or event, any poisonous, noxious or polluting matter is being discharged, or is likely to be discharged into a stream or well and, as a result of such discharge, the water in such stream or well is being polluted, or is likely to be polluted, then, the person in charge of such place shall forthwith intimate the occurrence of such accident, act or event to the State Board and to such other authorities or agencies as may be prescribed.

Furnish
ing of
informa-
tion to
State
Board
and other
agencies
in certain
cases.

(2) Where any local authority operates any sewerage system or sewage works, the provisions of sub-section (1) shall apply to such local authority as they apply in relation to the person in charge of the place where any industry or trade is being carried on.

32. (1) Where it appears to the State Board that any poisonous, noxious or polluting matter is present in any stream or well or has entered into that stream or well due to any accident or other unforeseen act or event, and if the Board is of opinion that it is necessary or expedient to take immediate action, it may for reasons to be recorded in writing, carry out such operations as it may consider necessary for all or any of the following purposes, that is to say,—

Emer-
gency
measures
in case of
pollution
of stream
or well.

(a) removing that matter from the stream or well and disposing it of in such manner as the Board considers appropriate;

(b) remedying or mitigating any pollution caused by its presence in the stream or well;

(c) issuing orders immediately restraining or prohibiting the person concerned from discharging any poisonous, noxious or polluting matter into the stream or well, or from making insanitary use of the stream or well.

(2) The power conferred by sub-section (1) does not include the power to construct any works other than works of a temporary character which are removed on or before the completion of the operations.

Power of Board to make application to courts for restraining apprehended pollution of water in streams or wells.

33. (1) Where it is apprehended by a Board that the water in any stream or well is likely to be polluted by reason of the disposal of any matter therein or of any likely disposal of any matter therein, or otherwise, the Board may make an application to a court, not inferior to that of a Presidency Magistrate or a Magistrate of the first class, for restraining the person who is likely to cause such pollution from so causing.

(2) On receipt of an application under sub-section (1) the court may make such order as it deems fit.

(3) Where under sub-section (2) the court makes an order restraining any person from polluting the water in any stream or well, it may in that order—

(i) direct the person who is likely to cause or has caused the pollution of the water in the stream or well, to desist from taking such action as is likely to cause pollution or, as the case may be, to remove from such stream or well, such matter, and

(ii) authorise the Board, if the direction under clause (i) (being a direction for the removal of any matter from such stream or well) is not complied with by the person to whom such direction is issued, to undertake the removal and disposal of the matter in such manner as may be specified by the court.

(4) All expenses incurred by the Board in removing any matter in pursuance of the authorisation under clause (ii) of sub-section (3) or in the disposal of any such matter may be defrayed out of any money obtained by the Board from such disposal and any balance outstanding shall be recoverable from the person concerned as arrears of land revenue or of public demand.

CHAPTER VI

FUNDS, ACCOUNTS AND AUDIT

Contributions by Central Government.

34. The Central Government may, after due appropriation made by Parliament by law in this behalf, make in each financial year such contributions to the Central Board as it may think necessary to enable the Board to perform its functions under this Act.

Contributions by State Government.

35. The State Government may, after due appropriation made by the Legislature of the State by law in this behalf, make in each financial year such contributions to the State Board as it may think necessary to enable that Board to perform its functions under this Act.

Fund of Central Board.

36. (1) The Central Board shall have its own fund, and all sums which may, from time to time, be paid to it by the Central Government and all other receipts (by way of gifts, grants, donations, benefactions or otherwise) of that Board shall be carried to the fund of the Board and all payments by the Board shall be made therefrom.

(2) The Central Board may expend such sums as it thinks fit for performing its functions under this Act, and such sums shall be treated as expenditure payable out of the fund of that Board.

Fund of State Board.

37. (1) The State Board shall have its own fund, and the sums which may, from time to time, be paid to it by the State Government and all other receipts (by way of gifts, grants, donations, benefactions or

1. Dr. by Act 64 of 1978, S. 16.

2. Dr. by S. 17, [redacted]

otherwise) of that Board shall be carried to the fund of the Board and all payments by the Board shall be made therefrom.

(2) The State Board may expend such sums as it thinks fit for performing its functions under this Act, and such sums shall be treated as expenditure payable out of the fund of that Board.

38. The Central Board or, as the case may be, the State Board shall, during each financial year, prepare, in such form and at such time as may be prescribed, a budget in respect of the financial year next ensuing showing the estimated receipt and expenditure, and copies thereof shall be forwarded to the Central Government or, as the case may be, the State Government.

Budget.

39. (1) The Central Board shall during each financial year, prepare, in such form and at such time as may be prescribed, an annual report giving a true and full account of its activities during the previous financial year and copies thereof shall be forwarded to the Central Government and that Government shall cause every such report to be laid before both Houses of Parliament within six months of the date on which it is received by that Government.

Annual report.

Continue on other page

(2) The State Board shall, during each financial year, prepare, in such form and at such time as may be prescribed, an annual report giving a true and full account of its activities during the previous financial year and copies thereof shall be forwarded to the State Government and that Government shall cause every such report to be laid before the State Legislature within a period of six months of the date on which it is received by that Government.

40. (1) Every Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government or, as the case may be, the State Government.

Accounts and audit.

1 of 1956.

(2) The accounts of the Board shall be audited by an auditor duly qualified to act as an auditor of companies under section 226 of the Companies Act, 1956.

(3) The said auditor shall be appointed by the Central Government or, as the case may be, the State Government on the advice of the Comptroller and Auditor General of India.

(4) Every auditor appointed to audit the accounts of the Board under this Act shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board.

(5) Every such auditor shall send a copy of his report together with an audited copy of the accounts to the Central Government or, as the case may be, the State Government.

(6) The Central Government shall, as soon as may be after the receipt of the audit report under sub-section (5), cause the same to be laid before both Houses of Parliament.

(7) The State Government shall, as soon as may be after the receipt of the audit report under sub-section (5), cause the same to be laid before the State Legislature.

*1. Sub. by Act 44 of 1978, S. 19.
2. Sub. by S. 18, ibid.*

CHAPTER VII

PENALTIES AND PROCEDURE

Failure to comply with directions under sub-section (2) or sub-section (3) of section 20 or orders issued under clause (c) of sub-section (1) of section 32.

Penalty for certain acts.

*Section 32
Part II*

41. (1) Whoever fails to comply with any direction given under sub-section (2) or sub-section (3) of section 20 within such time as may be specified in the direction or fails to comply with any orders issued under clause (c) of sub-section (1) of section 32 shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five thousand rupees or with both and in case the failure continues, with an additional fine which may extend to one thousand rupees for every day during which such failure continues after the conviction for the first such failure.

(2) Whoever fails to comply with any direction issued by a court under sub-section (2) of section 33 shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five thousand rupees or with both and in case the failure continues, with an additional fine which may extend to one thousand rupees for every day during which such failure continues after the conviction for the first such failure.

42. (1) Whoever—

(a) destroys, pulls down, removes, injures or defaces any pillar, post or stake fixed in the ground or any notice or other matter put up, inscribed or placed, by or under the authority of the Board, or

(b) obstructs any person acting under the orders or directions of the Board from exercising his powers and performing his functions under this Act, or

(c) damages any works or property belonging to the Board, or

(d) fails to furnish to any officer or other employee of the Board any information required by him for the purpose of this Act, or

(e) fails to intimate the occurrence of any accident or other unforeseen act or event under section 31 to the Board and other authorities or agencies as required by that section, or

(f) in giving any information which he is required to give under this Act, knowingly or wilfully makes a statement which is false in any material particular, or

(g) for the purpose of obtaining any consent under section 25 or section 26, knowingly or wilfully makes a statement which is false in any material particular,

shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees or with both.

(2) Where for the grant of a consent in pursuance of the provisions of section 25 or section 26 the use of a meter or gauge or other measure or monitoring device is required and such device is used for the purposes of those provisions, any person who knowingly or wilfully alters or interferes with that device so as to prevent it from monitoring or measuring correctly shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees or with both.

43. Whoever contravenes the provisions of section 24 shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to six years and with fine.

Penalty for contravention of provisions of section 24.

44. Whoever contravenes the provisions of section 25 or section 26 shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to six years and with fine.

Penalty for contravention of section 25 or section 26.

45. If any person who has been convicted of any offence under section 24 or section 25 or section 26 is again found guilty of an offence involving a contravention of the same provision, he shall, on the second and on every subsequent conviction, be punishable with imprisonment for a term which shall not be less than one year but which may extend to seven years and with fine:

Enhanced penalty after previous conviction.

Provided that for the purpose of this section no cognizance shall be taken of any conviction made more than two years before the commission of the offence which is being punished.

46. If any person convicted of an offence under this Act commits a like offence afterwards it shall be lawful for the court before which the second or subsequent conviction takes place to cause the offender's name and place of residence, the offence and the penalty imposed to be published at the offender's expense in such newspapers or in such other manner as the court may direct and the expenses of such publication shall be deemed to be part of the cost attending the conviction and shall be recoverable in the same manner as a fine.

Publication of names of offenders.

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

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

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

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

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

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

48. Where an offence under this Act has been committed by any Department of Government, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by Government Departments.

Provided that nothing contained in this section shall render such Head of the Department 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.

Cognizance of offences.

49. (1) No court shall take cognizance of any offence under this Act except on a complaint made by, or with the previous sanction in writing of the State Board, and no court inferior to that of a ~~Presidency Magistrate or a Magistrate~~ of the first class shall try any offence punishable under this Act.

(2) Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any ~~Magistrate of the first class or for any Presidency Magistrate~~ to pass a sentence of imprisonment for a term exceeding two years or of fine exceeding two thousand rupees on any person convicted of an offence punishable under this Act.

Members, officers and servants of Board to be public servants.

50. All members, officers and servants of a Board when acting or purporting to act in pursuance of any of the provisions of this Act and the rules made thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

5 of 1893.

45 of 186

CHAPTER VIII

MISCELLANEOUS

Central Water Laboratory.

51. (1) The Central Government may, by notification in the Official Gazette,—

(a) establish a Central Water Laboratory; or

(b) specify any laboratory or institute as a Central Water Laboratory, to carry out the functions entrusted to the Central Water Laboratory under this Act.

(2) The Central Government may, after consultation with the Central Board, make rules prescribing—

(a) the functions of the Central Water Laboratory;

(b) the procedure for the submission to the said laboratory of samples of water or of sewage or trade effluent for analysis or tests, the form of the laboratory's report thereunder and the fees payable in respect of such report;

(c) such other matters as may be necessary or expedient to enable that laboratory to carry out its functions.

State Water Laboratory.

52. (1) The State Government may, by notification in the Official Gazette,—

(a) establish a State Water Laboratory; or

(b) specify any laboratory or institute as a State Water Laboratory, to carry out the functions entrusted to the State Water Laboratory under this Act.

(2) The State Government may, after consultation with the State Board, make rules prescribing—

(a) the functions of the State Water Laboratory;

↓ After by Act no of 1893, S. 19.

(b) the procedure for the submission to the said laboratory of samples of water or of sewage or trade effluent for analysis or tests, the form of the laboratory's report thereon and the fees payable in respect of such report;

(c) such other matters as may be necessary or expedient to enable that laboratory to carry out its functions.

53. (1) The Central Government may, by notification in the Official Gazette, appoint such persons as it thinks fit and having the prescribed qualifications to be Government analysts for the purpose of analysis of samples of water or of sewage or trade effluent sent for analysis to any laboratory established or specified under sub-section (1) of section 51.

Analysts.

(2) The State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit and having the prescribed qualifications to be Government analysts for the purpose of analysis of samples of water or of sewage or trade effluent sent for analysis to any laboratory established or specified under sub-section (1) of section 52.

(3) Without prejudice to the provisions of sub-section (3) of section 12, the Central Board or, as the case may be, the State Board may, by notification in the Official Gazette, and with the approval of the Central Government or the State Government, as the case may be, appoint such persons as it thinks fit and having the prescribed qualifications to be Board analysts for the purpose of analysis of samples of water or of sewage or trade effluent sent for analysis to any laboratory established or recognised under section 16, or, as the case may be, under section 17.

54. Any document purporting to be a report signed by a Government analyst or, as the case may be, a Board analyst may be used as evidence of the facts stated therein in any proceeding under this Act.

Report of analysts.

55. All local authorities shall render such help and assistance and furnish such information to the Board as it may require for the discharge of its functions, and shall make available to the Board for inspection and examination such records, maps, plans and other documents as may be necessary for the discharge of its functions.

Local authori- ties to assist.

56. Any land required by a State Board for the efficient performance of its functions under this Act shall be deemed to be needed for a public purpose and such land shall be acquired for the State Board under the provisions of the Land Acquisition Act, 1894, or under any other corresponding law for the time being in force.

Compulsory ac- quisition of land for the State Board.

57. The Central Board shall furnish to the Central Government, and a State Board shall furnish to the State Government and to the Central Board such reports, returns, statistics, accounts and other information with respect to its fund or activities as that Government, or, as the case may be, the Central Board may, from time to time, require.

Returns and reports.

58. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an appellate authority 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.

Bar of jurisdic- tion.

Protection
of action
taken in
good
faith.

Over-
riding
effect.

Power of
Central
Govern-
ment to
supersede
the
Central
Board
and Joint
Boards.

59. No suit or other legal proceedings shall lie against the Government or any officer of Government or any member or officer of a Board in respect of anything which is in good faith done or intended to be done in pursuance of this Act or the rules made thereunder.

60. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act.

61. (1) If at any time the Central Government is of opinion—

(a) that the Central Board or any Joint Board has persistently made default in the performance of the functions imposed on it by or under this Act; or

(b) that circumstances exist which render it necessary in the public interest so to do,

the Central Government may, by notification in the Official Gazette, supersede the Central Board or such Joint Board, as the case may be, for such period, not exceeding one year, as may be specified in the notification:

Provided that before issuing a notification under this sub-section for the reasons mentioned in clause (a), the Central Government shall give a reasonable opportunity to the Central Board or such Joint Board, as the case may be, to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Central Board or such Joint Board, as the case may be.

(2) Upon the publication of a notification under sub-section (1) superseding the Central Board or any Joint Board,—

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

(b) all the powers, functions and duties which may, by or under this Act, be exercised, performed or discharged by the Central Board or such Joint Board shall, until the Central Board or the Joint Board, as the case may be, is reconstituted under sub-section (3) be exercised, performed or discharged by such person or persons as the Central Government may direct;

(c) all property owned or controlled by the Central Board or such Joint Board shall, until the Central Board or the Joint Board, as the case may be, is reconstituted under sub-section (3) vest in the Central Government.

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

(a) extend the period of supersession for such further term, not exceeding six months, as it may consider necessary; or

(b) reconstitute the Central Board or the Joint Board, as the case may be, by fresh nomination or appointment, as the case may be, and in such case any person who vacated his office under clause (a) of sub-section (2) shall not be deemed disqualified for nomination or appointment:

Provided that the Central Government may at any time before the expiration of the period of supersession, whether originally specified

under sub-section (1) or as extended under this sub-section, take action under clause (b) of this sub-section.

62. (1) If at any time the State Government is of opinion—

- (a) that the State Board has persistently made default in the performance of the functions imposed on it by or under this Act; or
- (b) that circumstances exist which render it necessary in the public interest so to do,

Power of
State
Govern-
ment to
supercede
State
Board.

the State Government may, by notification in the Official Gazette, supersede the State Board for such period, not exceeding one year, as may be specified in the notification:

Provided that before issuing a notification under this sub-section for the reasons mentioned in clause (a), the State Government shall give a reasonable opportunity to the State Board to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the State Board.

(2) Upon the publication of a notification under sub-section (1) superseding the State Board, the provisions of sub-sections (2) and (3) of section 61 shall apply in relation to the supersession of the State Board as they apply in relation to the supersession of the Central Board or a Joint Board by the Central Government.

63. (1) The Central Government may, simultaneously with the constitution of the Central Board, make rules in respect of the matters specified in sub-section (2):

Power of
Central
Govern-
ment to
make
rules.

Provided that when the Central Board has been constituted, no such rule shall be made, varied, amended or repealed without consulting the Board.

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

(a) the terms and conditions of service of the members (other than the chairman and member-secretary) of the Central Board under sub-section (8) of section 5;

(b) the intervals and the time and place at which meetings of the Central Board or of any committee thereof constituted under this Act, shall be held and the procedure to be followed at such meetings, including the quorum necessary for the transaction of business under section 8, and under sub-section (2) of section 9;

(c) the fees and allowances to be paid to such members of a committee of the Central Board as are not members of the Board under sub-section (3) of section 9;

~~(d) the manner in which and the purposes for which persons may be associated with a Board under sub-section (1) of section 10;~~

(e) the terms and conditions of service of the chairman and the member-secretary of the Central Board under sub-section (9) of section 5 and under sub-section (1) of section 12;

↓ *Act. by A.R. 44 of 1978, S. 20.*

(f) conditions subject to which a person may be appointed as a consulting engineer to the Central Board under sub-section (4) of section 12;

(g) the powers and duties to be exercised and performed by the chairman and the member-secretary of the Central Board;

(h) the prohibition or regulation of bathing in any stream or well or the washing or cleaning therein of things of any class or description, or the putting of litter or other objectionable matter, whether poisonous, noxious or polluting or not into any stream or well;

(i) the prohibition or regulation of the keeping or use, on any stream, of vessels provided with sanitary appliances from which polluting matter passes into the stream;

(j) the form of the report of the Central Board analyst under sub-section (1) of section 22;

(k) the form of the report of the Government analyst under sub-section (3) of section 22;

(l) the form in which, and the time within which, the budget and annual report of the Central Board may be prepared and forwarded to the Central Government under sections 38 and 39;

(m) the form in which the accounts of the Central Board may be maintained under section 40;

(n) any other matter relating to the Central Board, including the powers and functions of that Board in relation to Union territories;

(o) any other matter which has 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 in which it is so laid or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power of State Government to make rules

64. (1) The State Government may, simultaneously with the constitution of the State Board, make rules to carry out the purposes of this Act in respect of matters not falling within the purview of section 63:

Provided that when the State Board has been constituted, no such rule shall be made, varied, amended or repealed without consulting that Board.

↓ OWNED & SUB. BY ACT 44 OF 1978, S. 20.

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

- (a) the terms and conditions of service of the members (other than the chairman and the member-secretary) of the State Board under sub-section (8) of section 5;
- (b) the time and place of meetings of the State Board or of any committee of that Board constituted under this Act and the procedure to be followed at such meeting, including the quorum necessary for the transaction of business under section 8 and under sub-section (2) of section 9;
- (c) the fees and allowances to be paid to such members of a committee of the State Board as are not members of the Board under sub-section (3) of section 9;
- (d) the manner in which and the purposes for which persons may be associated with the State Board under sub-section (1) of section 10;
- (e) the terms and conditions of service of the chairman and the member-secretary of the State Board under sub-section (9) of section 5 and under sub-section (1) of section 12;
- (f) the conditions subject to which a person may be appointed as a consulting engineer to the State Board under sub-section (4) of section 12;
- (g) the powers and duties to be exercised and discharged by the chairman and the member-secretary of the State Board;
- (h) the form of the notice referred to in section 21;
- (i) the form of the report of the State Board analyst under sub-section (1) of section 22;
- (j) the form of the report of the Government analyst under sub-section (3) of section 22;
- (k) the form of application for the consent of the State Board under sub-section (2) of section 25, and the particulars it may contain;
- (l) the manner in which inquiry under sub-section (3) of section 25 may be made in respect of an application for obtaining consent of the State Board and the matters to be taken into account in granting or refusing such consent;
- (m) the form and manner in which appeals may be filed, the fees payable in respect of such appeals and the procedure to be followed by the appellate authority in disposing of the appeals under sub-section (3) of section 23;

↓ See, by Act 44 of 1978, S. 21.

- (ii) the form in which, and the time within which, the budget and annual report of the State Board may be prepared and forwarded to the State Government under sections 38 and 39;
- (o) the form in which the accounts of the State Board may be maintained under sub-section (1) of section 40;
- (p) any other matter which has to be, or may be, prescribed.

THE APPROPRIATION (VOTE ON ACCOUNT) ACT, 1974

NO. 7 OF 1974

[25th March, 1974]

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 1974-75.

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

1. This Act may be called the Appropriation (Vote on Account) Act, 1974.

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 three thousand and twenty-three crores, four lakhs and twenty-three thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1974-75.

With-
drawal
of Rs.
30,23,04,
23,000
from and
out of
the Conso-
lidated
Fund of
India for
the finan-
cial year
1974-75.

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.

Appropria-
tion.

THE SCHEDULE
(See sections 2 and 3)

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Department of Agriculture . . Revenue	27,20,000	..	27,20,000
2	Department of Agricultural Research and Education . . Revenue	1,30,000	..	1,30,000
3	Agriculture . . Revenue Capital	13,04,65,000 61,32,08,000	10,00,40,000	13,04,65,000 71,32,48,000
4	Fisheries . . Revenue Capital	1,23,59,000 21,30,000	.. 4,17,000	1,23,59,000 25,47,000
5	Animal Husbandry and Dairy Development . . Revenue Capital	5,28,22,000 48,07,000	17,000 6,58,000	5,28,39,000 54,65,000
6	Forest . . Revenue Capital	1,49,80,000 9,17,000	.. 35,83,000	1,49,80,000 45,00,000
7	Payments to Indian Council of Agricultural Research . . Revenue	5,82,36,000	..	5,82,36,000
8	Department of Food . . Revenue Capital	20,02,46,000 2,19,97,000	.. 6,22,000	20,02,46,000 2,26,19,000
9	Department of Community Development . . Revenue	4,93,08,000	..	4,93,08,000
10	Department of Co-operation . . Revenue Capital	1,10,73,000 3,51,87,000	.. 45,83,000	1,10,73,000 3,97,70,000
II	Ministry of Commerce . . Revenue Capital	18,10,000	.. 83,000	18,10,000 83,000
12	Foreign Trade and Export Production . . Revenue Capital	28,07,02,000 32,50,58,000	.. 18,92,000	28,07,02,000 32,69,58,000
13	Ministry of Communications . . Revenue Capital	13,35,000 45,83,000	..	13,35,000 45,83,000
14	Overseas Communications Service . . Revenue Capital	1,14,15,000 63,33,000	.. 3,000	1,14,15,000 63,36,000
15	Posts and Telegraphs—Working Expenses . . Revenue	62,44,34,000	2,000	62,44,36,000
16	Posts and Telegraphs—Dividend to General Revenues, Appropriations to Reserve Funds and Repayment of Loans from General Revenues . . Revenue	13,89,10,000	..	13,89,10,000

1 No. of Vote	2 Services and purposes	3		Total
		Sums Voted by Parliament	not exceeding Charged on the Consolidated Fund	
17	Capital Outlay on Posts and Telegraphs . Capital	Rs. 24,73,83,000	..	Rs. 24,73,83,000
18	Ministry of Defence . Revenue Capital	Rs. 24,88,000 4,18,87,000	6,67,000	Rs. 24,88,000 42,55,40,000
19	Defence Services— Army . Revenue	Rs. 2,06,40,44,000	1,50,000	Rs. 2,06,41,94,000
20	Defence Services— Navy . Revenue	Rs. 18,23,40,000	7,000	Rs. 18,23,47,000
21	Defence Services— Air Force . Revenue	Rs. 63,81,66,000	25,000	Rs. 63,81,91,000
22	Defence Services— Pensions . Revenue	Rs. 12,75,17,000	2,000	Rs. 12,75,19,000
23	Capital Outlay on Defence Services Capital	Rs. 39,47,88,000	15,00,000	Rs. 39,52,88,000
24	Department of Education . Revenue	Rs. 19,73,000	..	Rs. 19,73,000
25	Education . Revenue Capital	Rs. 17,89,52,000 10,99,000	6,31,000	Rs. 17,89,52,000 7,41,00,000
26	Department of Social Welfare Revenue	Rs. 3,46,79,000	..	Rs. 3,46,79,000
27	Ministry of External Affairs . Revenue Capital	Rs. 12,52,61,000 5,20,00,000	1,000	Rs. 12,52,62,000 5,20,00,000
28	Ministry of Finance . Revenue	Rs. 4,10,56,000	5,000	Rs. 4,10,61,000
29	Customs . Revenue	Rs. 2,94,23,000	7,000	Rs. 2,94,30,000
30	Union Excise Duties . Revenue	Rs. 4,72,31,000	14,000	Rs. 4,72,45,000
31	Taxes on Income, Estate Duty, Wealth Tax and Gift Tax Revenue	Rs. 5,23,89,000	21,000	Rs. 5,24,10,000
32	Stamps . Revenue Capital	Rs. 1,03,75,000 11,94,000	..	Rs. 1,03,75,000 11,94,000
33	Audit . Revenue	Rs. 8,70,83,000	12,25,000	Rs. 8,83,08,000
34	Currency, Coinage and Mint . Revenue Capital	Rs. 5,15,86,000 2,82,22,000	..	Rs. 5,15,86,000 2,82,22,000
35	Pensions . Revenue	Rs. 5,00,90,000	8,49,000	Rs. 5,09,39,000
36	Opium and Alkaloid Factories . Revenue Capital	Rs. 10,33,45,000 10,75,000	1,000	Rs. 10,33,46,000 10,75,000
37	Transfers to State and Union Territory Governments . Revenue Capital	Rs. 41,73,97,000 ..	Rs. 2,32,48,42,000 1,55,39,67,000	Rs. 2,74,22,39,000 1,55,39,67,000
	CHARGED—Interest Payments . Revenue	..	Rs. 1,62,52,17,000	Rs. 1,62,52,17,000
38	Other Expenditure of the Ministry of Finance . Revenue Capital	Rs. 32,48,73,000 40,94,55,000	49,000	Rs. 32,49,22,000 40,94,55,000

Appropriation (Vote on Account)

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
	Rs.	Rs.	Rs.	
39	Loans to Government Servants, etc. . Capital	10,48,65,000	..	10,48,65,000
	CHARGED—Repayment of Debt Capital	..	11,68,87,06,000	11,68,87,06,000
40	Ministry of Health and Family Planning Revenue	9,19,000	..	9,19,000
41	Medical and Public Health . Revenue Capital	9,66,52,000 3,91,85,000	.. 1,05,000	9,66,52,000 3,92,90,000
42	Family Planning . Revenue Capital	9,67,88,000 3,33,000	..	9,67,88,000 3,33,000
43	Ministry of Heavy Industry . Revenue	4,80,000	..	4,80,000
44	Heavy Industries . Revenue Capital	186,16,000 5,35,81,000	..	186,16,000 5,35,81,000
45	Ministry of Home Affairs . Revenue	34,59,000	..	34,59,000
46	Cabinet . Revenue	17,69,000	..	17,69,000
47	Department of Personnel and Administrative Reforms . Revenue Capital	92,69,000 ..	1,000 4,17,000	92,70,000 4,17,000
48	Police . Revenue Capital	26,69,06,000 45,83,000	.. 1,08,33,000	26,69,06,000 1,54,16,000
49	Census . Revenue	57,70,000	..	57,70,000
50	Other Expenditure of the Ministry of Home Affairs . Revenue Capital	12,98,38,000 2,83,27,000	4,12,39,000 ..	17,10,77,000 2,83,27,000
51	Delhi . Revenue Capital	14,40,88,000 5,66,12,000	7,95,000 42,08,000	14,48,83,000 6,08,20,000
52	Chandigarh . Revenue Capital	1,78,76,000 73,93,000	6,96,000 67,000	1,85,72,000 74,60,000
53	Andaman and Nicobar Islands . Revenue Capital	2,79,76,000 1,19,12,000	1,000 ..	2,79,77,000 1,19,12,000
54	Arunachal Pradesh . Revenue Capital	3,30,19,000 1,40,66,000	3,30,19,000 1,40,66,000
55	Dadra and Nagar Haveli . Revenue Capital	16,48,000 21,58,000	16,48,000 21,58,000
56	Lakshadweep . Revenue Capital	43,12,000 13,31,000	43,12,000 13,31,000
57	Ministry of Industrial Development . Revenue	38,85,000	..	38,85,000
58	Industries . Revenue Capital	81,51,000 7,05,47,000	81,51,000 7,05,47,000
59	Village and Small Industries . Revenue Capital	4,70,57,000 8,81,78,000	6,66,000 61,00,000	4,77,23,000 9,42,78,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
60	Ministry of Information and Broadcasting Revenue	5,33,000	..	5,33,000
61	Information and Publicity Revenue Capital	1,99,77,000 34,58,000	1,99,77,000 34,58,000
62	Broadcasting Revenue Capital	3,39,94,000 2,93,67,000	3,39,94,000 2,93,67,000
63	Ministry of Irrigation and Power Revenue Capital	75,61,000 1,19,33,000	1,13,33,000	75,61,000 2,32,66,000
64	Water and Power Development Revenue Capital	1,93,69,000 30,75,000	1,93,69,000 30,75,000
65	Power Schemes Revenue Capital	1,85,99,000 11,70,29,000	1,96,67,000	1,85,99,000 13,66,96,000
66	Ministry of Labour Revenue	9,20,000	..	9,20,000
67	Labour and Employment Revenue Capital	4,90,42,000 33,76,000	1,000 17,000	4,90,43,000 33,93,000
68	Ministry of Law, Justice and Company Affairs Revenue	1,20,87,000	..	1,20,87,000
69	Administration of Justice Revenue	3,81,000	7,40,000	11,29,000
70	Ministry of Petroleum and Chemical Revenue Capital	11,72,000 41,59,53,000	..	11,72,000 41,59,53,000
71	Ministry of Planning Revenue	1,92,000	..	1,92,000
72	Statistics Revenue	1,44,85,000	..	1,44,85,000
73	Planning Commission Revenue	52,58,000	..	52,58,000
74	Ministry of Shipping and Transport Revenue	31,62,000	..	31,62,000
75	Roads Revenue Capital	10,29,35,000 11,23,72,000	2,000 1,33,67,000	10,29,37,000 12,57,39,000
76	Ports, Lighthouses and Shipping Revenue Capital	2,27,30,000 30,27,51,000	1,000 22,33,000	2,27,31,000 30,49,84,000
77	Road and Inland Water Transport Revenue Capital	17,23,000 2,54,02,000	.. 19,33,000	17,23,000 2,73,35,000
78	Department of Steel Revenue Capital	4,17,03,000 26,78,14,000	16,67,000	4,17,03,000 26,94,81,000
79	Department of Mines Revenue	5,52,000	..	5,52,000

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolida- ted Fund	Total
		Rs.	Rs.	Rs.
80	Mines and Minerals . Revenue Capital	5,54,62,000 48,11,93,000	3,000 ..	5,54,65,000 48,11,93,000
81	Department of Supply . Revenue	3,46,000	..	3,46,000
82	Supplies and Disposals . Revenue	1,25,11,000	..	1,25,11,000
83	Department of Rehabilitation . Revenue Capital	5,59,45,000 88,67,000	12,000 1,28,97,000	5,59,57,000 2,17,64,000
84	Ministry of Tourism and Civil Aviation . Revenue	5,46,000	..	5,46,000
85	Meteorology . Revenue Capital	1,41,45,000 25,10,000	..	1,41,45,000 25,10,000
86	Aviation . Revenue Capital	2,43,03,000 3,95,98,000	1,00,000	2,43,03,000 3,96,98,000
87	Tourism . Revenue Capital	49,93,000 1,05,33,000	..	49,93,000 1,05,33,000
88	Ministry of Works and Housing . Revenue	7,09,000	..	7,09,000
89	Public Works . Revenue Capital	8,47,87,000 1,98,61,000	4,000 2,40,000	8,47,91,000 2,01,01,000
90	Water Supply and Sewerage . Revenue	12,68,000	..	12,68,000
91	Housing and Urban Development . Revenue Capital	1,35,49,000 1,63,74,000	7,04,000 4,12,44,000	1,42,53,000 5,76,18,000
92	Stationery and Printing . Revenue	3,17,82,000	1,000	3,17,83,000
93	Department of Atomic Energy . Revenue	6,09,000	..	6,09,000
94	Atomic Energy Research, Development and Industrial Projects . Revenue Capital	6,09,39,000 9,89,41,000	..	6,09,39,000 9,89,41,000
95	Nuclear Power Schemes . Revenue Capital	5,09,99,000 7,75,70,000	..	5,09,99,000 7,75,70,000
96	Department of Culture . Revenue	1,12,56,000	..	1,12,56,000
97	Archaeology . Revenue	86,26,000	..	86,26,000
98	Department of Electronics . Revenue Capital	1,56,14,000 66,80,000	..	1,56,14,000 66,80,000
99	Department of Science and Technology . Revenue Capital	99,39,000 22,08,000	..	99,39,000 22,08,000
100	Survey of India . Revenue	2,08,92,000	..	2,08,92,000

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
101	Grants to Council of Scientific and Industrial Research	Revenue	8,02,01,000	..
102	Department of Space	Revenue Capital	3,49,78,000 1,18,47,000
103	Lok Sabha	Revenue	52,89,000	17,000
104	Rajya Sabha	Revenue	22,90,000	15,000
105	Department of Parliamentary Affairs	Revenue	2,79,000	2,79,000
CHARGED—Staff Household and Allowances of the President				
106	Secretariat of the Vice-President	Revenue	..	8,88,000
CHARGED—Union Public Service Commission				
		Revenue	..	22,32,000
	TOTAL		12,741,03,000	17,48,89,20,000
				30,23,04,23,000

Rep. by Act.....38. 10. 28. S. 2 + Sch. I
Ref. No.

THE NORTH-EASTERN AREAS (REORGANISATION)
AMENDMENT ACT, 1974

No. 8 OF 1974

[27th March, 1974]

An Act to amend the North-Eastern Areas (Reorganisation) Act, 1971

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

Short title and commencement.

1. (1) This Act may be called the North-Eastern Areas (Reorganisation) Amendment Act, 1974.

(2) It shall be deemed to have come into force on the 19th day of January, 1974.

Amendment of section 53.

2. In section 53 of the North-Eastern Areas (Reorganisation) Act, 1971 ^{81 of 1971.} (hereinafter referred to as the principal Act), in sub-section (3), for the words "two years", the words "three years" shall be substituted.

Amendment of section 88.

3. In section 88 of the principal Act, in sub-section (2), for the words "which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following", the words "which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid," shall be substituted.

Repeal and saving.

4. (1) The North-Eastern Areas (Reorganisation) (Amendment) ^{1 of 1974.} Ordinance, 1974 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.

THE PUBLIC WAKFS (EXTENSION OF LIMITATION)
(DELHI AMENDMENT) ACT, 1974

ACT NO. 91 - 74

No. 9 of 1974.

LENT OF 1974

[27th March, 1974]

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

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

1. (1) This Act may be called the Public Wakfs (Extension of Limitation) (Delhi Amendment) Act, 1974.

Short title,
extent
and com-
mence-
ment

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

(3) It shall be deemed to have effect from the 1st day of January, 1973.

2. In section 3 of the Public Wakfs (Extension of Limitation) Act, 1959, as in force in the Union territory of Delhi, for the words, figures and letters "the 31st day of December, 1972", the words, figures and letters "the 31st day of December, 1975" shall be substituted.

Amend-
ment of
section 3
of Act 29
of 1959.
Date of
commencement
of the Act
and date
of expiry
of the
limitation
period

3. This Act shall be deemed to have come into operation on the 1st day of April, 1974, and shall, thereafter, be in force for a period of five years from the date of its commencement.

THE APPROPRIATION (RAILWAYS) ACT, 1974

No. 10 of 1974

[27th March, 1974]

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 1974-75 for the purposes of Railways.

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

1. This Act may be called the Appropriation (Railways) Act, 1974.

Short title.
Issue of
Rs. 25,10,
19,87,000
out of the
Consolidated
Fund of
India
for the
financial
year
1974-75.

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 and ten crores, nineteen lakhs and eighty-seven thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1974-75, in respect of the services relating to railways specified in column 2 of the Schedule.

Appropriation.

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

THE SCHEDULE
(See sections 2 and 3)

No. of Vote	Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Conso- lidated Fund	Total
I	Railway Board . . .	Rs. 1,99,75,000	Rs. ..	Rs. 1,99,75,000
2	Miscellaneous Expenditure . . .	9,61,45,000	3,00,000	9,64,45,000
3	Payments to Worked Lines and Others . . .	16,38,000	..	16,38,000
4	Working Expenses—Administration . . .	1,21,89,65,000	18,000	1,21,89,83,000
5	Working Expenses—Repairs and Maintenance . . .	4,59,37,34,000	44,000	4,59,37,78,000
6	Working Expenses—Operating Staff . . .	2,64,91,78,000	55,22,000	2,65,47,00,000
7	Working Expenses—Operation (Fuel) . . .	2,20,39,24,000	..	2,20,39,24,000
8	Working Expenses—Operation other than Staff and Fuel . . .	64,66,31,000	95,30,000	65,61,61,000
9	Working Expenses—Miscellaneous Expenses . . .	42,67,30,000	11,96,000	42,79,26,000
10	Working Expenses—Staff Welfare . . .	42,89,19,000	..	42,89,19,000
11	Working Expenses—Appropriation to Depreciation Reserve Fund . . .	1,15,00,00,000	..	1,15,00,00,000
11A	Working Expenses—Appropriation to Pension Fund . . .	16,00,00,000	..	16,00,00,000
12	Dividend to General Revenues and Contributions for Grants to States in lieu of Passenger Fare Tax . . .	1,81,66,68,000	..	1,81,66,68,000
13	Open Line Works (Revenue) . . .	7,50,27,000	..	7,50,27,000
14	Construction of New Lines—Capital and Depreciation Reserve Fund . . .	54,28,15,000	..	54,28,15,000
15	Open Line Works—Capital, Depreciation Reserve Fund and Development Fund . . .	8,35,54,72,000	2,00,000	8,35,56,72,000
16	Pensionary Charges—Pension Fund . . .	14,53,83,000	..	14,53,83,000
17	Repayment of loans from General Revenues and interest thereon—Development Fund . . .	6,03,66,000	..	6,03,66,000
20	Payments towards Amortisation of Over-capitalisation, Repayment of Loans from General Revenues and interest thereon—Revenue Reserve Fund . . .	38,72,47,000	..	38,72,47,000
21	Appropriation to Accident Compensation, Safety and Passenger Amenities Fund . . .	8,00,00,000	..	8,00,00,000
22	Accident Compensation, Safety and Passenger Amenities Fund . . .	2,63,60,000	..	2,63,60,000
TOTAL		25,08,51,77,000	1,68,10,000	25,10,19,87,000

Rep. by Act.....38 of 1978, S. 2 + Sch. I

THE GUJARAT STATE LEGISLATURE (DELEGATION OF
POWERS) ACT, 1974

NO. II OF 1974

[27th March, 1974]

An Act to confer on the President the power of the Legislature of the State of Gujarat to make laws.

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

Short title. 1. This Act may be called the Gujarat State Legislature (Delegation of Powers) Act, 1974.

Definition. 2. In this Act, "Proclamation" means the Proclamation issued on the 9th day of February, 1974, under article 356 of the Constitution, by the President, and published with the notification of the Government of India in the Ministry of Home Affairs No. G.S.R. 34(E) of the said date.

**Confer-
ment
on the
Presi-
dent of
the power
of the
State
Legisla-
ture
to make
Laws.** 3. (1) The power of the Legislature of the State of Gujarat to make laws, which has been declared by the Proclamation to be exercisable by or under the authority of Parliament, is hereby conferred on the President.

(2) In the exercise of the said power, the President may, from time to time, whether Parliament is or is not in session, enact, as a President's Act, a Bill containing such provisions as he considers necessary;

REPEALED

[ACT 11 OF 1974] *Gujarat State Legislature (Delegation
of Powers)*

339

Provided that before enacting any such Act, the President shall, whenever he considers it practicable to do so, consult a committee constituted for the purpose, consisting of thirty-four members of the House of the People nominated by the Speaker and seventeen members of the Council of States nominated by the Chairman.

(3) Every Act enacted by the President under sub-section (2) shall, as soon as may be after enactment, be laid before each House of Parliament.

(4) Either House of Parliament may, by resolution passed within thirty days from the date on which the Act has been laid before it under sub-section (3), which period may be comprised in one session or in two successive sessions, direct any modifications to be made in the Act and if the modifications are agreed to by the other House of Parliament during the session in which the Act has been so laid before it or the session succeeding, such modifications shall be given effect to by the President by enacting an amending Act under sub-section (2):

Provided that nothing in this sub-section shall affect the validity of the Act or of any action taken thereunder before it is so amended.

THE ECONOMIC OFFENCES (INAPPLICABILITY OF
LIMITATION) ACT, 1974

No. 12 of 1974

[27th March, 1974]

An Act to provide for the inapplicability of the provisions of Chapter XXXVI of the Code of Criminal Procedure, 1973 to certain economic offences.

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

Short title,
extent
and
commencement.

Chapter
XXXVI
of the
Code of
Criminal
Proce-
dure,
1973 not
to apply
to cer-
tain offen-
ces.

1. (1) This Act may be called the Economic Offences (Inapplicability of Limitation) Act, 1974.

(2) It extends to the territories to which the Code Criminal Procedure, 1973 applies.

(3) It shall come into force on the 1st day of April, 1974.

2. Nothing in Chapter XXXVI of the Code of Criminal Procedure, 1973 shall apply to—

(i) any offence punishable under any of the enactments specified in the Schedule; or

(ii) any other offence, which under the provisions of that Code, may be tried along with such offence,

and every offence referred to in clause (i) or clause (ii) may be taken cognizance of by the Court having jurisdiction as if the provisions of that Chapter were not enacted.

2 of 1974

2 of 1974

THE SCHEDULE

(See section 2)

1. The Indian Income-tax Act, 1922 (11 of 1922).
2. The Income-tax Act, 1961 (43 of 1961).
- ¹[2A. The Interest-tax Act, 1974.]
3. The Companies (Profits) Surtax Act, 1964 (7 of 1964).
4. The Wealth-tax Act, 1957 (27 of 1957).
5. The Gift-tax Act, 1958 (18 of 1958).
6. The Central Sales Tax Act, 1956 (74 of 1956).
7. The Central Excises and Salt Act, 1944 (1 of 1944).
8. The Medicinal and Toilet Preparations (Excise Duties) Act, 1955 (16 of 1955).
9. The Customs Act, 1962 (52 of 1962).
10. The Gold (Control) Act, 1968 (45 of 1968).
11. The Imports and Exports (Control) Act, 1947 (18 of 1947).
12. The Foreign Exchange Regulation Act, 1947 (7 of 1947).
13. The Foreign Exchange Regulation Act, 1973 (46 of 1973).
14. The Capital Issues (Control) Act, 1947 (29 of 1947).
15. The Indian Stamp Act, 1899 (2 of 1899).
16. The Emergency Risks (Goods) Insurance Act, 1962 (62 of 1962).
17. The Emergency Risks (Factories) Insurance Act, 1962 (63 of 1962).
18. The Emergency Risks (Goods) Insurance Act, 1971 (50 of 1971).
19. The Emergency Risks (Undertakings) Insurance Act, 1971 (51 of 1971).
20. The General Insurance Business (Nationalisation) Act, 1972 (57 of 1972).

¹Ins. by Act 45 of 1974, s. 30.

THE GUJARAT APPROPRIATION ACT, 1974

No. 13 OF 1974

[27th March, 1974]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Gujarat for the services of the financial year 1973-74.

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

Short title.

1. This Act may be called the Gujarat Appropriation Act, 1974.

Issue of
Rs. 1,57,20,
11,000
from and
out of
the Con-
solidated
Fund of
the State
of Gujarat
for the
financial
year
1973-74.

2. From and out of the Consolidated Fund of the State of Gujarat there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of one hundred and fifty-seven crores, twenty lakhs and eleven thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1973-74, in respect of the services specified in column 2 of the Schedule.

Approp-
riation.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat 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/Ap- propri- ation	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
2	General Administration Department	₹ 4,73,000	₹ 1,13,000	5,86,000
3	Territorial and Political Pensions	8,000	..	8,000
4	Privy Purses and Allowances of Indian Rulers	₹ 90,000	..	90,000
6	Sales Tax	₹ 18,99,000	..	18,99,000
7	Interest on Debt and Other Obligations (Finance Department)	₹ 1,89,25,000	₹ 1,89,25,000
9	Finance Department	₹ 5,58,000	..	5,58,000
10	Other Revenue Expenditure pertaining to Finance Department	₹ 17,02,000	₹ 16,61,000	33,63,000
11	Pensions and Other Retirement Benefits	₹ 31,33,000	₹ 16,67,000	48,00,000
12	Legal Department	3,000	..	3,000
13	Administration of Justice	3,73,000	..	3,73,000
14	Other Revenue Expenditure pertaining to Legal Department	3,10,000	..	3,10,000
16	Public Works Department	₹ 1,64,000	..	₹ 1,64,000
17	Irrigation and Navigation	₹ 2,62,18,000	..	₹ 2,62,18,000
19	Other Revenue Expenditure pertaining to Public Works Department	₹ 1,000	..	₹ 1,000
20	Public Works	₹ 3,90,18,000	₹ 82,000	3,91,00,000
21	Ports and Pilotage	₹ 1,000	2,000	3,000
22	Land Revenue	₹ 12,21,000	..	12,21,000
23	Stamps and Registration	₹ 5,16,000	₹ 1,000	5,17,000
25	Revenue Department	₹ 1,70,000	2,000	1,72,000
26	Dangs District	₹ 55,98,000	..	55,98,000
27	Famine Relief	₹ 6,73,07,000	..	6,73,07,000
28	Other Revenue Expenditure pertaining to Revenue Department	₹ 16,56,000	..	16,56,000
30	Panchayats and Health Department	₹ 3,15,000	..	3,15,000
31	Medical	₹ 81,72,000	4,000	81,76,000
32	Public Health	₹ 75,42,000	..	75,42,000

I No. of Vote/ Appropri- ation	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
34	Community Development Projects, National Extension Service and Local Development Works	1,000	..	1,000
36	Other Revenue Expenditure pertaining to Panchayats and Health Department	4,000	1,000	5,000
37	State Excise Duties	3,74,000	..	3,74,000
40	Education	23,03,000	..	23,03,000
41	Labour and Employment	66,000	..	66,000
42	Other Revenue Expenditure pertaining to Education and Labour Department
44	Taxes on Vehicles and Other Taxes and Duties pertaining to Home Department	2,000	..	2,000
45	Home Department	32,04,000	..	32,04,000
46	Jails	1,31,000	..	1,31,000
47	Police	2,25,000	..	2,25,000
48	Other Revenue Expenditure pertaining to Home Department	2,11,79,000	2,000	2,11,81,000
49	Other Taxes and Duties pertaining to Industries, Mines and Power Department	35,24,000	..	35,24,000
50	Industries, Mines and Power Department	1,87,000	..	1,87,000
51	Industries	36,000	..	36,000
54	Other Revenue Expenditure pertaining to Industries, Mines and Power Department	2,000	3,000	5,000
55	Interest on Debt and Other Obligations pertaining to Agriculture, Forests and Co-operation Department	24,56,000	..	24,56,000
56	Agriculture, Forests and Co-operation Department	..	2,50,000	2,50,000
57	Agriculture	1,58,000	..	1,58,000
58	Animal Husbandry	1,000	..	1,000
60	Fisheries	63,98,000	..	63,98,000
61	Forest	1,000	..	1,000
62	Forest	3,000	28,000	31,000
62	Other Revenue Expenditure pertaining to Agriculture, Forests and Co-operation Department	5,000	..	5,000
63	Interest on Debt and Other Obligations pertaining to Food and Civil Supplies Department	..	3,00,000	3,00,000
64	Food and Civil Supplies Department	1,65,000	..	1,65,000

I No. of Vote/ Appropri- priation	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
65	Other Revenue Expenditure pertaining to Food and Civil Supplies Department . . .	1,01,13,000	..	1,01,13,000
67	Payment of Commuted Value of Pensions . . .	50,000	..	50,000
68	Capital Outlay on Irrigation and Navigation . . .	9,09,36,000	77,000	9,10,13,000
69	Capital Outlay on Public Works . . .	14,75,000	18,000	14,93,000
70	Expenditure on Capital for Gujarat . . .	2,000	..	2,000
76	Capital Outlay on Industrial and Economic Development (Education and Labour Department)	2,00,000	..	2,00,000
78	Capital Outlay on Industrial and Economic Development (Industries, Mines and Power Department) . . .	1,000	..	1,000
81	Capital Outlay on Industrial and Economic Development (Agriculture, Forests and Co-operation Department) . . .	1,000	..	1,000
83	Capital Outlay on Schemes of Government Trading pertaining to Agriculture, Forests and Co-operation Department . . .	87,42,000	..	87,42,000
86	Public Debt—Permanent Debt	16,28,000	16,28,000
87	Public Debt—Loans from the Central Government	9,51,94,000	9,51,94,000
92	Loans and Advances pertaining to Public Works Department . . .	1,000	..	1,000
94	Loans and Advances pertaining to Revenue Department . . .	3,00,84,000	..	3,00,84,000
96	Loans and Advances pertaining to Panchayats and Health Department . . .	15,10,000	..	15,10,000
99	Loans and Advances pertaining to Industries, Mines and Power Department . . .	2,000	..	2,000
100	Public Debt (Agriculture, Forests and Co-operation Department)	1,05,000	1,05,000
101	Loans and Advances pertaining to Agriculture, Forests and Co-operation Department . . .	12,41,000	..	12,41,000
103	Loans and Advances pertaining to Food and Civil Supplies Department . . .	7,17,000	..	7,17,000
105	Public Debt—Floating Debt	1,10,00,00,000	1,10,00,00,000
	TOTAL . . .	35,19,48,000	1,22,00,63,000	1,57,20,11,000

THE GUJARAT APPROPRIATION (VOTE ON ACCOUNT)
ACT, 1974

No. 14 OF 1974

[28th March, 1974]

An Act to provide for the withdrawal of certain sums from and out of the Consolidated Fund of the State of Gujarat for the services of a part of the financial year, 1974-75.

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

Short title. 1. This Act may be called the Gujarat Appropriation (Vote on Account) Act, 1974.

**With-
drawal
of
Rs. 2,77,38,
16,000
from and
out of
the Conso-
lided
Fund
of the
State of
Gujarat
for the
financial
year
1974-75.** 2. From and out of the Consolidated Fund of the State of Gujarat there may be withdrawn sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of two hundred and seventy-seven crores, thirty-eight lakhs and sixteen thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1974-75.

Appropriation. 3. The sums authorised to be withdrawn from and out of the Consolidated Fund of the State of Gujarat 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/ Appropriation	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
1	Governor Revenue	Rs. ..	Rs. 2,68,000	Rs. 2,68,000
2	Council of Ministers Revenue	2,78,000	..	2,78,000
3	Elections Revenue	4,81,000	..	4,81,000
4	Public Service Commission Revenue	..	1,84,000	1,84,000
5	General Administration Department Revenue	15,14,000	..	15,14,000
6	Passport Establishment Revenue	27,000	..	27,000
7	Other Administrative Services (General Administration Department) Revenue	3,54,000	..	3,54,000
8	Miscellaneous General Services (General Administration Department) Revenue	1,15,000	14,000	1,29,000
9	Promotion of Languages and Literatures (General Administration Department) Revenue	24,000	..	24,000
10	Art and Culture (General Administration Department) Revenue	8,000	..	8,000
11	Social Security and Welfare (General Administration Department) Revenue	42,000	..	42,000
12	Other Social and Community Services (General Administration Department) Revenue	16,000	..	16,000
13	General Administration Department—Planning Machinery Revenue	1,58,000	..	1,58,000
14	Economic Advice and Statistics Revenue	10,11,000	..	10,11,000
15	Loans and Advances to Government Servants in General Administration Department Capital	2,84,000	..	2,84,000
16	Other Revenue Expenditure on Property Tax Revenue	..	2,000	2,000
17	Sales Tax Revenue	62,22,000	4,000	62,26,000
18	Revenue Expenditure on Entertainment and Education Cess Revenue	2,40,000	43,60,000	46,00,000
19	Small Savings Organisation Revenue	3,93,000	..	3,93,000
20	Interest on Debt and Other Obligations Revenue	..	8,59,49,000	8,59,49,000
21	Finance Department Revenue	7,48,000	..	7,48,000
22	Treasury and Accounts Administration Revenue	39,62,000	..	39,62,000
23	Pensions and Other Retirement Benefits Revenue	1,40,33,000	19,97,000	1,60,30,000
24	Other Revenue Expenditure pertaining to Finance Department Revenue	1,86,70,000	..	1,86,70,000
25	Collection of Education Cess Revenue	14,50,000	..	14,50,000
26	Other Social Security and Welfare Programme (Finance Department) Revenue	4,000	..	4,000
27	Finance Department—Planning Machinery Revenue	[25,000	..	25,000

1 No. of Vote/Ap- propri- ation	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
28	Administration of Indian Partnership Act and General Insurance	Revenue	Rs. 3,97,000	Rs. .. 3,97,000
29	Internal Debt of the State Government	Capital	.. 51,91,22,000	Rs. 51,91,22,000
30	Repayment of Loans and Advances from the Central Government	Capital	.. 8,17,62,000	Rs. 8,17,62,000
31	Loans and Advances to Government Servants in Finance Department	Capital	6,03,000	Rs. 6,03,000
32	Inter-State Settlement, Maharashtra and Gujarat	Capital	.. 67,000	Rs. 67,000
33	Administration of Justice	Revenue	72,53,000	Rs. 9,69,000 82,22,000
34	Legal Department	Revenue	5,03,000	Rs. .. 5,03,000
35	Other Administrative Services (Legal Department)	Revenue	56,000	Rs. .. 56,000
36	Other Social Security and Welfare Programme (Legal Department)	Revenue	1,59,000	Rs. .. 1,59,000
37	Administration of Religious and Charitable Endowments Act	Revenue	2,94,000	Rs. .. 2,94,000
38	Loans and Advances to Government Servants in Legal Department	Capital	3,62,000	Rs. .. 3,62,000
39	Interest on Debt pertaining to Food and Civil Supplies Department	Revenue	.. 30,00,000	Rs. 30,00,000
40	Civil Supplies	Revenue	5,37,000	Rs. .. 5,37,000
41	Food and Civil Supplies Department	Revenue	1,61,000	Rs. .. 1,61,000
42	Food and Nutrition (Food and Civil Supplies Department)	Revenue	43,49,000	Rs. .. 43,49,000
43	Repayment of Debt pertaining to Food and Civil Supplies Department	Capital	41,70,00,000	Rs. .. 41,70,00,000
44	Loans and Advances to Government Servants in Food and Civil Supplies Department	Capital	.. 39,00,00,000	Rs. 39,00,00,000
45	State Legislature	Revenue	8,63,000	Rs. 11,000 8,74,000
46	Loans and Advances to Government Servants in Gujarat Legislature Secretariat	Capital	60,000	Rs. .. 60,000
47	Interest on Debt pertaining to Agriculture, Forests and Co-operation Department	Revenue	.. 17,38,000	Rs. 17,38,000
48	Adjustment on account of Aid Materials from Foreign Countries	Revenue	2,47,000	Rs. .. 2,47,000
49	Social Security and Welfare (Agriculture, Forests and Co-operation Department)	Revenue	5,00,000	Rs. .. 5,00,000
50	Relief Works (Agriculture, Forests and Co-operation Department)	Revenue	4,000	Rs. .. 4,000

1 No. of Vote/Ap- propri- ation	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
51	Other Social and Community Services (Agriculture, Forests and Co-operation Department) . . .	Revenue	52,000	.. 52,000
52	Agriculture, Forests and Co-operation Department . . .	Revenue	5,24,000	.. 5,24,000
53	Co-operation (Agriculture, Forests and Co-operation Department) . . .	Revenue Capital	79,51,000 61,19,000	.. 79,51,000 61,19,000
54	Other General Economic Services (Agriculture, Forests and Co-operation Department) . . .	Revenue	2,23,000	.. 2,23,000
55	Agriculture (Agriculture, Forests and Co-operation Department) . . .	Revenue Capital	1,79,55,000 22,59,000	.. 1,79,55,000 22,59,000
56	Minor Irrigation, Soil Conservation and Area Development (Agriculture, Forests and Co-operation Department) . . .	Revenue Capital	3,60,08,000 22,68,000	.. 3,60,08,000 22,68,000
57	Animal Husbandry . . .	Revenue	82,45,000	.. 82,45,000
58	Dairy Development . . .	Revenue	2,06,000	.. 2,06,000
59	Fisheries . . .	Revenue Capital	30,10,000 8,99,000	.. 30,10,000 8,99,000
60	Forests . . .	Revenue Capital	62,99,000 10,07,000	.. 62,99,000 10,07,000
61	Repayment of Debt pertaining to Agriculture, Forests and Co-operation Department . . .	Capital	..	22,68,000 22,68,000
62	Loans and Advances to Government Servants in Agriculture, Forests and Co-operation Department . . .	Capital	12,00,000	.. 12,00,000
63	State Excise . . .	Revenue	7,55,000	.. 7,55,000
64	Interest on Debt pertaining to Education and Labour Department . . .	Revenue	..	1,94,000 1,94,000
65	Education and Labour Department . . .	Revenue	4,79,000	.. 4,79,000
66	Education . . .	Revenue Capital	27,30,24,000 32,84,000	.. 27,30,24,000 32,84,000
67	Art and Culture (Education and Labour Department) . . .	Revenue	11,87,000	.. 11,87,000
68	Scientific Services and Research . . .	Revenue	10,000	.. 10,000
70	Labour and Employment . . .	Revenue	46,46,000	.. 46,46,000
71	Social Security and Welfare (Education and Labour Department) . . .	Revenue Capital	2,91,99,000 4,90,000	.. 2,91,99,000 4,90,000
72	Education and Labour Department—Planning Machinery . . .	Revenue	17,000	.. 17,000
73	Loans and Advances to Government Servants in Education and Labour Department . . .	Capital	7,67,000	.. 7,67,000
74	Taxes on Vehicles . . .	Revenue	4,01,32,000	.. 4,01,32,000
75	Other Taxes and Duties on Commodities and Services (Home Department) . . .	Revenue	2,75,000	.. 2,75,000
76	Home Department . . .	Revenue	4,19,000	.. 4,19,000
77	Police . . .	Revenue	8,15,35,000	4,000 8,15,39,000
78	Jails . . .	Revenue	22,96,000	.. 22,96,000

No. of Vote/Appropria- tion	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
			Rs.	Rs.
79	Other Administrative Services (Home Department) . . .	Revenue	23,62,000	23,62,000
80	Art and Culture (Home Department) . . .	Revenue	20,000	20,000
		Capital	62,000	62,000
81	Information and Publicity . . .	Revenue	23,20,000	23,20,000
82	Social Security and Welfare (Home Department) . . .	Revenue	41,000	41,000
83	Road and Water Transport Services . . .	Revenue	4,61,000	4,61,000
84	Tourism . . .	Revenue	3,06,000	3,06,000
85	Loans and Advances to Government Servants in Home Department . . .	Capital	18,14,000	18,14,000
86	Other Taxes and Duties on Commodities and Services (Industries, Mines and Power Department) . . .	Revenue	5,30,000	5,30,000
87	Stationery and Printing . . .	Revenue	91,98,000	91,98,000
88	Pensions and Other Retirement Benefits (Industries, Mines and Power Department) . . .	Revenue	89,000	89,000
89	Social Security and Welfare (Industries, Mines and Power Department) . . .	Revenue	7,45,000	7,45,000
		Capital	12,89,000	12,89,000
90	Industries, Mines and Power Department . . .	Revenue	2,89,000	2,89,000
92	Co-operation (Industries, Mines and Power Department) . . .	Revenue	2,04,000	2,04,000
		Capital	8,16,000	8,16,000
93	Other General Economic Services (Industries, Mines and Power Department) . . .	Revenue	4,75,000	4,75,000
94	Industries . . .	Revenue	14,24,000	14,24,000
95	Village and Small Industries . . .	Revenue	35,51,000	35,51,000
		Capital	3,90,000	3,90,000
96	Mines and Minerals . . .	Revenue	26,84,000	26,84,000
97	Power Projects . . .	Revenue	28,12,000	28,12,000
98	Machinery and Engineering Industries . . .	Capital	3,28,56,000	3,28,56,000
		Capital	3,27,000	3,27,000
100	Investments in Industrial Financial Institutions . . .	Capital	13,17,000	13,17,000
101	Multi-purpose River Projects (Industries, Mines and Power Department) . . .	Capital	50,00,000	50,00,000
102	Loans and Advances to Government Servants in Industries, Mines and Power Department . . .	Capital	4,77,000	4,77,000
103	Interest Payment on Debt pertaining to Panchayats and Health Department . . .	Revenue	84,000	84,000
104	Fire Protection and Control . . .	Revenue	5,000	5,000
105	Panchayats and Health Department . . .	Revenue	..	5,90,000

I No. of Vote/Ap- propria-tion	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
106	Community Development . . .	Revenue	3,27,58,000	.. 3,27,58,000
107	Medical	Revenue	4,76,08,000	.. 4,76,08,000
108	Family Planning	Revenue	1,59,10,000	.. 1,59,10,000
109	Public Health, Sanitation and Water Supply	Revenue	3,26,88,000	.. 3,26,88,000
		Capital	1,48,25,000	.. 1,48,25,000
110	Urban Development (Panchayats and Health Department)	Revenue	50,50,000	.. 50,50,000
		Capital	1,72,000	.. 1,72,000
111	Social Security and Welfare (Panchayats and Health Department)	Revenue	50,76,000	.. 50,76,000
112	Relief on account of Natural Calamities (Panchayats and Health Department)	Revenue	10,00,000	.. 10,00,000
113	Panchayats and Health Department—Planning Machinery	Revenue	16,000	.. 16,000
114	Compensations and Assignments to Local Bodies and Panchayati Raj Institutions	Revenue	1,43,69,000	35,000 1,44,04,000
115	Repayment of Debt pertaining to Panchayats and Health Department	Capital	..	43,000 43,000
116	Loans and Advances to Government Servants in Panchayats and Health Department	Capital	6,84,000	.. 6,84,000
117	Interest Payment pertaining to Debt raised by Public Works Department	Revenue	..	17,85,000 17,85,000
118	Non-residential Buildings	Revenue	2,95,60,000	18,000 2,95,78,000
		Capital	80,88,000	.. 80,88,000
119	Other Administrative Services (Public Works Department)	Revenue	8,50,000	.. 8,50,000
120	Housing (Public Works Department)	Revenue	67,69,000	.. 67,69,000
		Capital	1,06,85,000	.. 1,06,85,000
121	Relief Works (Public Works Department)	Revenue	60,14,000	.. 60,14,000
122	Public Works Department	Revenue	8,89,000	.. 8,89,000
123	Co-operation (Public Works Department)	Revenue	67,000	.. 67,000
		Capital	1,00,000	.. 1,00,000
124	Irrigation	Revenue	9,19,17,000	.. 9,19,17,000
		Capital	11,03,65,000	.. 11,03,65,000
125	Ports	Revenue	1,38,12,000	.. 1,38,12,000
		Capital	85,99,000	.. 85,99,000
126	Gliding Clubs	Revenue	24,000	.. 24,000
127	Roads and Bridges	Revenue	4,61,19,000	.. 4,61,19,000
		Capital	70,23,000	.. 70,23,000
128	Gujarat Capital Construction Scheme	Capital	32,67,000	.. 32,67,000
129	Repayment of Debt pertaining to Public Works Department	Capital	..	7,53,000 7,53,000
130	Social Security and Welfare (Public Works Department)	Capital	1,34,000	.. 1,34,000
131	Loans and Advances to Government Servants in Public Works Department	Capital	9,14,000	.. 9,14,000
132	Land Revenue	Revenue	50,14,000	7,000 50,21,000
133	Stamps and Registration	Revenue	11,02,000	.. 11,02,000

1 No. of Vote/Ap- propri- ation	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
134	Other Taxes and Duties on Com- modities, and Services (Revenue Department)	Revenue	..	31,67,000 31,67,000
135	Interest on Debt pertaining to Revenue Department	Revenue	..	3,00,000 3,00,000
136	Revenue Department	Revenue	11,43,000 ..	11,43,000
137	District Administration	Revenue	97,16,000 ..	97,16,000
138	M cellaneous General Services (Revenue Department)	Revenue	17,000 ..	17,000
139	Uban Development (Revenue Department)	Revenue	84,000 ..	84,000
140	Social Security and Welfare (Revenue Department)	Revenue	11,80,000 ..	11,80,000
141	Relief o account of Natural Cala- mities (Revenue Department)	Capital	23,36,000 4,000	23,40,000
142	Dangs District.	Revenue	3,68,00,000 ..	3,68,00,000
143	Agriculture (Revenue Department)	Capital	69,81,000 ..	69,81,000
144	Compensations and Assignments (Revenue Department)	Capital	2,25,000 ..	2,25,000
145	Repaymn: of Debt pertaining to Revenue Department	Capital	20,00,000 ..	20,00,000
146	Loans and Advances to Govern- ment Servants in Revenue Department	Capital	26,46,000 6,67,000 2,17,000 ..	28,63,000 6,67,000
	TOTAL		1,67,48,23,000 1,09,89,93,000 ..	2,77,38,16,000

THE APPROPRIATION (RAILWAYS) NO. 2 ACT, 1974

No. 15 OF 1974

[28th March, 1974]

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 1973-74 for the purposes of Railways.

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

1. This Act may be called the Appropriation (Railways) No. 2 Act, Short title. 1974.

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 crores, twenty-nine lakhs and thirty-four thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1973-74, in respect of the services relating to railways specified in column 2 of the Schedule.

Issue of
Rs.
20,29,34,000
out of the
Consolidated Fund
of India
for the
financial
year 1973-
74.

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

THE SCHEDULE

(See sections 2 and 3)

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Railway Board	2,21,000		2,21,000
2	Miscellaneous Expenditure	19,83,000	1,000	19,84,000
3	Payments to Worked Lines and Others	64,000	..	64,000
4	Working Expenses—Administration	1,38,61,000	66,000	1,39,27,000
5	Working Expenses—Repairs and Maintenance	9,52,31,000	1,89,000	9,54,20,000
6	Working Expenses—Operating Staff	2,28,28,000	11,00,000	2,39,28,000
7	Working Expenses—Operation (Fuel)	..	12,000	12,000
8	Working Expenses—Operation other than Staff and Fuel	2,83,23,000	21,02,000	3,04,25,000
9	Working Expenses—Miscellaneous Expenses	..	3,98,000	3,98,000
10	Working Expenses—Staff Welfare	2,29,55,000	13,000	2,29,68,000
14	Construction of New Lines—Capital and Depreciation Reserve Fund	..	77,68,000	77,68,000
15	Open Line Works—Capital, Depreciation Reserve Fund and Development Fund	..	20,90,000	20,90,000
16	Pensionary Charges—Pension Fund	37,29,000	..	37,29,000
TOTAL		18,91,95,000	1,37,39,000	20,29,34,000

THE APPROPRIATION (RAILWAYS) NO. 3 ACT, 1974
No. 16 OF 1974

[28th March, 1974]

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 1972, in excess of the amounts granted for those services and for that year.

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

1. This Act may be called the Appropriation (Railways) No. 3 Act, 1974. 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 forty-six crores, fifteen lakhs, forty-eight thousand, one hundred and seventy-two rupees shall be deemed to have been authorised to be paid and applied to meet the amount spent for defraying the charges in respect of the services relating to Railways specified in column 2 of the Schedule during the financial year ended on the 31st day of March, 1972, in excess of the amounts granted for those services and for that year. Issue of Rs. 46,15,48,172 out of the Consolidated Fund of India to meet certain expenditure for the year ended on the 31st March, 1972.

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, 1972. Appropriation.

THE SCHEDULE

(See sections 2 and 3)

No. of Vote	Services and purposes	Sums aggregating to		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
4	Working Expenses—Administration	Rs. 26,53,698	Rs. ..	Rs. 26,53,698
5	Working Expenses—Repairs and Maintenance	5,60,75,387	..	5,60,75,387
6	Working Expenses—Operating Staff	60,68,570	7,842	60,76,412
9	Working Expenses—Miscellaneous Expenses	1,22,55,710	..	1,22,55,710
10	Working Expenses—Staff Welfare	15,85,172	..	15,85,172
15	Open Line Works—Capital, Depreciation Reserve Fund and Development Fund	29,37,12,152	..	29,37,12,152
16	Pensionary Charges—Pension Fund	15,74,131	..	15,74,131
18	Appropriation to Development Fund	8,76,07,799	..	8,76,07,799
19	Appropriation to Revenue Reserve Fund	7,711	..	7,711
	TOTAL . . .	46,15,40,330	7,842	46,15,48,172

THE APPROPRIATION ACT, 1974

No. 17 OF 1974

[28th March, 1974]

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 1973-74.

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

1. This Act may be called the Appropriation Act, 1974.

Short title.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of eight hundred and sixty-five crores, sixty-two lakhs and sixty-five thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1973-74, in respect of the services specified in column 2 of the Schedule.

Issue of
Rs. 8,65,62,
65,000
out of
the Conso-
lidated
Fund of
India for
the year
1973-74.

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

THE SCHEDULE
(See sections 2 and 3)

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
6	Payments to Indian Council of Agricultural Research . Revenue	1,000	..	1,000
9	Department of Co-operation . Revenue Capital ..	3,10,12,000	15,10,000	3,10,12,000 15,10,000
11	Foreign Trade . Capital	23,00,00,000		23,00,00,000
16	Posts and Telegraphs— Working Expenses . Revenue	22,48,46,000	..	22,48,46,000
18	Capital Outlay on Posts and Telegraphs (Not met from Revenue) . Capital	18,30,00,000	..	18,30,00,000
19	Ministry of Defence . . Revenue Capital 1,000	13,88,000 1,000	..	13,88,000 1,000
20	Defence Services—Army . Revenue	1,39,38,89,000	5,00,000	1,39,43,89,000
21	Defence Services—Navy . Revenue	11,77,03,000	..	11,77,03,000
22	Defence Services—Air Force Revenue	9,92,66,000	1,00,000	9,93,66,000
23	Defence Services—Pensions, etc. . . Revenue	2,07,00,000		2,07,00,000
24	Defence Capital Outlay . Capital	8,04,98,000	..	8,04,98,000
26	Education . . . Revenue	1,000	..	1,000
28	Ministry of External Affairs Capital	7,18,00,000	..	7,18,00,000
29	Ministry of Finance . . Revenue	2,07,59,000	..	2,07,59,000
32	Taxes on Income, etc. . . Revenue	4,96,97,000		4,96,97,000
34	Audit Revenue	1,70,00,000	5,78,000	1,75,78,000
37	Opium and Alkaloid Factories . . Capital	19,45,000	..	19,45,000
38	Transfers to State and Union Territory Governments . Revenue Capital 95,000	89,36,60,000 95,000	15,09,61,000 2,52,41,95,000	1,04,46,21,000 2,52,42,90,000
	<i>Interest Payments . . Revenue</i>	..	62,62,64,000	62,62,64,000

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
39	Other Expenditure of the Ministry of Finance . . Capital	1,06,36,02,000	..	1,06,36,02,000
40	Loans to Government Servants, etc. . . Capital	3,17,00,000	..	3,17,00,000
44	Ministry of Heavy Industry . Revenue	11,77,000	..	11,77,000
45	Heavy Industries . . Revenue Capital	1,000 1,000	..	1,000 1,000
46	Ministry of Home Affairs . Revenue	10,33,000	..	10,33,000
48	Department of Personnel and Administrative Reforms . Revenue	12,45,000	..	12,45,000
49	Police . . . Revenue	4,65,37,000	26,000	4,65,63,000
50	Census . . . Revenue	16,53,000		16,53,000
51	Other Expenditure of the Ministry of Home Affairs . Revenue Capital	4,43,69,000 2,16,93,000	2,51,63,000	6,95,32,000 2,16,93,000
53	Chandigarh . . . Revenue Capital	3,00,000 22,31,000	1,00,000 1,50,000	4,00,000 23,81,000
54	Andaman and Nicobar Islands . . Capital	59,28,000	..	59,28,000
56	Dadra and Nagar [Haveli . Revenue Capital	6,66,000 44,03,000	..	6,66,000 44,03,000
57	Laccadive, Minicoy and Amindivi Islands . . Capital	37,53,000	..	37,53,000
58	Ministry of Industrial Development . Revenue	3,80,000	..	3,80,000
59	Industries . . . Revenue Capital	1,000 3,77,42,000	..	1,000 3,77,42,000
71	Ministry of Petroleum and Chemicals . Revenue Capital	1,80,10,000 9,28,18,000	..	1,80,10,000 9,28,18,000
75	Ministry of Shipping and Transport . . Revenue	7,72,000	..	7,72,000
77	Ports, Lighthouses and Shipping . . Revenue Capital	1,94,97,000 11,65,68,000	..	1,94,97,000 11,65,68,000
78	Road and Inland Water Transport . . Capital	2,85,49,000	1,41,50,000	4,26,99,000
79	Department of Steel . . Revenue	3,46,88,000	..	3,46,88,000
80	Department of Mines . . Capital	21,05,77,000	..	21,05,77,000

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
81	Geological Survey . . . Revenue	..	43,000	43,000
83	Meteorology . . . Capital	13,30,000	..	13,30,000
87	Public Works . . . Revenue Capital	91,78,000 32,30,000	.. 5,00,000	91,78,000 37,30,000
90	Atomic Energy Research and Development . . . Capital	5,59,72,000	..	5,59,72,000
93	Archaeology . . . Revenue	61,64,000	..	61,64,000
97	Grants to Council of Scientific and Industrial Research . . . Revenue	77,28,000	..	77,28,000
102	Rajya Sabha . . . Revenue	5,85,000	..	5,85,000
103	Department of Parliamentary Affairs . . . Revenue	90,000	..	,90,000
	Staff, Household and Allowances of the President . . . Revenue	..	2,10,000	2,10,000
	Union Public Service Commission . . . Revenue	..	3,83,000	3,83,000
	TOTAL . . .	5,31,14,32,000	3,34,48,33,000	8,65,62,65,000

THE PONDICHERRY APPROPRIATION (VOTE ON ACCOUNT)
ACT, 1974

No. 18 OF 1974

[27th April, 1974]

An Act to provide for the withdrawal of certain sums from and out of the Consolidated Fund of the Union territory of Pondicherry for the services of a part of the financial year 1974-75.

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

1. This Act may be called the Pondicherry Appropriation (Vote on Short Account) Act, 1974.

2. From and out of the Consolidated Fund of the Union territory of Pondicherry there may be withdrawn sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of six crores, twenty-five lakhs and eighty-two thousand rupees towards defraying the several charges which come in course of payment during the financial year 1974-75.

With-
drawal
of Rs.
6,25,82,000
from and
out of the
Consoli-
dated
Fund
of the
Union
territory
of Pundi-
cherry
for the
financial
year
1974-75.

20 of 1963.

3. For the removal of doubts, it is hereby provided that notwithstanding anything in the Government of Union Territories Act, 1963, any sums withdrawn from the Consolidated Fund of the Union territory of Pondicherry on or after the 1st day of April, 1974 and before the commencement of this Act in pursuance of the Order of the President dated the 29th March, 1974, published with the notification of the Government of India in the Ministry of Finance No. S.O. 222(E) of the said date, towards defraying the several charges referred to in section 2 shall be deemed to have been authorised to be withdrawn under this Act as if this Act had come into force on the 1st day of April, 1974.

Sums
already
with-
drawn
to be
deemed
to be
with-
drawn
under
this Act.

4. The sums so authorised to be withdrawn or deemed to have been authorised to be withdrawn from and out of the Consolidated Fund of the Union territory of Pondicherry by this Act shall be appropriated or deemed to have been required to be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

Appro-
priation.

THE SCHEDULE
(See sections 2 and 4)

No. of vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	
1	Legislative Assembly . . Revenue	1,79,000	17,000	1,96,000
2	Administrator . . Revenue	5,000	1,57,000	1,62,000
3	Council of Ministers . . Revenue	2,06,000	..	2,06,000
4	Administration of Justice . . Revenue	3,83,000	7,000	3,90,000
5	Elections Revenue	55,000	..	55,000
6	Revenue Revenue	11,44,000	..	11,44,000
7	Sales Tax Revenue	2,38,000	..	2,38,000
8	Taxes on Vehicles Revenue	47,000	..	47,000
9	Secretariat Revenue	6,55,000	..	6,55,000
10	District Administration . . Revenue	8,97,000	..	8,97,000
		2,30,000	..	2,30,000
11	Treasury and Accounts Adminis- tration Revenue	4,23,000	..	4,23,000
12	Police Revenue	23,55,000	..	23,55,000
13	Jails Revenue	1,14,000	..	1,14,000
14	Stationery and Printing . . Revenue	3,63,000	..	3,63,000
15	Miscellaneous Adminis- trative General Services . . Revenue	4,97,000	..	4,97,000
16	Retirement Benefits . . Revenue	9,07,000	..	9,07,000
17	Public Works Revenue	69,18,000	9,000	69,27,000
		47,20,000	..	47,20,000
18	Education Revenue	1,00,19,000	..	1,00,19,000
		14,000	..	14,000
19	Medical Revenue	56,28,000	..	56,28,000
20	Information and Publicity . . Revenue	2,75,000	..	2,75,000
21	Labour and Employment . . Revenue	3,80,000	..	3,80,000
22	Social Welfare Revenue	22,50,000	..	22,50,000
		13,000	..	13,000
23	Co-operation Revenue	4,90,000	..	4,90,000
		4,45,000	..	4,45,000

No. of Vote	Services and purposes	Sums not exceeding			Total
		Voted by Parliament	Charged on the Consolidated Fund		
		Rs.	Rs.	Rs.	
24	Miscellaneous General Economic Services . Revenue	2,40,000	..	2,40,000	
25	Agriculture . . Revenue Capital	23,42,000 2,71,000	..	23,42,000 2,71,000	
26	Animal Husbandry . . Revenue Capital	5,38,000 67,000	..	5,38,000 67,000	
27	Fisheries Department . . Revenue Capital	11,90,000 1,000	..	11,90,000 1,000	
28	Community Development . Revenue Capital	16,65,000 21,000	..	16,65,000 21,000	
29	Industries . . Revenue Capital	3,46,000 7,50,000	..	3,46,000 7,50,000	
30	Food and Nutrition . Revenue	1,03,000	..	1,03,000	
31	Electricity . . Revenue Capital	64,09,000 24,08,000	..	64,09,000 24,08,000	
32	Ports and Pilotage . . Revenue Capital	1,37,000 1,66,000	..	1,37,000 1,66,000	
33	Public Debt . . Revenue Capital	27,20,000 21,19,000	..	27,20,000 21,19,000	
34	Loans to Government Servants . . Capital	10,49,000	..	10,49,000	
	Total	56,75,53,000	50,29,000	6,25,82,000	

THE APPROPRIATION (NO. 2) ACT, 1974**No. 19 of 1974****[11th May, 1974]**

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 1974-75.

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

Short title.

Issue of
Rs. 1,77,28,
19,81,000
out of the
Consolidated
Fund of India
for the
year 1974-
75.

1. This Act may be called the Appropriation (No. 2) Act, 1974.

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, 1974] to the sum of seventeen thousand, seven hundred and twenty-eight crores, nineteen lakhs and eighty-one thousand rupees towards defraining the several charges which will come in course of payment during the financial year 1974-75 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)

I No. of vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
1	Department of Agriculture	Revenue	1,63,22,000	..
2	Department of Agricultural Research and Education	Revenue	7,80,000	..
3	Agriculture	Revenue	78,27,91,000	..
		Capital	3,67,92,50,000	60,02,40,000
4	Fisheries	Revenue	7,41,56,000	..
		Capital	1,27,80,000	25,00,000
5	Animal Husbandry and Dairy Development	Revenue	31,69,33,000	..
		Capital	2,88,40,000	39,50,000
6	Forest	Revenue	8,98,80,000	..
		Capital	55,00,000	2,15,00,000
7	Payments to Indian Council of Agricultural Research	Revenue	34,94,16,000	..
8	Department of Food	Revenue	1,20,12,99,000	..
		Capital	13,19,80,000	37,35,000
9	Department of Community Development	Revenue	29,58,19,000	..
10	Department of Co-operation	Revenue	6,64,41,000	..
		Capital	21,11,24,000	23,75,00,000
11	Ministry of Commerce	Revenue	1,08,09,000	..
		Capital	..	5,00,000
12	Foreign Trade and Export Production	Revenue	1,68,25,83,000	..
		Capital	1,95,03,49,000	1,13,50,000
13	Ministry of Communications	Revenue	80,12,000	..
		Capital	2,75,00,000	..
14	Overseas Communications Service	Revenue	6,84,90,000	..
		Capital	3,80,00,000	20,000
15	Posts and Telegraphs—Working Expenses	Revenue	3,74,66,01,000	..
			10,000	3,74,66,11,000
16	Posts and Telegraphs—Dividend to General Revenues, Appropriations to Reserve Funds and Repayment of Loans from General Revenues	Revenue	83,34,62,000	..

I No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
17	Capital Outlay on Posts and Telegraphs . Capital	Rs. 1,48,43,00,000	Rs. ..	Rs. 1,48,43,00,000
18	Ministry of Defence . Revenue Capital	Rs. 1,49,27,000 25,13,22,000	Rs. .. 40,00,000	Rs. 1,49,27,000 25,53,22,000
19	Defence Services—Army . Revenue	Rs. 12,38,42,62,000	Rs. 9,00,000	Rs. 12,38,51,62,000
20	Defence Services—Navy . Revenue	Rs. 1,09,40,41,000	Rs. 40,000	Rs. 1,09,40,81,000
21	Defence Services—Air Force . Revenue	Rs. 3,82,89,97,000	Rs. 1,50,000	Rs. 3,82,91,47,000
22	Defence Services—Pensions . Revenue	Rs. 76,51,00,000	Rs. 10,000	Rs. 76,51,10,000
23	Capital Outlay on Defence Services . Capital	Rs. 2,36,87,29,000	Rs. 30,00,000	Rs. 2,37,17,29,000
24	Department of Education . Revenue	Rs. 1,18,39,000	Rs. ..	Rs. 1,18,39,000
25	Education . Revenue Capital	Rs. 1,07,37,11,000 65,92,000	Rs. .. 3,78,65,000	Rs. 1,07,37,11,000 4,44,57,000
26	Department of Social Welfare . Revenue	Rs. 20,80,76,000	Rs. ..	Rs. 20,80,76,000
27	Ministry of External Affairs . Revenue Capital	Rs. 75,15,67,000 31,20,00,000	Rs. 5,000 ..	Rs. 75,15,72,000 31,20,00,000
28	Ministry of Finance . Revenue	Rs. 24,63,38,000	Rs. 31,000	Rs. 24,63,69,000
29	Customs . Revenue	Rs. 17,65,39,000	Rs. 43,000	Rs. 17,65,82,000
30	Union Excise Duties . Revenue	Rs. 28,33,88,000	Rs. 86,000	Rs. 28,34,74,000
31	Taxes on Income, Estate Duty, Wealth Tax and Gift Tax . Revenue	Rs. 31,43,33,000	Rs. 1,28,000	Rs. 31,44,61,000
32	Stamps . Revenue Capital	Rs. 6,22,49,000 71,74,000	Rs. ..	Rs. 6,22,49,000 71,74,000
33	Audit . Revenue	Rs. 52,25,00,000	Rs. 73,50,000	Rs. 52,98,50,000
34	Currency, Coinage and Mint . Revenue Capital	Rs. 30,95,34,000 16,93,30,000	Rs. ..	Rs. 30,95,34,000 16,93,30,000
35	Pensions . Revenue	Rs. 20,03,61,000	Rs. 33,99,000	Rs. 20,37,60,000
36	Opium and Alkaloid Factories . Revenue Capital	Rs. 13,19,56,000 64,49,000	Rs. 1,000 ..	Rs. 13,19,57,000 64,49,000
37	Transfers to State and Union Territory Governments . Revenue Capital	Rs. 2,50,43,82,000 ..	Rs. 11,54,07,00,000 8,82,38,00,000	Rs. 14,04,50,82,000 8,82,38,00,000
CHARGED.—				
	Interest Payments . Revenue	Rs. ..	Rs. 9,75,13,02,000	Rs. 9,75,13,02,000

1 No. of Vote	2 Services and purposes	3		
		Voted by Parliament	Charged on the Consolidated Fund	Total
38	Other Expenditure of the Ministry of Finance . . Revenue Capital	Rs. 1,91,22,37,000 2,45,67,30,000	Rs. 2,95,000 ..	Rs. 1,91,25,32,000 2,45,67,30,000
39	Loans to Government Servants, etc. . . Capital	56,91,87,000	..	56,91,87,000
	CHARGED.—			
	Repayment of Debt . . Capital	..	70,13,22,36,000	70,13,22,36,000
40	Ministry of Health and Family Planning . . Revenue	55,14,000	..	55,14,000
41	Medical and Public Health . . Revenue Capital	55,99,89,000 23,51,11,000	.. 6,32,000	55,99,89,000 23,57,43,000
42	Family Planning . . Revenue Capital	58,07,28,000 20,00,000	..	58,07,28,000 20,00,000
43	Ministry of Heavy Industry Revenue	28,82,000	..	28,82,000
44	Heavy Industries . . Revenue Capital	5,16,97,000 32,14,83,000	..	5,16,97,000 32,14,83,000
45	Ministry of Home Affairs Revenue	2,07,55,000	..	2,07,55,000
46	Cabinet . . Revenue	1,06,16,000	..	1,06,16,000
47	Department of Personnel and Administrative Reforms . . Revenue Capital	5,56,13,000 ..	5,000 25,00,000	5,56,18,000 25,00,000
48	Police . . Revenue Capital	1,60,14,33,000 2,75,00,000	6,50,00,000	1,60,14,33,000 9,25,00,000
49	Census . . Revenue	3,46,18,000	..	3,46,18,000
50	Other Expenditure of the Ministry of Home Affairs . . Revenue Capital	77,90,25,000 16,99,61,000	24,74,33,000 ..	1,02,64,58,000 16,99,61,000
51	Delhi . . Revenue Capital	86,45,26,000 33,96,72,000	47,70,000 2,52,50,000	86,92,96,000 36,49,22,000
52	Chandigarh . . Revenue Capital	10,72,54,000 4,43,58,000	41,78,000 4,00,000	11,14,32,000 4,47,58,000
53	Andaman and Nicobar Islands . . Revenue Capital	16,78,58,000 7,14,72,000	8,000 ..	16,78,66,000 7,14,72,000
54	Arunachal Pradesh . . Revenue Capital	19,81,16,000 8,43,94,000	..	19,81,16,000 8,43,94,000
55	Dadra and Nagar Haveli . . Revenue Capital	98,88,000 1,29,46,000	..	98,88,000 1,29,46,000
56	Lakshadweep . . Revenue Capital	2,58,72,000 79,86,000	..	2,58,72,000 79,86,000
57	Ministry of Industrial Development . . Revenue	2,33,11,000	..	2,33,11,000

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
58	Industries . . . Revenue Capital	4,89,03,000 42,32,84,000	4,89,03,000 42,32,84,000
59	Village and Small Industries . . . Revenue Capital	28,23,41,000 52,90,66,000	40,00,000 3,66,00,000	28,63,41,000 56,56,66,000
60	Ministry of Information and Broadcasting . . . Revenue	31,99,000	..	31,99,000
61	Information and Publicity . . . Revenue Capital	11,98,61,000 2,07,50,000	11,98,61,000 2,07,50,000
62	Broadcasting . . . Revenue Capital	20,39,63,000 17,62,00,000	20,39,63,000 17,62,00,000
63	Ministry of Irrigation and Power . . . Revenue Capital	4,53,66,000 7,16,00,000	6,80,00,000	4,53,66,000 13,96,00,000
64	Water and Power Development . . . Revenue Capital	11,62,14,000 1,84,52,000	11,62,14,000 1,84,52,000
65	Power Schemes . . . Revenue Capital	11,15,96,000 70,21,75,000	11,80,00,000	11,15,96,000 82,01,75,000
66	Ministry of Labour . . . Revenue	55,17,000	..	55,17,000
67	Labour and Employment . . . Revenue Capital	29,42,51,000 2,02,54,000	5,000 1,00,000	29,42,56,000 2,03,54,000
68	Ministry of Law, Justice and Company Affairs . . . Revenue	7,25,19,000	..	7,25,19,000
69	Administration of Justice . . . Revenue	22,85,000	44,90,000	67,75,000
70	Ministry of Petroleum and Chemicals . . . Revenue Capital	70,30,000 2,42,07,21,000	70,30,000 2,42,07,21,000
71	Ministry of Planning . . . Revenue	11,52,000	..	11,52,000
72	Statistics . . . Revenue	8,69,12,000	..	8,69,12,000
73	Planning Commission . . . Revenue	3,15,48,000	..	3,15,48,000
74	Ministry of Shipping and Transport . . . Revenue	1,89,71,000	..	1,89,71,000
75	Roads . . . Revenue Capital	61,76,10,000 67,42,29,000	10,000 8,02,00,000	61,76,20,000 75,44,29,000
76	Ports, Lighthouses and Shipping . . . Revenue Capital	13,63,79,000 1,80,77,60,000	6,000 1,34,00,000	13,63,85,000 1,82,11,60,000
77	Road and Inland Water Transport . . . Revenue Capital	1,03,37,000 15,24,10,000	.. 1,16,00,000	1,03,37,000 16,40,10,000
78	Department of Steel . . . Revenue Capital	25,02,16,000 1,60,68,83,000	.. 1,00,00,000	25,02,16,000 1,61,68,83,000
79	Department of Mines . . . Revenue	33,15,000	..	33,15,000

No. of Vote	Services and purposes for which funds are appropriated	Sums not exceeding		
		Voted by Parliament	Charged on the Consolida- ted Fund	Total
		Rs.	Rs.	Rs.
80	Mines and Minerals . . .	Revenue Capital 2,67,10,61,000	18,000	33,27,88,000 2,67,10,61,000
81	Department of Supply . . .	Revenue 20,74,000	..	20,74,000
82	Supplies and Disposals . . .	Revenue 7,50,69,000	..	7,50,69,000
83	Department of Rehabili- tation . . .	Revenue Capital 27,36,71,000 5,32,00,000	72,000 4,63,86,000	27,37,43,000 9,95,86,000
84	Ministry of Tourism and Civil Aviation . . .	Revenue 32,75,000	..	32,75,000
85	Meteorology . . .	Revenue Capital 8,48,71,000 1,50,60,000	8,48,71,000 1,50,60,000
86	Aviation . . .	Revenue Capital 14,58,20,000 23,75,87,000	6,00,000	14,58,20,000 23,81,87,000
87	Tourism . . .	Revenue Capital 2,99,55,000 6,32,00,000	..	2,99,55,000 6,32,00,000
88	Ministry of Works and Housing . . .	Revenue 42,55,000	..	42,55,000
89	Public Works . . .	Revenue Capital 50,87,24,000 11,91,64,000	21,000 14,41,000	50,87,45,000 12,06,05,000
90	Water Supply and Sewerage . . .	Revenue 76,10,000	..	76,10,000
91	Housing and Urban Development . . .	Revenue Capital 8,12,95,000 9,82,45,000	42,28,000 24,74,60,000	8,55,23,000 34,57,05,000
92	Stationery and Printing . . .	Revenue 19,06,90,000	4,000	19,06,94,000
93	Department of Atomic Energy . . .	Revenue 36,55,000	..	36,55,000
94	Atomic Energy Research, Development and Industrial Projects . . .	Revenue Capital 36,56,36,000 59,36,48,000	..	36,56,36,000 59,36,48,000
95	Nuclear Power Schemes . . .	Revenue Capital 30,59,97,000 37,54,22,000	..	30,59,97,000 37,54,22,000
96	Department of Culture . . .	Revenue 6,75,38,000	..	6,75,38,000
97	Archaeology . . .	Revenue 5,17,56,000	..	5,17,56,000
98	Department of Electronics . . .	Revenue Capital 9,36,83,000 4,00,78,000	..	9,36,83,000 4,00,78,000
99	Department of Science and Technology . . .	Revenue Capital 5,96,37,000 1,32,48,000	..	5,96,37,000 1,32,48,000
100	Survey of India . . .	Revenue 12,53,52,000	..	12,53,52,000
101	Grants to Council of Scientific and Industrial Research . . .	Revenue 30,12,03,000	..	30,12,03,000
102	Department of Space . . .	Revenue Capital 20,98,69,000 7,10,83,000	..	20,98,69,000 7,10,83,000

(2) (iv) Appropriation
Appropriation (No. 2)

[Act 19 of 1974]

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
103	Lok Sabha	Revenue	3,11,26,000	Rs. 3,12,30,000
104	Rajya Sabha	Revenue	1,37,42,000	1,38,32,000
105	Department of Parlia- mentary Affairs	Revenue	16,73,000	16,73,000
CHARGED.—				
	<i>Staff, Household and Al- lowances of the President</i>	Revenue	53,29,000	53,29,000
106	Secretariat of the Vice- President	Revenue	4,44,000	4,44,000
CHARGED.—				
	<i>Union Public Service Com- mission</i>	Revenue	1,33,95,000	1,33,95,000
	TOTAL		75,28,95,00,000	1,01,99,24,81,000
				1,77,28,19,81,000

VI. RETAINED

THE FINANCE ACT, 1974**ARRANGEMENT OF SECTIONS**

From 1st Oct 1973 to 31st December 1973

375

Amendments to existing legislation

376

CHAPTER I

Amendments to existing legislation

377

Amendments to existing legislation

378

Amendments to existing legislation

379

Amendments to existing legislation

380

Amendments to existing legislation

381

Amendments to existing legislation

382

Amendments to existing legislation

383

Amendments to existing legislation

384

SECTIONS**1. Short title and commencement.****CHAPTER II****RATES OF INCOME-TAX****2. Income-tax.**

Amendment of section 10 to 13A to 31st December 1973

385

CHAPTER III

Amendments to existing legislation

386

DIRECT TAXES UNDER EIGHT HUNDRED**Income-tax**

3. Amendment of section 10.
4. Amendment of section 16.
5. Amendment of section 36.
6. Amendment of section 74A.
7. Amendment of section 80MM.
8. Amendment of section 80N.
9. Amendment of section 80O.
10. Amendment of section 139.
11. Amendment of section 209.
12. Amendment of Fourth Schedule.
13. Consequential amendments to certain sections.

Wealth-tax

14. Amendment of Act 27 of 1957.

Surtax

15. Amendment of Act 7 of 1964.

Miscellaneous

16. Continuance of development rebate in certain cases.
17. Amendment of sections 80N and 80O of the Income-tax Act as they stood during certain periods.

CHAPTER IV

INDIRECT TAXES

SECTIONS

18. Amendment of Act 32 of 1934.
 19. Auxiliary duties of customs.
 20. Amendment of Act 1⁽¹⁾ of 1949.
 21. Amendment of Act 1 of 1944.
 22. Auxiliary duties of excise.
 23. Amendment of Act 27 of 1958.
 24. Discontinuance of salt duty.

CHAPTER V

MISCELLANEOUS.

- 25. Amendment of Act 6 of 1898.**

THE FIRST SCHEDULE.

THE SECOND SCHEDULE.

THE THIRD SCHEDULE

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THE FINANCE ACT, 1974

[11th May, 1974]

An Act to give effect to the financial proposals of the Central Government for the financial year 1974-75.

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

CHAPTER I PRELIMINARY

1. (1) This Act may be called the Finance Act, 1974.
(2) Save as otherwise provided in this Act, sections 2 to 17 shall be deemed to have come into force on the 1st day of April, 1974.
- Short title and commencement.

CHAPTER II RATES OF INCOME-TAX

2. (1) Subject to the provisions of sub-sections (2), (3) and (4), for income tax the assessment year commencing on the 1st day of April, 1974, income-tax shall be charged at the rates specified in Part I of the First Schedule and shall be increased,—
(a) in the cases to which Paragraphs A, B and D of that Part apply, by a surcharge for purposes of the Union;
(b) in the cases to which Paragraph C of that Part applies, by a surcharge for purposes of the Union and a special surcharge for purposes of the Union; and
(c) in the cases to which Paragraphs E and F of that Part apply, by a surcharge, calculated in each case in the manner provided therein.
- (2) In the cases to which Sub-Paragraph I or Sub-Paragraph II of Paragraph A of Part I of the First Schedule applies, where the assessee

has, in the previous year, any net agricultural income, in addition to total income, and the total income exceeds five 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 five thousand rupees of the total income but without being liable to tax), only for the purpose of charging income-tax in respect of the total income; and

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

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

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

(iii) the amount by which income-tax determined in accordance with sub-clause (i) exceeds the amount of income-tax determined in accordance with sub-clause (ii) shall be the income-tax chargeable in respect of the total income:

Provided that in cases where Sub-Paragraph I of the said Paragraph A applies,—

(A) where the aggregate income referred to in sub-clause (i) exceeds fifteen thousand rupees but does not exceed fifteen thousand one hundred and eighty rupees, the provisions of that Sub-Paragraph relating to surcharge on income-tax shall, for the purposes of determining the amount of income-tax under sub-clause (ii), apply subject to the modifications that such surcharge shall be calculated at the rate arrived at by dividing the amount of surcharge on income-tax calculated in respect of the aggregate income by the amount of income-tax (excluding surcharge) calculated in respect of the aggregate income and that the provisions of the proviso at the end of that Sub-Paragraph shall not apply;

(B) where the aggregate income referred to in sub-clause (i) exceeds fifteen thousand one hundred and eighty rupees, the provisions of that Sub-Paragraph relating to surcharge on income-tax shall, for the purposes of determining the amount of income-tax under sub-clause (ii), apply subject to the modifications that such surcharge shall be calculated at the rate of fifteen per cent. and that the provisions of the proviso at the end of that Sub-Paragraph shall not apply.

31 of 1956.

43 of 1961.

(3) Where in the case of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956, the total income includes any profits and gains from life insurance business, the income-tax payable by it shall be the aggregate of the Income-tax calculated—

(i) on the amount of profits and gains from life insurance business so included, at the rate applicable in the case of the Life Insurance Corporation of India, in accordance with Paragraph E of Part I of the First Schedule, to that part of its total income which consists of profits and gains from life insurance business; and

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

(4) In cases to which Chapter XII or section 164 of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) applies, 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.

(5) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 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.

(6) Subject to the provisions of sub-section (7), in cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or deducted under sub-section (9) of section 80E of the said Act from any payment referred to in the said sub-section (9) or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so calculated, charged, deducted or computed at the rate or rates specified in Part III of the First Schedule:

Provided that in respect of any income chargeable to tax under section 164 of the Income-tax Act at the rate of sixty-five per cent., "advance tax" shall be computed at that rate.

(7) In the cases to which Sub-Paragraph I or Sub-Paragraph II of Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income, in addition to total income, and the total income exceeds six thousand rupees, then, in calculating income-tax under the first proviso to sub-section (5) of section 132 of the Income-tax Act or in charging income-tax under sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or 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

six thousand rupees of the total income but without being liable to tax), only for the purpose of calculating, charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income; and

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

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

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

(iii) the amount by which income-tax or, as the case may be, "advance tax" determined in accordance with sub-clause (i) exceeds the amount of income-tax or "advance tax" determined in accordance with sub-clause (ii) shall be the income-tax or "advance tax" in respect of the total income.

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

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

(b) "domestic company" means an Indian company, or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 1974, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income in accordance with the provisions of section 194 of that Act;

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

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

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

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

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

(g) all other words and expressions used in this section or in section 16 or in the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings, respectively, assigned to them in that Act.

CHAPTER III

DIRECT TAXES

Income-tax

3. In section 10 of the Income-tax Act,—

(a) in clause (10),—

(i) after the words "revised Pension Rules of the Central Government", the words, brackets and figures "or, as the case may be, the Central Civil Services (Pension) Rules, 1972" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1972;

(ii) for the words "or under any similar scheme of a State Government or a local authority", the following shall be substituted and shall be deemed always to have been substituted, namely:—

"or under any similar scheme applicable to the members of the civil services of the Union or holders of posts connected with defence or of civil posts under the Union (such members or holders being persons not governed by the said Rules) or to the members of the all-India services or to the members of the civil services of a State or holders of civil posts under a State or to the employees of a local authority";

(b) for clause (10) as so amended, the following clause shall be substituted with effect from the 1st day of April, 1975, namely:—

'(10) (i) any death-cum-retirement gratuity received under the revised Pension Rules of the Central Government or, as the

Amend-
ment of
section 10.

case may be, the Central Civil Services (Pension) Rules, 1972, or under any similar scheme applicable to the members of the civil services of the Union or holders of posts connected with defence or of civil posts under the Union (such members or holders being persons not governed by the said Rules) or to the members of the all-India services or to the members of the civil services of a State or holders of civil posts under a State or to the employees of a local authority or any payment of retiring gratuity received under the Pension Code or Regulations applicable to the members of the defence services;

(ii) any gratuity received under the Payment of Gratuity Act, 1972, to the extent it does not exceed an amount calculated in accordance with the provisions of sub-sections (2) and (3) of section 4 of that Act;

39 of 1972.

(iii) any other gratuity received by an employee on his retirement or on his becoming incapacitated prior to such retirement or on termination of his employment, or any gratuity received by his widow, children or dependants on his death, to the extent it does not, in either case, exceed one-half month's salary for each year of completed service, calculated on the basis of the average salary for the three years immediately preceding the year in which the gratuity is paid, subject to a maximum of thirty thousand rupees or twenty months' salary so calculated, whichever is less:

Provided that where any gratuities referred to in this clause are received by an employee from more than one employer in the same previous year, the aggregate amount exempt from income-tax under this clause shall not exceed thirty thousand rupees:

Provided further that where any such gratuity or gratuities was or were received in any one or more earlier previous years also and the whole or any part of the amount of such gratuity or gratuities was not included in the total income of the assessee of such previous year or years, the amount exempt from income-tax under this clause shall not exceed thirty thousand rupees as reduced by the amount or, as the case may be, the aggregate amount not included in the total income of any such previous year or years.

Explanation.—In this clause, "salary" shall have the meaning assigned to it in clause (h) of rule 2 of Part A of the Fourth Schedule;—

(c) in clause (10A), in sub-clause (i), for the words "or under any similar scheme applicable to the members of the Defence Services or to the employees of a State Government, a local authority", the following shall be substituted and shall be deemed always to have been substituted, namely:—

"or under any similar scheme applicable to the members of the civil services of the Union or holders of posts connected with defence or of civil posts under the Union (such members or

21 of 1860.

holders being persons not governed by the said Rules) or to the members of the all-India services or to the members of the defence services or to the members of the civil services of a State or holders of civil posts under a State or to the employees of a local authority";

(d) after clause (23A), the following clause shall be inserted with effect from the 1st day of June, 1974, namely:—

"(23B) any income of an institution constituted as a public charitable trust or registered under the Societies Registration Act, 1860, or under any law corresponding to that Act in force in any part of India, and existing solely for the development of khadi or village industries or both, and not for purposes of profit, to the extent such income is attributable to the business of production, sale, or marketing, of khadi or products of village industries:

Provided that—

(i) the institution applies its income, or accumulates it for application, solely for the development of khadi or village industries or both; and

(ii) the institution is, for the time being, approved for the purpose of this clause by the Khadi and Village Industries Commission;

Provided further that the Commission shall not, at any one time, grant such approval for more than three assessment years beginning with the assessment year next following the financial year in which it is granted.

Explanation.—For the purposes of this clause,—

(i) "Khadi and Village Industries Commission" means the Khadi and Village Industries Commission established under the Khadi and Village Industries Commission Act, 1956;

(ii) "khadi" and "village industries" have the meanings respectively assigned to them in that Act;".

4. In section 16 of the Income-tax Act, with effect from the 1st day of April, 1975,—

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

"(i) in respect of expenditure incidental to the employment of the assessee, a sum calculated on the basis provided hereunder, namely:—

(a) where the salary derived from such employment does not exceed Rs. 10,000 20 per cent. of such salary;

Amend-
ment of
section 16.

(b) where the salary derived from such employment exceeds Rs. 10,000 Rs. 2,000 plus 10 per cent. of the amount by which such salary exceeds Rs. 10,000 or Rs. 3,500, whichever is less;

Provided that—

(i) where the assessee is in receipt of a conveyance allowance from his employer; or

(ii) where any motor car, motor cycle, scooter or other moped is provided to the assessee by his employer for use by the assessee, otherwise than wholly and exclusively in the performance of his duties; or

(iii) where one or more motor cars are owned or hired by the employer of the assessee and the assessee is allowed the use of such motor car or all or any of such motor cars, otherwise than wholly and exclusively in the performance of his duties,

the deduction under this clause shall not exceed one thousand rupees;"

(b) clauses (iii), (iv) and (v) shall be omitted.

5. In section 36 of the Income-tax Act, in clause (viii) of sub-section (1), with effect from the 1st day of April, 1975,—

(a) for the portion beginning with the words "an amount not exceeding—" and ending with the words "ten per cent.", the following shall be substituted, namely:—

"an amount not exceeding—

(a) in the case of a Financial Corporation or a Joint Financial Corporation established under the State Financial Corporations Act, 1951, or an institution deemed under section 46 of that Act to be a Financial Corporation established by the State Government for the State within the meaning of that Act, forty per cent.,

(b) in the case of any other financial corporation,—

(i) where the paid-up share capital of the corporation does not exceed three crores of rupees, twenty-five per cent.,

(ii) where the paid-up share capital of the corporation exceeds three crores of rupees, ten per cent.,"

(b) the *Explanation* shall be omitted.

6. In section 74A of the Income-tax Act, with effect from the 1st day of April, 1975,—

(a) in sub-section (1), for the words "except against income, if any, from the same source", the words "against income, if any, from any other source under that head or against income under any other head" shall be substituted;

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

(3) Where for any assessment year, in the case of an assessee, being the owner of horses maintained by him for running in horse races (such horses being hereafter in this sub-section referred to as race horses), the net result of the computation in respect of the source specified in clause (c) of sub-section (2) is a loss, then, so much of the amount of such loss as does not exceed the amount of loss incurred by the assessee in the activity of owning and maintaining race horses shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year and—

(a) it shall be set off against the income, if any, from the source specified in clause (c) of sub-section (2) assessable for that assessment year:

Provided that the activity of owning and maintaining race horses is carried on by him in the previous year relevant for that assessment year; and

(b) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following assessment year and so on; so, however, that no portion of the loss shall be carried forward for more than four assessment years immediately succeeding the assessment year for which the loss was first computed.

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

(a) “amount of loss incurred by the assessee in the activity of owning and maintaining race horses” means—

(i) in a case where the assessee has no income by way of stake money, the amount of expenditure (not being in the nature of capital expenditure) laid out or expended by him wholly and exclusively for the purposes of maintaining the race horses;

(ii) in a case where the assessee has income by way of stake money, the amount by which such income falls short of the amount of expenditure (not being in the nature of capital expenditure) laid out or expended by the assessee wholly and exclusively for the purposes of maintaining race horses;

(b) “horse race” means a horse race upon which wagering or betting may be lawfully made;

(c) “income by way of stake money” means the gross amount of prize money received on a race horse or race horses by the owner thereof on account of the horse or horses or any one or more of the horses winning or being placed second or in any lower position in horse races.’

**Amend-
ment of
section
80MM.**

7. In section 80MM of the Income-tax Act, with effect from the 1st day of April, 1975,—

(a) in sub-section (1), the words and brackets "or a person (other than a company) who is resident in India" shall be omitted;

(b) sub-section (2A) shall be omitted.

**Amend-
ment of
section
80N.**

8. In section 80N of the Income-tax Act,—

(a) the words and brackets "or a person (other than a company) who is resident in India" shall be omitted with effect from the 1st day of April, 1975;

(b) for the words "is included in the gross total income of the assessee, there shall be allowed a deduction of the whole of such income", the words "included in the gross total income of the assessee is received in convertible foreign exchange in India, or having been received in convertible foreign exchange outside India, or having been converted into convertible foreign exchange outside India, is brought into India, by or on behalf of the assessee in accordance with any law for the time being in force for regulating payments and dealings in foreign exchange, there shall be allowed a deduction of the whole of the income so received in, or brought into, India," shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1969;

(c) the following *Explanation* shall be inserted, and shall be deemed to have been inserted, at the end, with effect from the 1st day of April, 1969, namely:—

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

(i) "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 law for the time being in force for regulating payments and dealings in foreign exchange;

(ii) any income used by the assessee outside India in the manner permitted by the Reserve Bank of India shall be deemed to have been brought into India in accordance with the law for the time being in force for regulating payments and dealings in foreign exchange, on the date on which such permission is given.'

**Amend-
ment of
section
80O.**

9. In section 80O of the Income-tax Act,—

(a) in sub-section (1),—

(i) for the words "there shall be allowed, in accordance with and subject to the provisions of this section, a deduction of the whole of such income", the words "and such income is received in convertible foreign exchange in India, or having been received in convertible foreign exchange outside India, or having been converted into convertible foreign exchange outside India, is brought into India, by or on behalf of the assessee in accordance with any law for the time being in force for regulating payments and dealings in foreign exchange, there shall be allowed, in accordance with and subject to the provisions of this section, a deduction of the whole of the income so received in, or brought into, India" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1972;

(ii) the following *Explanation* shall be inserted and shall be deemed to have been inserted at the end, with effect from the 1st day of April, 1972, namely:—

"Explanation.—The provisions of the Explanation to section 80N shall apply for the purposes of this section as they apply for the purposes of that section."

(b) in sub-section (1) as so amended, for the brackets, figure and words "(1) Where the gross total income of an assessee, being an Indian company or a person (other than a company) who is resident in India," the words "Where the gross total income of an assessee, being an Indian company," shall be substituted with effect from the 1st day of April, 1975;

(c) sub-section (2) shall be omitted with effect from the 1st day of April, 1975.

10. In section 139 of the Income-tax Act, with effect from the 1st day of April, 1975,—

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

'(1A) Notwithstanding anything contained in sub-section (1), no person need furnish under that sub-section a return of his income or the income of any other person in respect of whose total income he is assessable under this Act, if his income or, as the case may be, the income of such other person during the previous year consisted only of income chargeable under the head "Salaries" or of income chargeable under that head and also income of the nature referred to in any one or more of clauses (i) to (ix) of sub-section (1) of section 80L and the following conditions are fulfilled, namely:—

(a) where he or such other person was employed during the previous year by a company, he or such other person was at no time during the previous year a director of the company or a beneficial owner of shares in the company (not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits) carrying not less than twenty per cent. of the voting power;

(b) his salary or the salary of such other person, exclusive of the value of all benefits or amenities not provided for by way of monetary payment, does not exceed eighteen thousand rupees;

(c) the amount of income of the nature referred to in clauses (i) to (ix) of sub-section (1) of section 80L, if any, does not, in the aggregate, exceed three thousand rupees; and

(d) the tax deductible at source under section 192 from the income chargeable under the head "Salaries" has been deducted from that income.

Explanation.—For the purposes of this sub-section, "salary" shall have the meaning assigned to it in clause (1) of section 17.'

Amend-
ment of
section
139.

Amend-
ment of
section
209.

(b) in sub-section (3), after the word and figures "section 74", the words, brackets, figures and letter "or sub-section (3) of section 74A" shall be inserted.

11. In the Income-tax Act, section 209 shall be re-numbered as sub-section (1) thereof and—

(a) in sub-section (1) as so re-numbered, for the words "The amount of advance tax payable by an assessee in the financial year shall be computed as follows:—", the words, brackets and figures "The amount of advance tax payable by an assessee in the financial year shall, subject to the provisions of sub-sections (2) and (3), be computed as follows:—" shall be substituted;

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

"(2) Where the Finance Act of the relevant year provides that, in the case of any class of assessees, net agricultural income (as defined in that Act) shall be taken into account for the purposes of computing advance tax, then, the net agricultural income to be taken into account in the case of any assessee falling in that class, shall be—

(a) in cases where the Income-tax Officer makes an order under sub-section (1) or sub-section (3) of section 210,—

(i) if the total income of the latest previous year in respect of which the assessee has been assessed by way of regular assessment forms the basis of computation of advance tax payable by him, the net agricultural income which has been taken into account for the purposes of charging income-tax for the assessment year relevant to that previous year; or

(ii) if the total income of the previous year on the basis of which tax has been paid by the assessee under section 140A forms the basis of computation of advance tax, the net agricultural income as returned by the assessee in the return of income for the assessment year relevant to that previous year;

(b) in cases where an estimate is sent by the assessee under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) of section 212, the net agricultural income, as estimated by him, of the period which would be the previous year for the immediately following assessment year.

(3) Where the Finance Act of the relevant year specifies any separate rate or rates for the purposes of computing advance tax in the case of every Hindu undivided family which has at least one member whose total income of the previous year exceeds the maximum amount not chargeable to income-tax in his case, then, the Income-tax Officer shall, for making an order under section 210 in the case of any such Hindu undivided

family, compute (subject to the provisions of section 164) the advance tax at such rate or rates—

(a) in a case where the total income of the latest previous year in respect of which the Hindu undivided family has been assessed by way of regular assessment forms the basis of computation of advance tax, if the total income of any member of the family for the assessment year relevant to such latest previous year exceeds the maximum amount not chargeable to income-tax in his case;

(b) in a case where the total income of the previous year on the basis of which tax has been paid by the Hindu undivided family under section 140A forms the basis of computation of advance tax, if the total income of any member of the family for the assessment year relevant to such previous year exceeds the maximum amount not chargeable to income-tax in his case.”.

12. In the Fourth Schedule to the Income-tax Act, in Part A,—

(a) in sub-rule (3) of rule 5, after clause (b), the following clause shall be inserted, namely:—

“(c) the fund may also consist of any amount transferred from the individual account of an employee in any recognised provident fund maintained by his former employer and the interest in respect thereof.”;

(b) in rule 8, with effect from the 1st day of April, 1975,—

(i) in clause (ii), the word “or” shall be inserted at the end;

(ii) after clause (ii), the following clause and *Explanation* shall be inserted, namely:—

“(iii) if, on the cessation of his employment, the employee obtains employment with any other employer, to the extent the accumulated balance due and becoming payable to him is transferred to his individual account in any recognised provident fund maintained by such other employer.

Explanation.—Where the accumulated balance due and becoming payable to an employee participating in a recognised provident fund maintained by his employer includes any amount transferred from his individual account in any other recognised provident fund or funds maintained by his former employer or employers, then, in computing the period of continuous service for the purposes of clause (i) or clause (ii) the period or periods for which such employee rendered continuous service under his former employer or employers aforesaid shall be included.”.

13. (1) The following amendment (being an amendment of a consequential nature) shall be made in the Income-tax Act, namely:—

In section 155, after sub-section (10), the following sub-sections shall be inserted, namely:—

“(11) Where in the assessment for any year, the deduction under section 80N in respect of any income, being the whole or

Amend-
ment of
Fourth
Schedule.

Conse-
quential
amend-
ments to
certain
sections.

any part of income by way of dividends as is referred to in that section, has not been allowed on the ground that such income has not been received in convertible foreign exchange in India, or having been received in convertible foreign exchange outside India, or having been converted into convertible foreign exchange outside India, has not been brought into India, by or on behalf of the assessee in accordance with any law for the time being in force for regulating payments and dealings in foreign exchange and subsequently such income or part thereof is received in, or brought into, India in the manner aforesaid, the Income-tax Officer shall amend the order of assessment so as to allow deduction under section 80N in respect of such income or part thereof as is so received in, or brought into, India and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the date on which such income is so received in, or brought into, India.

(12) Where in the assessment for any year, the deduction under section 80O in respect of any income, being the whole or any part of income by way of royalty, commission, fees or any similar payment as is referred to in that section, has not been allowed on the ground that such income has not been received in convertible foreign exchange in India, or having been received in convertible foreign exchange outside India, or having been converted into convertible foreign exchange outside India, has not been brought into India, by or on behalf of the assessee in accordance with any law for the time being in force for regulating payments and dealings in foreign exchange and subsequently such income or part thereof is received in, or brought into, India in the manner aforesaid, the Income-tax Officer shall amend the order of assessment so as to allow deduction under section 80O in respect of such income or part thereof as is so received in, or brought into, India and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the date on which such income is so received in, or brought into, India.”.

(2) The following amendments (being amendments of a consequential nature) shall be made in the Income-tax Act with effect from the 1st day of April, 1975, namely:—

(i) in sub-section (2) of section 75, for the words, brackets and figures “or sub-section (1) of section 74”, the words, brackets, figures and letter “, sub-section (1) of section 74 or sub-section (3) of section 74A” shall be substituted;

(ii) in clause (b) of sub-section (2) of section 77, after the word and figures “section 74”, the words, brackets, figures and letter “or sub-section (3) of section 74A” shall be inserted;

(iii) in section 80, after the word and figures “section 74”, the words, brackets, figures and letter “or sub-section (3) of section 74A” shall be inserted;

(iv) in sub-section (3) of section 80A, the words, figures and letters "or section 80MM or section 80N or section 80O" shall be omitted;

(v) in clause (iv) of sub-section (2) of section 141A, after the word and figures "section 74", the words, brackets, figures and letter "or sub-section (3) of section 74A" shall be inserted;

(vi) in sub-clause (iv) of clause (b) of sub-section (1) of section 143, after the word and figures "section 74", the words, brackets, figures and letter "or sub-section (3) of section 74A" shall be inserted;

(vii) in sub-section (4) of section 155, after the word and figures "section 74", the words, brackets, figures and letter "or sub-section (3) of section 74A" shall be inserted;

(viii) in section 157, for the words, brackets and figures "or sub-section (1) of section 74", at both the places where they occur, the words, brackets, figures and letter ", sub-section (1) of section 74 or sub-section (3) of section 74A" shall be substituted

Wealth-tax

14. In the Wealth-tax Act, 1957, with effect from the 1st day of April, 1975,—

Amend-
ment of
Act 27 of
1957.

(1) in clause (e) of section 2,—

(a) in item (ii) of sub-clause (2), for the words "any annuity", the words and brackets "any annuity (not being an annuity purchased by the assessee or purchased by any other person in pursuance of a contract with the assessee)" shall be substituted;

(b) in the proviso, for the words, brackets and figures "items (i) to (iii)", the word, brackets and figure "item (i)" and for the words, brackets and figures "items (i) to (v)", the words, brackets and figures "items (i) to (iii)" shall be substituted;

(2) in section 5,—

(a) in sub-section (1),—

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

"(iva) agricultural land belonging to the assessee;";

(ii) in clause (ivb), in the proviso, for the words "as dwelling house, store house or outhouse", the words "as store house or for keeping livestock" shall be substituted;

(iii) in clause (vi), the following proviso shall be inserted at the end, namely:—

"Provided that in the case of a policy of insurance the premium or other payment whereon is payable during a period of less than ten years, the amount that shall not be included in the net wealth of the assessee under this clause shall be a sum that bears to the value of the right or interest of the assessee in the policy the same proportion as the number of years during which the premium or other payment on the policy is payable bears to ten;";

(b) in sub-section (1A), for the word, brackets and figures "clause (xv)," the word, brackets, figures and letter "clauses (iva), (xv)," shall be substituted;

(3) in the Schedule, in Paragraph A of Part I, for items (1) and (1A), the following items shall be substituted, namely:—

"(1) In the case of every individual or Hindu undivided family, not being a Hindu undivided family to which item (1A) of this Paragraph applies—

Rate of tax

(a) where the net wealth does not exceed Rs. 5,00,000	1 per cent. of the net wealth;
(b) where the net wealth exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000	Rs. 5,000 plus 3 per cent. of the amount by which the net wealth exceeds Rs. 5,00,000;
(c) where the net wealth exceeds Rs. 10,00,000 but does not exceed Rs. 15,00,000	Rs. 20,000 plus 4 per cent. of the amount by which the net wealth exceeds Rs. 10,00,000;
(d) where the net wealth exceeds Rs. 15,00,000	Rs. 40,000 plus 8 per cent. of the amount by which the net wealth exceeds Rs. 15,00,000:

Provided that for the purposes of this item,—

(i) no wealth-tax shall be payable where the net wealth does not exceed the following limit, namely:—

(A) Rs. 1,00,000 in the case of an individual

(B) Rs. 2,00,000, in the case of a Hindu undivided family;

(ii) the wealth-tax payable shall, in no case, exceed 10 per cent. of the amount by which the net wealth exceeds the limit specified in sub-clause (A) or, as the case may be, sub-clause (B) of clause (i) of this proviso.

(1A) In the case of every Hindu undivided family which has at least one member whose net wealth assessable for the assessment year exceeds Rs. 1,00,000—

Rate of tax

(a) where the net wealth does not exceed Rs. 5,00,000	3 per cent. of the net wealth;
(b) where the net wealth exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000	Rs. 15,000 plus 4 per cent. of the amount by which the net wealth exceeds Rs. 5,00,000;
(c) where the net wealth exceeds Rs. 10,00,000	Rs. 35,000 plus 8 per cent. of the amount by which the net wealth exceeds Rs. 10,00,000:

Provided that for the purposes of this item,—

- (i) no wealth-tax shall be payable where the net wealth does not exceed Rs. 2,00,000;
- (ii) the wealth-tax payable shall, in no case, exceed 10 per cent. of the amount by which the net wealth exceeds Rs. 2,00,000.”.

Surtax

15. In the Companies (Profits) Surtax Act, 1964, in the Third Schedule, with effect from the 1st day of April, 1975,—

Amend.
ment of
Act 7 of
1964.

- (a) for the figures and words “30 per cent.”, the figures and words “40 per cent.” shall be substituted;
- (b) the following proviso shall be inserted at the end, namely:—

“Provided that where in the case of an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends within India—

(i) which is such a company as is referred to in section 108 of the Income-tax Act, and

(ii) whose paid-up share capital (subscribed and paid for in cash) as on the last day of the previous year, is not less than twenty-five per cent. of the amount of the capital as computed under the Second Schedule to this Act,

the aggregate of—

(a) the amount of income-tax payable by the company in respect of its total income of the previous year under the provisions of the Income-tax Act after making allowance for any relief, rebate or deduction in respect of income-tax to which the company is entitled under the provisions of the said Act or the annual Finance Act; and

(b) the amount of surtax computed in accordance with the foregoing provisions of this Schedule,

exceeds the amount calculated at seventy per cent. of the total income of the company, the amount of such excess shall be deducted from the amount of surtax referred to in clause (b) above and the balance shall be the amount of the surtax payable by the company.”.

Miscellaneous

Continuance of development rebate in certain cases.

[January, 1977]

16. The notification of the Government of India in the Ministry of Finance (Department of Revenue and Insurance) No. S. O. 2167, dated the 28th day of May, 1971, issued under sub-section (5) of section 33 of the Income-tax Act shall not apply in respect of—

(a) any ship acquired after the 31st day of May, 1974 but before the 1st day of June, 1975 by any assessee, if the assessee furnishes evidence to the satisfaction of the Income-tax Officer that he had, before the 1st day of December, 1973, entered into a contract for the purchase of such ship with the builder or owner thereof;

(b) any machinery or plant, being coal-fired equipment, or any machinery or plant for converting oil-fired equipment into coal-fired equipment, installed by any assessee after the 31st day of May, 1974 but before the 1st day of June, 1977.

Explanation.—In this clause, “equipment” means a boiler, furnace, kiln, oven or the like;

(c) any machinery or plant [not being machinery or plant referred to in clause (b)] installed by any assessee after the 31st day of May, 1974 but before the 1st day of June, 1975, if the assessee furnishes evidence to the satisfaction of the Income-tax Officer that before the 1st day of December, 1973 he had purchased such machinery or plant or had entered into a contract for the purchase of such machinery or plant with the manufacturer or owner of, or a dealer in, such machinery or plant, or had, where such machinery or plant has been manufactured in an undertaking owned by the assessee, taken steps for the manufacture of such machinery or plant,

and accordingly the provisions of the Income-tax Act shall have effect in relation to such ship, machinery or plant, subject to the conditions specified in clauses (a), (b) and (c).

Amendment of sections 80N and 80O of the Income-tax Act as they stood during certain periods.

17. The provisions of section 80N of the Income-tax Act, as they stood immediately before the 1st day of April, 1969, and the provisions of section 80O of that Act, as they stood from time to time before the 1st day of April, 1972, shall have and shall be deemed to have had effect subject to the modification that the deduction under the said provisions shall be allowed only with reference to the income referred to therein which is received in convertible foreign exchange in India, or having been received in convertible foreign exchange outside India, or having been converted into convertible foreign exchange outside India, is brought into India, by or on behalf of the assessee in accordance with any law for the time being in force for regulating payments and dealings in foreign exchange.

Subs. by Act 25 of 1975, s. 30 (w.e.f. 1.4.75).

Explanation.—For the purposes of this section,—

(i) “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 law for the time being in force for regulating payments and dealings in foreign exchange;

(ii) any income used by the assessee outside India in the manner permitted by the Reserve Bank of India shall be deemed to have been brought into India in accordance with the law for the time being in force for regulating payments and dealings in foreign exchange, on the date on which such permission is given.

CHAPTER IV

INDIRECT TAXES

18. In the Indian Tariff Act, 1934 (hereinafter referred to as the Tariff Act),—

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

“(4) Notwithstanding anything contained in sub-section (1), where the Central Government is satisfied that in the interests of trade including promotion of exports, it is necessary to take immediate action for discontinuing the preferential rate, or increasing the preferential rate to a rate not exceeding the standard rate, or decreasing the preferential rate, in respect of an article specified in the First Schedule, the Central Government may, by notification in the Official Gazette, direct an amendment of the said Schedule to be made so as to provide for such discontinuance of, or increase or decrease, as the case may be, in, the preferential rate.

(5) Every notification issued under sub-section (4) shall, as soon as may be after it is issued, be laid before each House of Parliament.”;

(b) in the First Schedule, in Item No. 22(4), for the entry in the fourth column against sub-item (a), the entry “Rs. 80·00 per litre or 270 per cent. *ad valorem*, whichever is higher.” shall be substituted.

19. (1) In the case of goods mentioned in the First Schedule to the Tariff Act, or in that Schedule as amended from time to time, there shall be levied and collected as an auxiliary duty of customs an amount equal to twenty per cent. of the value of the goods as determined in accordance with the provisions of section 14 of the Customs Act, 1962 (hereinafter referred to as the Customs Act).

52 of 1962.

Auxiliary
duties of
customs.

10 of 1897.

(2) Sub-section (1) shall cease to have effect after the 31st day of March, 1975, except as respects things done or omitted to be done before such cesser; and section 6 of the General Clauses Act, 1897, shall apply upon such cesser as if the said sub-section had then been repealed by a Central Act.

Amend.
ment of
Act 32 of
1934.

(3) The auxiliary duties of customs referred to in sub-section (1) shall be in addition to any duties of customs chargeable on such goods under the Customs Act, or any other law for the time being in force.

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

Amend-
ment of
Act 1 of
1949.

Amend-
ment of
Act 1 of
1944.

Auxi-
liary
duties
of excise.

20. In the Indian Tariff (Amendment) Act, 1949, in sections 4 and 5, for the figures "1974", the figures "1975" shall be substituted.

21. The Central Excises and Salt Act, 1944 (hereinafter referred to as the Central Excises Act) shall be amended in the manner specified in the Second Schedule.

22. (1) In the case of goods mentioned in the First Schedule to the Central Excises Act, or in that Schedule as amended from time to time, there shall be levied and collected as an auxiliary duty of excise an amount equal to twenty per cent. of the value of the goods as determined in accordance with the provisions of section 4 of the Central Excises Act.

(2) Sub-section (1) shall cease to have effect after the 31st day of March, 1975, except as respects things done or omitted to be done before such cesser; and section 6 of the General Clauses Act, 1897, shall apply upon such cesser as if the said sub-section had then been repealed by a Central Act.

(3) The auxiliary duties of excise referred to in sub-section (1) shall be in addition to any duties of excise chargeable on such goods under the Central Excises Act, or any other law for the time being in force.

(4) The auxiliary duties of excise referred to in sub-section (1) shall be levied for the purposes of the Union and the proceeds thereof shall not be distributed among the States.

(5) The provisions of the Central Excises Act and the rules made thereunder, including those relating to refunds and exemptions from duties, shall, as far as may be, apply in relation to the levy and collection of the auxiliary duties of excise leviable under this section in respect of any goods as they apply in relation to the levy and collection of the duties of excise on such goods under that Act or those rules, as the case may be.

Amend-
ment of
Act 27 of
1958.

Dis-
conti-
nuance
of salt
duty.

23. The Mineral Products (Additional Duties of Excise and Customs) Act, 1958 (hereinafter referred to as the Mineral Products Act) shall be amended in the manner specified in the Third Schedule.

24. For the year beginning on the 1st day of April, 1974, no duty under the Central Excises Act or the Tariff Act shall be levied in respect of salt manufactured in, or imported into, India.

CHAPTER V

MISCELLANEOUS

25. In the First Schedule to the Indian Post Office Act, 1898,—

(a) for the sub-headings "Letters", "Letter-cards" and "Post cards" and the entries under those sub-headings, the following shall be substituted, namely:—

Amend-
ment of
Act 6 of
1898.

"Letters"

For a weight not exceeding fifteen grams	25 Paise
For every fifteen grams, or fraction thereof, exceeding fifteen grams	15 Paise

Letter-cards

For a letter-card	20 Paise
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Post cards

Single	15 Paise
Reply	30 Paise";

(b) for the sub-heading "Parcels" and the entries thereunder, the following shall be substituted, namely:—

"Parcels"

For a weight not exceeding five hundred grams	One rupee and fifty paise
For every five hundred grams, or fraction thereof, exceeding five hundred grams	One rupee and fifty paise";

THE FIRST SCHEDULE

(See section 2)

PART I

INCOME-TAX AND SURCHARGES ON INCOME-TAX

Paragraph A

Sub-Paragraph I

In the case of every individual or Hindu undivided family or unregistered firm or other association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act,

not being a case to which Sub-Paragraph II of this Paragraph or any other Paragraph of this Part applies,—

Rates of income-tax

(1) where the total income does not exceed Rs. 5,000	Nil;
(2) where the total income exceeds Rs. 5,000 but does not exceed Rs. 10,000	10 per cent. of the amount by which the total income exceeds Rs. 5,000;
(3) where the total income exceeds Rs. 10,000 but does not exceed Rs. 15,000	Rs. 500 plus 17 per cent. of the amount by which the total income exceeds Rs. 10,000;
(4) where the total income exceeds Rs. 15,000 but does not exceed Rs. 20,000	Rs. 1,350 plus 23 per cent. of the amount by which the total income exceeds Rs. 15,000;
(5) where the total income exceeds Rs. 20,000 but does not exceed Rs. 25,000	Rs. 2,500 plus 30 per cent. of the amount by which the total income exceeds Rs. 20,000;
(6) where the total income exceeds Rs. 25,000 but does not exceed Rs. 30,000	Rs. 4,000 plus 40 per cent. of the amount by which the total income exceeds Rs. 25,000;
(7) where the total income exceeds Rs. 30,000 but does not exceed Rs. 40,000	Rs. 6,000 plus 50 per cent. of the amount by which the total income exceeds Rs. 30,000;
(8) where the total income exceeds Rs. 40,000 but does not exceed Rs. 60,000	Rs. 11,000 plus 60 per cent. of the amount by which the total income exceeds Rs. 40,000;
(9) where the total income exceeds Rs. 60,000 but does not exceed Rs. 80,000	Rs. 23,000 plus 70 per cent. of the amount by which the total income exceeds Rs. 60,000;
(10) where the total income exceeds Rs. 80,000 but does not exceed Rs. 1,00,000	Rs. 37,000 plus 75 per cent. of the amount by which the total income exceeds Rs. 80,000;
(11) where the total income exceeds Rs. 1,00,000 but does not exceed Rs. 2,00,000	Rs. 52,000 plus 80 per cent. of the amount by which the total income exceeds Rs. 1,00,000;
(12) where the total income exceeds Rs. 2,00,000	Rs. 1,32,000 plus 85 per cent. of the amount by which the total income exceeds Rs. 2,00,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the following rates, namely:—

(a) in a case where the total income does not exceed Rs. 15,000	10 per cent.;
(b) in any other case	15 per cent.:

Provided that the amount of surcharge payable shall, in no case, exceed the aggregate of the following sums, namely:—

- (i) an amount calculated at the rate of 10 per cent. on the amount of income-tax on an income of Rs. 15,000, if such income had

been the total income (the income of Rs. 15,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the person concerned); and

(ii) 40 per cent. of the amount by which the total income exceeds Rs. 15,000.

Sub-Paragraph II

In the case of every Hindu undivided family which at any time during the previous year has at least one member whose total income of the previous year relevant to the assessment year commencing on the 1st day of April, 1974 exceeds Rs. 5,000,—

Rates of income-tax

(1) where the total income does not exceed Rs. 5,000	Nil;
(2) where the total income exceeds Rs. 5,000 but does not exceed Rs. 10,000	17 per cent. of the amount by which the total income exceeds Rs. 5,000;
(3) where the total income exceeds Rs. 10,000 but does not exceed Rs. 15,000	Rs. 850 plus 23 per cent. of the amount by which the total income exceeds Rs. 10,000;
(4) where the total income exceeds Rs. 15,000 but does not exceed Rs. 20,000	Rs. 2,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 15,000;
(5) where the total income exceeds Rs. 20,000 but does not exceed Rs. 25,000	Rs. 3,500 plus 40 per cent. of the amount by which the total income exceeds Rs. 20,000;
(6) where the total income exceeds Rs. 25,000 but does not exceed Rs. 30,000	Rs. 5,500 plus 50 per cent. of the amount by which the total income exceeds Rs. 25,000;
(7) where the total income exceeds Rs. 30,000 but does not exceed Rs. 40,000	Rs. 8,000 plus 60 per cent. of the amount by which the total income exceeds Rs. 30,000;
(8) where the total income exceeds Rs. 40,000 but does not exceed Rs. 60,000	Rs. 14,000 plus 70 per cent. of the amount by which the total income exceeds Rs. 40,000;
(9) where the total income exceeds Rs. 60,000 but does not exceed Rs. 80,000	Rs. 28,000 plus 75 per cent. of the amount by which the total income exceeds Rs. 60,000;
(10) where the total income exceeds Rs. 80,000 but does not exceed Rs. 1,00,000	Rs. 43,000 plus 80 per cent. of the amount by which the total income exceeds Rs. 80,000;
(11) where the total income exceeds Rs. 1,00,000	Rs. 59,000 plus 85 per cent. of the amount by which the total income exceeds Rs. 1,00,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent. of such income-tax,

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

(1) where the total income does not exceed Rs. 10,000	15 per cent. of the total income;
(2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000	Rs. 1,500 plus 25 per cent. of the amount by which the total income exceeds Rs. 10,000;
(3) where the total income exceeds Rs. 20,000	Rs. 4,000 plus 40 per cent. of the amount by which the total income exceeds Rs. 20,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent. of such income-tax.

Paragraph C

In the case of every registered firm,—

Rates of income-tax

(1) where the total income does not exceed Rs. 10,000	Nil;
(2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 25,000	4 per cent. of the amount by which the total income exceeds Rs. 10,000;
(3) where the total income exceeds Rs. 25,000 but does not exceed Rs. 50,000	Rs. 600 plus 6 per cent. of the amount by which the total income exceeds Rs. 25,000;
(4) where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000	Rs. 2,100 plus 12 per cent. of the amount by which the total income exceeds Rs. 50,000;
(5) where the total income exceeds Rs. 1,00,000	Rs. 8,100 plus 20 per cent. of the amount by which the total income exceeds Rs. 1,00,000.

Surcharges on income-tax

The amount of income-tax computed at the rate hereinbefore specified shall be increased by the aggregate of surcharges for purposes of the Union calculated as specified hereunder:—

(a) in the case of a registered firm whose total income includes income derived from a profession carried on by it and the income so included is not less than fifty-one per cent. of such total income, a surcharge calculated at the rate of ten per cent. of the amount of income-tax computed at the rate hereinbefore specified;

(b) in the case of any other registered firm, a surcharge calculated at the rate of twenty per cent. of the amount of income-tax computed at the rate hereinbefore specified; and

(c) a special surcharge calculated at the rate of fifteen per cent. on the aggregate of the following amounts, namely:—

(i) the amount of income-tax computed at the rate hereinbefore specified; and

(ii) the amount of the surcharge calculated in accordance with clause (a) or, as the case may be, clause (b).

Explanation.—For the purposes of this Paragraph, “registered firm” includes an unregistered firm assessed as a registered firm under clause (b) of section 183 of the Income-tax Act.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income 50 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent. of such income-tax.

Paragraph E

In the case of the Life Insurance Corporation of India established 31 of 1956, under the Life Insurance Corporation Act, 1956,—

Rates of income-tax

(i) on that part of its total income which consists of profits and gains from life insurance business 52.5 per cent.;

(ii) on the balance, if any, of the total income the rate of income-tax applicable, in accordance with Paragraph F of this Part, to the total income of a domestic company which is a company in which the public are substantially interested.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge calculated at the rate of five per cent. of such income-tax.

Paragraph F

In the case of a company, other than the Life Insurance Corporation established under the Life Insurance Corporation Act, 1956,—

Rates of income-tax

I. In the case of a domestic company,—

(1) where the company is a company in which the public are substantially interested,—

(i) in a case where the total income does not exceed Rs. 1,00,000 45 per cent. of the total income;

(ii) in a case where 55 per cent. of the total income; the total income exceeds Rs. 1,00,000

(2) where the company is not a company in which the public are substantially interested,—

(i) in the case of an industrial company—

(a) on so much of the total income as does not exceed Rs. 2,00,000 55 per cent.

(b) on the balance, if any, of the total income 60 per cent.

(ii) in any other case 65 per cent. of the total income:

Provided that the income-tax payable by a domestic company, being a company in which the public are substantially interested, the total income of which exceeds Rs. 1,00,000, shall not exceed the aggregate of—

(a) the income-tax which would have been payable by the company if its total income had been Rs. 1,00,000 (the income of Rs. 1,00,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company); and

(b) eighty per cent. of the amount by which its total income exceeds Rs. 1,00,000.

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of—

(a) royalties received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961, or

(b) fees for rendering technical services received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964,

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.

70 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge calculated at the rate of five per cent. of such income-tax.

PART II*Rates for deduction of tax at source in certain cases*

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194D and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to deduction, at the following rates:—

Income-tax	Rate of income-tax	Rate of surcharge
1. In the case of a person other than a company—		
(a) where the person is resident—		
(i) on income by way of interest other than "Interest on securities"	10 per cent.	<i>Nil;</i>
(ii) on income by way of winnings from lotteries and cross-word puzzles	30 per cent.	3 per cent.;
(iii) on income by way of insurance commission	10 per cent.	<i>Nil;</i>
(iv) on any other income (excluding interest payable on a tax-free security)	21 per cent.	2 per cent.
(b) where the person is not resident in India—		
(i) on the whole income (excluding interest payable on a tax-free security)	income-tax at 30 per cent. and surcharge at 3 per cent. of the amount of the income, <i>or</i> income-tax and surcharge on income-tax in respect of the income at the rates prescribed in Sub-Paragraph I of Paragraph A of Part III of this Schedule, if such income had been the total income,	
	whichever is higher;	
(ii) on income by way of interest payable on a tax-free security	15 per cent.	1.5 per cent.;

Income-tax

	Rate of income-tax	Rate of surcharge
2. In the case of a company— (a) where the company is a domestic company— (i) on income by way of interest other than “Interest on securities” (ii) on any other in- come (excluding interest payable on a tax-free security)	20 per cent. 22 per cent.	1 per cent.; 1 per cent.;
(b) where the company is not a domestic company— (i) on income by way of dividends payable by any domestic company (ii) on income by way of royalties payable by an Indian concern in pursuance of an agree- ment made by it with the Indian concern after the 31st day of March, 1961, and which has been approved by the Central Government (iii) on income by way of fees payable by an Indian concern for render- ing technical services in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964, and which has been approved by the Central Government (iv) on income by way of interest payable on a tax-free security (v) on any other in- come	24.5 per cent. 50 per cent. 50 per cent. 44 per cent. 70 per cent.	1.225 per cent.; 2.5 per cent.; 2.5 per cent.; 2.2 per cent.; 3.5 per cent.

PART III

Rates for calculating or charging income-tax in certain cases, deducting income-tax from income chargeable under the head “Salaries” or any payment referred to in sub-section (9) of section 80E and computing “advance tax”.

In cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174

or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or deducted under sub-section (9) of section 80E of the said Act from any payment referred to in the said sub-section (9) or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" (not being "advance tax" in respect of any income chargeable to tax under section 164 of the Income-tax Act at the rate of sixty-five per cent.) shall be so calculated, charged, deducted or computed at the following rate or rates:—

Paragraph A

Sub-Paragraph I

In the case of every individual or Hindu undivided family or unregistered firm or other association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which Sub-Paragraph II of this Paragraph or any other Paragraph of this Part applies,—

Rates of income-tax

(1) where the total income does not exceed Rs. 6,000	Nil;
(2) where the total income exceeds Rs. 6,000 but does not exceed Rs. 10,000	12 per cent. of the amount by which the total income exceeds Rs. 6,000;
(3) where the total income exceeds Rs. 10,000 but does not exceed Rs. 15,000	Rs. 480 plus 15 per cent. of the amount by which the total income exceeds Rs. 10,000;
(4) where the total income exceeds Rs. 15,000 but does not exceed Rs. 20,000	Rs. 1,230 plus 20 per cent. of the amount by which the total income exceeds Rs. 15,000;
(5) where the total income exceeds Rs. 20,000 but does not exceed Rs. 25,000	Rs. 2,230 plus 30 per cent. of the amount by which the total income exceeds Rs. 20,000;
(6) where the total income exceeds Rs. 25,000 but does not exceed Rs. 30,000	Rs. 3,730 plus 40 per cent. of the amount by which the total income exceeds Rs. 25,000;
(7) where the total income exceeds Rs. 30,000 but does not exceed Rs. 50,000	Rs. 5,730 plus 50 per cent. of the amount by which the total income exceeds Rs. 30,000;
(8) where the total income exceeds Rs. 50,000 but does not exceed Rs. 70,000	Rs. 15,730 plus 60 per cent. of the amount by which the total income exceeds Rs. 50,000;
(9) where the total income exceeds Rs. 70,000	Rs. 27,730 plus 70 per cent. of the amount by which the total income exceeds Rs. 70,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax.

Sub-Paragraph II

In the case of every Hindu undivided family which at any time during the previous year has at least one member whose total income of the previous year relevant to the assessment year commencing on the 1st day of April, 1975 exceeds Rs. 6,000,—

Rates of income-tax

(1) where the total income does not exceed Rs. 6,000	<i>Nil;</i>
(2) where the total income exceeds Rs. 6,000 but does not exceed Rs. 10,000	15 per cent. of the amount by which the total income exceeds Rs. 6,000;
(3) where the total income exceeds Rs. 10,000 but does not exceed Rs. 15,000	Rs. 600 plus 20 per cent. of the amount by which the total income exceeds Rs. 10,000;
(4) where the total income exceeds Rs. 15,000 but does not exceed Rs. 20,000	Rs. 1,600 plus 30 per cent. of the amount by which the total income exceeds Rs. 15,000;
(5) where the total income exceeds Rs. 20,000 but does not exceed Rs. 25,000	Rs. 3,100 plus 40 per cent. of the amount by which the total income exceeds Rs. 20,000;
(6) where the total income exceeds Rs. 25,000 but does not exceed Rs. 30,000	Rs. 5,100 plus 50 per cent. of the amount by which the total income exceeds Rs. 25,000;
(7) where the total income exceeds Rs. 30,000 but does not exceed Rs. 50,000	Rs. 7,600 plus 60 per cent. of the amount by which the total income exceeds Rs. 30,000;
(8) where the total income exceeds Rs. 50,000	Rs. 19,600 plus 70 per cent. of the amount by which the total income exceeds Rs. 50,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax.

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

(1) where the total income does not exceed Rs. 10,000	15 per cent. of the total income;
(2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000	Rs. 1,500 plus 25 per cent. of the amount by which the total income exceeds Rs. 10,000;
(3) where the total income exceeds Rs. 20,000	Rs. 4,000 plus 40 per cent. of the amount by which the total income exceeds Rs. 20,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax.

*Paragraph C**Sub-Paragraph I*

In the case of every registered firm, not being a case to which Sub-Paragraph II of this Paragraph applies,—

Rates of income-tax

(1) where the total income does not exceed Rs. 10,000	<i>Nil;</i>
(2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 25,000	5 per cent. of the amount by which the total income exceeds Rs. 10,000;
(3) where the total income exceeds Rs. 25,000 but does not exceed Rs. 50,000	Rs. 750 plus 7 per cent. of the amount by which the total income exceeds Rs. 25,000;
(4) where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000	Rs. 2,500 plus 15 per cent. of the amount by which the total income exceeds Rs. 50,000;
(5) where the total income exceeds Rs. 1,00,000	Rs. 10,000 plus 24 per cent. of the amount by which the total income exceeds Rs. 1,00,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax.

Sub-Paragraph II

In the case of every registered firm whose total income includes income derived from a profession carried on by it and the income so included is not less than fifty-one per cent. of such total income,—

Rates of income-tax

(1) where the total income does not exceed Rs. 10,000	<i>Nil;</i>
(2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 25,000	4 per cent. of the amount by which the total income exceeds Rs. 10,000;
(3) where the total income exceeds Rs. 25,000 but does not exceed Rs. 50,000	Rs. 600 plus 7 per cent. of the amount by which the total income exceeds Rs. 25,000;
(4) where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000	Rs. 2,350 plus 13 per cent. of the amount by which the total income exceeds Rs. 50,000;
(5) where the total income exceeds Rs. 1,00,000.	Rs. 8,850 plus 22 per cent. of the amount by which the total income exceeds Rs. 1,00,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax.

Explanation.—For the purposes of this Paragraph, “registered firm” includes an unregistered firm assessed as a registered firm under clause (b) of section 183 of the Income-tax Act.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income	50 per cent.
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Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax.

Paragraph E

In the case of the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956,—

31 of 1956.

Rates of income-tax

(i) on that part of its total income which consists of profits and gains from life insurance business	52.5 per cent.;
(ii) on the balance, if any, of the total income	the rate of income-tax applicable, in accordance with Paragraph F of this Part, to the total income of a domestic company which is a company in which the public are substantially interested.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge calculated at the rate of five per cent. of such income-tax.

Paragraph F

In the case of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956,—

31 of 1956.

Rates of income-tax

1. In the case of a domestic company,—

(1) where the company is a company in which the public are substantially interested,—

(i) in a case where the total income does not exceed Rs. 1,00,000	45 per cent. of the total income;
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(ii) in a case where the total income exceeds Rs. 1,00,000

55 per cent. of the total income;

(2) where the company is not a company in which the public are substantially interested,—

(i) in the case of an industrial company—

(a) on so much of the total income as does not exceed Rs. 2,00,000

55 per cent.;

(b) on the balance, if any, of the total income

60 per cent.;

(ii) in any other case

65 per cent. of the total income:

Provided that the income-tax payable by a domestic company, being a company in which the public are substantially interested, the total income of which exceeds Rs. 1,00,000, shall not exceed the aggregate of—

(a) the income-tax which would have been payable by the company if its total income had been Rs. 1,00,000 (the income of Rs. 1,00,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company); and

(b) eighty per cent. of the amount by which its total income exceeds Rs. 1,00,000.

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of—

(a) royalties received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961, or

(b) fees for rendering technical services received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964,

and where such agreement has, in either case, been approved by the Central Government

50 per cent.;

(ii) on the balance, if any, of the total income

70 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge calculated at the rate of five per cent. of such income-tax.

PART IV

[See section 2 (8) (e)]

RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME

Rule 1.—Agricultural income of the nature referred to in sub-clause (a) of clause (1) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head “Income from other sources” and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly:

Provided that sub-section (2) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (3) and (4) of section 40A.

Rule 2.—Agricultural income of the nature referred to in sub-clause (b) or sub-clause (c) of clause (1) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c)] shall be computed as if it were income chargeable to income-tax under that Act under the head “Profits and gains of business or profession” and the provisions of sections 30, 31, 32, 34, 36, 37, 38, 40, 40A [other than sub-sections (3) and (4) thereof], 41, 43 and 43A of the Income-tax Act shall, so far as may be, apply accordingly.

Rule 3.—Agricultural income of the nature referred to in sub-clause (c) of clause (1) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c) shall be computed as if it were income chargeable to income-tax under that Act under the head “Income from house property” and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly:

Provided that sub-section (2) of the said section 23 shall apply subject to the modifications that the references to “total income” therein shall be construed as references to net agricultural income and that the words, figures and letter “and before making any deduction under Chapter VIA” shall be omitted.

Rule 4.—Notwithstanding anything contained in any other provisions of these rules, in a case where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent. of such income shall be regarded as the agricultural income of the assessee.

Rule 5.—Where the assessee is a partner of a registered firm or an unregistered firm assessed as a registered firm under clause (b) of section 183 of the Income-tax Act, which in the previous year has any agricultural income, or is a partner of an unregistered firm which has not been

assessed as a registered firm under clause (b) of the said section 183 and which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an unregistered firm but has any agricultural income, then, the agricultural income or loss of the firm shall be computed in accordance with these rules and his share in the agricultural income or loss of the firm shall be computed in the manner laid down in sub-section (1), sub-section (2) and sub-section (3) of section 67 of the Income-tax Act and the share so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 6.—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income, then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 7.—Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income:

Provided that where the assessee is a partner of an unregistered firm which has not been assessed as a registered firm under clause (b) of section 183 of the Income-tax Act or is a member of an association of persons or body of individuals and the share of the assessee in the agricultural income of the firm, association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

Rule 8.—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

Rule 9.—(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1975 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 the previous year relevant to the assessment year commencing on the 1st day of April, 1974 is a loss, then, for the purposes of sub-section (7) of section 2 of this Act, the loss so computed shall be set off against the agricultural income of the assessee for the previous year first mentioned or the period aforesaid.

(2) Where a change has occurred in the constitution of a firm, nothing in sub-rule (1) shall entitle the firm to set off so much of the loss proportionate to the share of a retired or deceased partner computed in the manner laid down in sub-section (1), sub-section (2) and sub-section (3) of section 67 as exceeds his share of profits, if any, of the previous year in the firm, or entitle any partner to the benefit of any portion of the said loss (computed in the manner aforesaid) which is not apportionable to him.

(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) shall entitle any person other than the person incurring the loss to have it set off under that sub-rule.

(4) Notwithstanding anything contained in this rule, no loss which has not been determined by the Income-tax Officer under the provisions of these rules shall be set off under sub-rule (1).

Rule 10.—Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be *nil*.

Rule 11.—The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

Rule 12.—For the purposes of computing the net agricultural income of the assessee, the Income-tax Officer shall have the same powers as he has under the Income-tax Act for the purpose of assessment of the total income.

THE SECOND SCHEDULE

(See section 21)

PART I

In the First Schedule to the Central Excises Act,—

(i) in Item No. 1A, for the entry in the third column against each of the sub-items (1) and (4), the entry "Ten per cent *ad valorem*." shall be substituted;

(ii) in Item No. 11A, for the entry in the third column against each of the sub-items (1) and (3), the entry "Twenty per cent. *ad valorem* plus four hundred rupees per metric tonne," shall be substituted;

(iii) in Item No. 15AA, for the entry in the third column, the entry "Fifteen per cent. *ad valorem*." shall be substituted;

(iv) in Item No. 17,—

(a) in sub-item (2), after the words "cartridge paper," the words "waxed paper, polyethylene coated paper," shall be inserted;

(b) for the entries in the third column against sub-items (1), (2), (3) and (4), the entries "Three rupees per kilogram.", "One rupee and twenty paise per kilogram.", "Sixty paise per kilogram." and "One rupee and twenty paise per kilogram." shall, respectively, be substituted;

(v) in Item No. 23A, for the entry in the third column against each of the sub-items (1) and (4), the entry "Twenty-five per cent. *ad valorem*." shall be substituted;

(vi) in Item No. 23B, for the entries in the third column against sub-items (1), (2) and (3), the entries "Twenty-five per cent. *ad valorem*.", "Thirty per cent. *ad valorem*." and "Thirty per cent. *ad valorem*." shall, respectively, be substituted;

(vii) in Item No. 29A, for the entries in the third column against sub-items (1), (2) and (3), the entries "Seventy-five per cent. *ad valorem.*," "Seventy-five per cent. *ad valorem.*" and "One hundred per cent. *ad valorem.*" shall, respectively, be substituted;

(viii) in Item No. 31, for the entry in the third column against sub-item (1), the entry "Twenty-five per cent. *ad valorem.*" shall be substituted;

(ix) in Item No. 33D, for the entry in the third column, the entry "Fifteen per cent. *ad valorem.*" shall be substituted;

(x) in Item No. 34, for the entries in the third column against sub-items (1), (2), (3) and (4), the entries "Ten per cent. *ad valorem.*," "Twenty-five per cent. *ad valorem.*," "Forty per cent. *ad valorem.*" and "Fifteen per cent. *ad valorem.*" shall, respectively, be substituted;

(xi) in each of the Items Nos. 46, 49, 50 and 51, for the entry in the third column, the entry "Fifteen per cent. *ad valorem.*" shall be substituted.

PART II

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)
In the First Schedule to the Central Excises Act,—		
		(i) after Item No. 14F, the following Item shall be inserted, namely:—
"14FF	TOOTH-PASTE (INCLUDING DENTAL CREAM).	Ten per cent. <i>ad valorem.</i> ";
		(ii) after Item No. 28, the following Item shall be inserted, namely:—
"28A	ELECTRICAL STAMPINGS AND LAMINATIONS, ALL SORTS.	Ten per cent. <i>ad valorem.</i> ";
		(iii) after Item No. 37A, the following Item shall be inserted, namely:—
"37AA	TAPE RECORDERS (INCLUDING CASSETTE RECORDERS).	Rupees two hundred and fifty each.";

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)
(iv) for Item No. 37C, the following Item shall be substituted, namely:—		
"37C	PHOTOGRAPHIC APPARATUS AND GOODS, THE FOLLOWING, NAMELY:—	
(1)	Photographic cameras.	Twenty per cent. <i>ad valorem</i> .
(2)	Sensitised papers (including Diazotype papers) and sensitised paper boards.	The duty for the time being leviable on the base paper or paper board, as the case may be, if not already paid, plus ten per cent. <i>ad valorem</i> ."
(v) after Item No. 51, the following Item shall be inserted, namely:—		
"51A	CUTTING TOOLS, THE FOLLOWING, NAMELY:—	Ten per cent. <i>ad valorem</i> ."
	(1) Files and rasps (2) Hacksaw blades (3) Twist drills (4) Reamers (5) Milling cutters.	
(vi) the following Item shall be inserted at the end, namely:—		
"66	PERMANENT MAGNETS.	Fifty per cent. <i>ad valorem</i> ."
<i>Explanation.</i> —The expression "permanent magnet" shall include any piece of hard steel, special alloy or other material, recognisable by its composition and shape, as being intended to become permanent magnet after magnetising.		

THE THIRD SCHEDULE

(See section 23)

In the Table annexed to sub-section (1) of section 3 of the Mineral Products Act,—

(i) for the entry in the second column against Item 3, the entry "Two thousand rupees per kilolitre at fifteen degrees of Centigrade thermometer." shall be substituted;

(ii) for the entry in the second column against Item 7, the entry "Two thousand rupees per metric tonne." shall be substituted.

Dated at [unclear] Enacted by Parliament of India, and assented to
Beg. by Act.....38.....of 1978 S.2 + Sch. I

THE ESTATE DUTY (DISTRIBUTION) AMENDMENT
ACT, 1974

No. 21 of 1974

[21st May, 1974.]

An Act further to amend the Estate Duty (Distribution) Act, 1962.

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

1. (1) This Act may be called the Estate Duty (Distribution) Amendment Act, 1974. Short title.
and com-
mence-
ment.

(2) It shall be deemed to have come into force on the 1st day of April, 1974.

9 of 1962. 2. In the long title of the Estate Duty (Distribution) Act, 1962 (hereinafter referred to as the principal Act), for the figures, letters and words "31st day of October, 1968", the figures, letters and words "28th day of October, 1973" shall be substituted. Amend-
ment of
long
title.

3. In section 3 of the principal Act,—

(i) in sub-section (1),—

(a) for the figures, letters and words "1st day of April, 1969", the figures, letters and words "1st day of April, 1974" shall be substituted;

(b) for the words "three per cent.", the figures and words "2.5 per cent." shall be substituted;

(c) the proviso and the Table below it shall be omitted;

Amend-
ment of
section 3,

REPEALED

412

Estate Duty (Distribution) Amendment

[ACT 21 OF 1974]

(ii) in sub-section (2), for clause (b) and the proviso occurring at the end of that clause, the following clause shall be substituted, namely:—

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

State	Percentage
Andhra Pradesh	8.04
Assam	2.70
Bihar	10.41
Gujarat	4.93
Haryana	1.86
Himachal Pradesh	0.64
Jammu and Kashmir	0.85
Karnataka	5.41
Kerala	3.94
Madhya Pradesh	7.70
Maharashtra	9.31
Manipur	0.20
Meghalaya	0.19
Nagaland	0.10
Orissa	4.05
Punjab	2.50
Rajasthan	4.76
Tamil Nadu	7.61
Tripura	0.29
Uttar Pradesh	16.32
West Bengal	8.19".

**Amend
ment of
section 4.**

4. In sub-section (2) of section 4 of the principal Act, for the words "or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following", the words "or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid" shall be substituted.

Rep. by Act..... 38 of 1978, S. 2 + Sch. I

THE ADDITIONAL DUTIES OF EXCISE (GOODS OF
SPECIAL IMPORTANCE) AMENDMENT ACT, 1974

No. 22 OF 1974

[31st May, 1974.]

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

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

1. (1) This Act may be called the Additional Duties of Excise (Goods of Special Importance) Amendment Act, 1974. Short title and commencement.
- (2) It shall be deemed to have come into force on the 1st day of April, 1974.
2. In the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (hereinafter referred to as the principal Act), in the long title, for the figures, letters and words "31st day of July, 1969", the figures, letters and words "28th day of October, 1973" shall be substituted. Amendment of long title.
3. In sub-section (2) of section 6 of the principal Act, for the words "or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following", the words "or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid" shall be substituted. Amendment of section 6.

REPEALED

414

Additional Duties of Excise (Goods of Special Importance) Amendment

[ACT 22 OF 1974]

**Amend-
ment of
Second
Schedule.**

4. In the Second Schedule to the principal Act, for paragraph 2, the following paragraph shall be substituted, namely:—

“2. During each of the financial years commencing on and after the 1st day of April, 1974, there shall be paid to each of the States specified in column 1 of the Table below such percentage of the net proceeds, after deducting therefrom a sum equal to 1.41 per cent. of the said proceeds as being attributable to Union territories, as is set out against it in column 2:

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

TABLE

State	Percentage of distribution
I	2
1 Andhra Pradesh	8.39
2 Assam	2.47
3 Bihar	9.36
4 Gujarat	5.91
5 Haryana	1.94
6 Himachal Pradesh	0.59
7 Jammu and Kashmir	0.73
8 Karnataka	5.62
9 Kerala	3.58
10 Madhya Pardesh	6.98
11 Maharashtra	11.65
12 Manipur	0.17
13 Meghalaya	0.17
14 Nagaland	0.08
15 Orissa	3.59
16 Punjab	2.68
17 Rajasthan	4.17
18 Tamil Nadu	7.27
19 Tripura	0.25
20 Uttar Pradesh	16.10
21 West Bengal	8.30

by Act... 38... 1978, S. 2 + Sch. I

THE UNION DUTIES OF EXCISE (DISTRIBUTION)

AMENDMENT ACT, 1974

NO. 23 OF 1974

[31st May, 1974.]

An Act further to amend the Union Duties of Excise (Distribution) Act, 1962.

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

1. This Act may be called the Union Duties of Excise (Distribution) Amendment Act, 1974.

Short title.

Amend-
ment of
long
title.

Amend-
ment of
section 2.

Substitu-
tion of
new
section
for
section 3.

Distri-
bution of

3 of 1962.

2. In the long title of the Union Duties of Excise (Distribution) Act, 1962 (hereinafter referred to as the principal Act), for the words, figures and letters "dated the 31st day of July, 1969", the words, figures and letters "dated the 28th day of October, 1973" shall be substituted.

3. In section 2 of the principal Act, for the words and figures "financial years 1972-73 and 1973-74, twenty per cent. of the special duties of excise levied and collected under the Finance Acts of the respective years", the words and figures "financial years 1976-77, 1977-78 and 1978-79, twenty per cent. of the auxiliary duties of excise levied and collected under the Finance Acts of the respective years" shall be substituted.

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

"3. During each financial year commencing on and after the 1st day of April, 1974, there shall be paid out of the Consolidated Fund

REPEALED

416

Union Duties of Excise (Distribution)
Amendment

[ACT 23 OF 1974]

a part of
Union
duties of
excise
among the
States.

of India to each of the States specified in column 1 of the Table below such percentage of the distributable Union duties of excise as is set out against it in column 2:—

TABLE

State			Percentage
	I	2	
Andhra Pradesh			8·16
Assam			2·71
Bihar			11·47
Gujarat			4·57
Haryana			1·53
Himachal Pradesh			0·63
Jammu & Kashmir			0·90
Karnataka			5·45
Kerala			3·86
Madhya Pradesh			8·51
Maharashtra			8·58
Manipur			0·21
Meghalaya			0·19
Nagaland			0·11
Orissa			4·06
Punjab			1·87
Rajasthan			5·00
Tamil Nadu			7·43
Tripura			0·30
Uttar Pradesh			17·03
West Bengal			7·79"

Amend-
ment of
section 5.

5. In sub-section (2) of section 5 of the principal Act, for the words "or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following", the words "or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid" shall be substituted.

THE GUJARAT APPROPRIATION (No. 2) ACT, 1974

No. 24 OF 1974

[2nd August, 1974.]

An Act to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Gujarat for the services of the financial year 1974-75.

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

1. This Act may be called the Gujarat Appropriation (No. 2) Act, 1974.

Short title.

2. From and out of the Consolidated Fund of the State of Gujarat 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 Gujarat Appropriation (Vote on Account) Act, 1974] to the sum of seven hundred and forty-five crores, sixty-six lakhs and five thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1974-75 in respect of the services specified in column 2 of the Schedule.

Issue of
Rs. 7,45,
66,05,000
out
of the
Consoli-
dated
Fund
of the
State of
Gujarat
for the
financial
year
1974-75.

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

Appro-
priation.

THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote/ Approp- riation	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
1 Governor	Revenue		8,02,000	8,02,000
2 Council of Ministers	Revenue	8,34,000	..	8,34,000
3 Elections	Revenue	14,43,000	..	14,43,000
4 Public Service Commission	Revenue	..	5,52,000	5,52,000
5 General Administration Department	Revenue	43,14,000	..	43,14,000
6 Passport Establishment	Revenue	81,000	..	81,000
7 Other Administrative Services (General Administration Department)	Revenue	10,61,000	..	10,61,000
8 Miscellaneous General Services (General Administration Department)	Revenue	3,44,000	40,000	3,84,000
9 Promotion of Languages and Literatures (General Administration Department)	Revenue	70,000	..	70,000
10 Art and Culture (General Administration Department)	Revenue	22,000	..	22,000
II Social Security and Welfare (General Administration Department)	Revenue	1,25,000	..	1,25,000
12 Other Social and Community Services (General Administration Department)	Revenue	46,000	..	46,000
13 General Administration Department Planning Machinery	Revenue	4,73,000	..	4,73,000
14 Economic Advice and Statistics	Revenue	45,33,000	..	45,33,000
15 Loans and Advances to Government Servants in General—Administration Department	Capital	8,50,000	..	8,50,000
16 Other Revenue Expenditure on Property Tax	Revenue	..	5,000	5,000
17 Sales Tax	Revenue	1,76,82,000	10,000	1,76,92,000
18 Revenue Expenditure on Entertainment and Education Cess	Revenue	7,19,000	1,30,80,000	1,37,99,000
19 Small Savings Organisation	Revenue	11,77,000	..	11,77,000

I No. of Vote/ Ap- pro- priation	Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total Rs.
		Rs.	Rs.	
20	Interest on Debt and Other Obligations . . . Revenue	..	25,03,45,000	25,03,45,000
21	Finance Department . . . Revenue	20,72,000	..	20,72,000
22	Treasury and Accounts Ad- ministration . . . Revenue	1,19,65,000	..	1,19,65,000
23	Pensions and other Retirement benefits . . . Revenue	4,20,99,000	59,91,000	4,80,90,000
24	Other Revenue Expenditure pertaining to Finance Department . . . Revenue	5,60,10,000	..	5,60,10,000
25	Collection of Education Cess Revenue	43,50,000	..	43,50,000
26	Other Social Security and Welfare Programme (Finance Department) . . . Revenue	10,000	..	10,000
27	Finance Department—Plan- ning Machinery . . . Revenue	75,000	..	75,000
28	Administration of Indian Partnership Act and General Insurance . . . Revenue	11,89,000	..	11,89,000
29	Internal Debt of the State Government . . . Capital	..	55,73,64,000	55,73,64,000
30	Repayment of Loans and Advances from the Central Government . . . Capital	..	24,52,85,000	24,52,85,000
31	Loans and Advances to Government Servants in Finance Department . . . Capital	18,08,000	..	18,08,000
32	Inter-State Settlement, Maharashtra and Gujarat Capital	..	2,00,000	2,00,000
33	Administration of Justice . . . Revenue	2,19,59,000	29,05,000	2,48,64,000
34	Legal Department . . . Revenue	15,09,000	..	15,09,000
35	Other Administrative Ser- vices (Legal Department) . . . Revenue	1,66,000	..	1,66,000
36	Other Social Security and Welfare Programme (Legal Department) . . . Revenue	4,77,000	..	4,77,000
37	Administration of Religious and Charitable Endowments Act . . . Revenue	8,82,000	..	8,82,000
38	Loans and Advances to Government Servants in Legal Department . . . Capital	10,85,000	..	10,85,000
39	Interest on Debt pertain- ing to Food and Civil Supplies Department . . . Revenue	..	30,00,000	30,00,000
40	Civil Supplies . . . Revenue Capital	16,11,000 8,33,00,000	16,11,000 8,33,00,000

1 No. of Vote/ Ap/ pro- pri- ation	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
41	Food and Civil Supplies Department . . . Revenue	4,83,000	..	4,83,000
42	Food and Nutrition (Food and Civil Supplies Department) . . . Revenue Capital	1,30,46,000 1,25,10,00,000	..	1,30,46,000 1,25,10,00,000
43	Repayment of Debt pertaining to Food and Civil Supplies Department . . . Capital	..	1,17,00,00,000	1,17,00,00,000
44	Loans and Advances to Government Servants in Food and Civil Supplies Department . . . Capital	5,75,000	..	5,75,000
45	State Legislature . . . Revenue	25,88,000	31,000	26,19,000
46	Loans and Advances to Government Servants in Gujarat Legislature Secretariat . . . Capital	1,80,000	..	1,80,000
47	Interest on Debt pertaining to Agriculture, Forests and Co-operation Department . . . Revenue	..	52,14,000	52,14,000
48	Adjustment on account of Aid Materials from Foreign Countries . . . Revenue	92,47,000	..	92,47,000
49	Social Security and Welfare (Agriculture, Forests and Co-operation Department) . . . Revenue	15,00,000	..	15,00,000
50	Relief Works (Agriculture, Forests and Co-operation Department) . . . Revenue	1,45,53,000	..	1,45,53,000
51	Other Social and Community Services (Agriculture, Forests and Co-operation Department) . . . Revenue Capital	1,56,000 16,67,000	..	1,56,000 16,67,000
52	Agriculture, Forests and Co-operation Department . . . Revenue	15,24,000	..	15,24,000
53	Co-operation (Agriculture, Forests and Co-operation Department) . . . Revenue Capital	3,59,45,000 5,30,84,000	..	3,59,45,000 5,30,84,000
54	Other General Economic Services (Agriculture, Forests and Co-operation Department) . . . Revenue	7,02,000	..	7,02,000
55	Agriculture (Agriculture, Forests and Co-operation Department) . . . Revenue Capital	7,92,21,000 1,99,75,000	..	7,92,21,000 1,99,75,000

1 No. of Vote/ Ap- pro- pri- ation	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
56	Minor Irrigation, Soil Conservation and Area Development (Agriculture, Forests and Co-operation Department) .	Revenue Capital	6,77,12,000 82,27,000 6,77,12,000 82,27,000
57	Animal Husbandry . . .	Revenue Capital	3,12,82,000 10,000 3,12,82,000 10,000
58	Dairy Development . . .	Revenue Capital	22,16,000 11,00,000 22,16,000 11,00,000
59	Fisheries . . .	Revenue Capital	1,08,65,000 38,95,000 1,08,65,000 38,95,000
60	Forests . . .	Revenue Capital	2,18,38,000 78,71,000 2,18,38,000 78,71,000
61	Repayment of Debt pertaining to Agriculture, Forests and Co-operation Department . . .	Capital	..	68,02,000 68,02,000
62	Loans and Advances to Government Servants in Agriculture, Forests and Co-operation Department	Capital	36,00,000 36,00,000
63	State Excise . . .	Revenue	22,65,000 22,65,000
64	Interest on Debt pertaining to Education and Labour Department . . .	Revenue	..	5,80,000 5,80,000
65	Education and Labour Department . . .	Revenue	14,35,000 14,35,000
66	Education . . .	Revenue Capital	66,90,73,000 1,04,20,000 66,90,73,000 1,04,20,000
67	Art and Culture (Education and Labour Department)	Revenue	80,68,000 80,68,000
68	Scientific Services and Research . . .	Revenue	30,000 30,000
69	Housing . . .	Revenue	30,00,000 30,00,000
70	Labour and Employment	Revenue	1,54,40,000 1,54,40,000
71	Social Security and Welfare (Education and Labour Department) . . .	Revenue Capital	7,92,38,000 27,39,000 7,92,38,000 27,39,000
72	Education and Labour Department—Planning Machinery . . .	Revenue	49,000 49,000
73	Loans and Advances to Government Servants in Education and Labour Department . . .	Capital	23,00,000 23,00,000
74	Taxes on Vehicles . . .	Revenue	12,03,96,000 12,03,96,000
75	Other Taxes and Duties on Commodities and Services (Home Department)	Revenue	8,24,000 8,24,000

1 No. of Vote/ Ap- pro- pri- ation	2 Services and purposes	3 Sums not exceeding		
		Voted by Par- liament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
76	Home Department . . . Revenue	12,57,000	..	12,57,000
77	Police . . . Revenue	18,77,05,000	11,000	18,77,16,000
78	Jails . . . Revenue	63,18,000	..	63,18,000
79	Other Administrative Ser- vices (Home Department) Revenue	73,78,000	..	73,78,000
80	Art and Culture (Home Department) . . . Revenue Capital	58,000 1,85,000	..	58,000 1,85,000
81	Information and Publicity Revenue	78,03,000	..	78,03,000
82	Social Security and Wel- fare (Home Department) Revenue	1,23,000	..	1,23,000
83	Road and Water Transport Services . . . Revenue Capital	24,81,000 1,68,00,000	..	24,81,000 1,68,00,000
84	Tourism . . . Revenue	9,36,000	..	9,36,000
85	Loans and Advances to Government Servants in Home Department . . . Capital	54,42,000	..	54,42,000
86	Other Taxes and Duties on Commodities and Services (Industries, Mines and Power Department) Revenue	14,80,000	..	14,80,000
87	Stationery and Printing Revenue	2,73,18,000	..	2,73,18,000
88	Pensions and other Re- tirement benefits (In- dustries, Mines and Power Department) . . . Revenue	2,65,000	..	2,65,000
89	Social Security and Wel- fare (Industries, Mines and Power Department) Revenue Capital	22,35,000 1,36,66,000	..	22,35,000 1,36,66,000
90	Industries, Mines and Power Department Revenue	8,65,000	..	8,65,000
91	Export Promotion . . . Revenue	1,30,000	..	1,30,000
92	Co-operation (Industries, Mines and Power De- partment) . . . Revenue Capital	12,81,000 26,47,000	..	12,81,000 26,47,000
93	Other General Economic Services (Industries, Mines and Power Depart- ment) . . . Revenue	14,02,000	..	14,02,000
94	Industries . . . Revenue Capital	45,15,000 74,75,000	..	45,15,000 74,75,000
95	Village and Small Indus- tries . . . Revenue Capital	1,20,53,000 42,75,000	..	1,20,53,000 42,75,000

I No. of Vote/ Ap- pro- pri- ation	2 Services and purposes	3 Sums not exceeding			
		Voted by Par- liament	Charged on the Consoli- dated Fund	Total	
		Rs.	Rs.	Rs.	
96	Mines and Minerals . . .	Revenue Capital	70,19,000 60,00,000	70,19,000 60,00,000
97	Power Projects . . .	Revenue Capital	84,34,000 22,28,66,000	84,34,000 22,28,66,000
98	Machinery and Engineering Industries . . .	Capital	9,80,000	..	9,80,000
99	Consumer Industries . . .	Capital	68,15,000	..	68,15,000
100	Investments in Industrial Financial Institutions . . .	Capital	1,89,50,000	..	1,89,50,000
101	Multi-purpose River Projects (Industries, Mines and Power Department) . . .	Capital	1,50,00,000	..	1,50,00,000
102	Loans and Advances to Government Servants in Industries, Mines and Power Department . . .	Capital	14,30,000	..	14,30,000
103	Interest Payment on Debt pertaining to Panchayats and Health Department . . .	Revenue	2,06,000	2,06,000
104	Fire Protection and Control . . .	Revenue	15,000	..	15,000
105	Panchayats and Health Department . . .	Revenue	17,68,000	..	17,68,000
106	Community Development . . .	Revenue Capital	10,19,73,000 21,60,000	10,19,73,000 21,60,000
107	Medical . . .	Revenue	15,60,48,000	..	15,60,48,000
108	Family Planning . . .	Revenue	5,26,15,000	..	5,26,15,000
109	Public Health, Sanitation and Water Supply . . .	Revenue Capital	10,16,80,000 4,06,72,000	10,16,80,000 4,06,72,000
110	Urban Development (Panchayats and Health Department) . . .	Revenue Capital	1,60,64,000 5,15,000	1,60,64,000 5,15,000
111	Social Security and Welfare (Panchayats and Health Department) . . .	Revenue	1,52,27,000	..	1,52,27,000
112	Relief on account of Natural Calamities (Panchayats and Health Department) . . .	Revenue	30,00,000	..	30,00,000
113	Panchayats and Health Department — Planning Machinery . . .	Revenue	48,000	..	48,000
114	Compensations and Assignments to Local Bodies and Panchayati Raj Institutions . . .	Revenue	4,31,05,000	1,03,000	4,32,08,000

I No. of Vote/ Ap- pro- pri- ation	Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
			Rs.	
115	Repayment of Debt pertaining to Panchayats and Health Department	Capital ..	1,28,000	Rs. 1,28,000
116	Loans and Advances to Government Servants in Panchayats and Health Department . . .	Capital 20,50,000	..	20,50,000
117	Interest Payment pertaining to Debt raised by Public Works Department . . .	Revenue ..	53,54,000	53,54,000
118	Non-residential Buildings . . .	Revenue 9,51,58,000	52,000	9,52,10,000
		Capital 2,90,36,000	..	2,90,36,000
119	Other Administrative Services (Public Works Department) . . .	Revenue 25,50,000	..	Rs. 25,50,000
120	Housing (Public Works Department) . . .	Revenue 2,23,44,000	..	2,23,44,000
		Capital 3,47,53,000	..	3,47,53,000
121	Relief Works (Public Works Department) . . .	Revenue 1,80,40,000	..	1,80,40,000
122	Public Works Department . . .	Revenue 26,65,000	..	26,65,000
123	Co-operation (Public Works Department) . . .	Revenue 2,00,000	..	2,00,000
		Capital 3,00,000	..	3,00,000
124	Irrigation . . .	Revenue 27,67,29,000	..	27,67,29,000
		Capital 33,86,01,000	..	33,86,01,000
125	Ports . . .	Revenue 4,15,36,000	..	4,15,36,000
		Capital 2,85,96,000	..	2,85,96,000
126	Gliding Clubs . . .	Revenue 70,000	..	70,000
127	Roads and Bridges . . .	Revenue 13,90,26,000	..	13,90,26,000
		Capital 2,12,21,000	..	2,12,21,000
128	Gujarat Capital Construction Scheme . . .	Capital 98,00,000	..	98,00,000
129	Repayment of Debt pertaining to Public Works Department . . .	Capital ..	22,57,000	22,57,000
130	Social Security and Welfare (Public Works Department) . . .	Capital 4,00,000	..	4,00,000
131	Loans and Advances to Government Servants in Public Works Department . . .	Capital 27,40,000	..	Rs. 27,40,000

I No. of Vote/ Appropri- ation	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total Rs.
			Rs.	
132	Land Revenue . . . Revenue	1,71,60,000	20,000	1,71,80,000
133	Stamps and Registration . . Revenue	33,04,000	..	33,04,000
134	Other Taxes and Duties on Commodities and Ser- vices (Revenue Depart- ment) . . . Revenue	..	95,00,000	95,00,000
135	Interest on Debt pertain- ing to Revenue Depart- ment . . Revenue	3,00,000	19,00,000	19,00,000
136	Revenue Department . . Revenue	34,29,000	..	34,29,000
137	District Administration . . Revenue	2,91,47,000	..	2,91,47,000
138	Miscellaneous General Services (Revenue De- partment) . . Revenue	50,000	..	50,000
139	Urban Development (Re- venue Department) . . Revenue	3,00,000	..	3,00,000
140	Social Security and Wel- fare (Revenue Department) . . Revenue	35,39,000	..	35,39,000
		Capital	70,06,000	70,06,000
141	Relief on account of Natu- ral Calamities (Revenue Department) . . Revenue	4,55,00,000	..	4,55,00,000
142	Dangs District . . Revenue	2,06,89,000	..	2,06,89,000
		Capital	6,74,000	6,74,000
143	Agriculture (Revenue De- partment) . . Revenue	1,02,000	..	1,02,000
		Capital	21,00,000	21,00,000
144	Compensations and Assign- ments (Revenue Depart- ment) . . Revenue	79,36,000	6,50,000	85,86,000
		Capital	20,00,000	20,00,000
145	Repayment of Debt per- taining to Revenue De- partment . . Capital	..	20,00,000	20,00,000
146	Loans and Advances to Go- vernment Servants in Re- venue Department . . Capital	23,00,000	..	23,00,000
	TOTAL	5,17,32,08,000	2,28,33,97,000	7,45,66,05,000

THE PONDICHERRY APPROPRIATION ACT, 1974

NO. 25 OF 1974

[9th August, 1974.]

An Act to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the Union territory of Pondicherry for the services of the financial year 1974-75.

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

1. This Act may be called the Pondicherry Appropriation Act, 1974.

2. From and out of the Consolidated Fund of the Union territory of Pondicherry there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate [inclusive of the sums specified in column 3 of the Schedule to the Pondicherry Appropriation (Vote on Account) Act, 1974] to the sum of fifteen crores, one lakh and forty-four thousand rupees, towards defraying the several charges which will come in course of payment during the financial year 1974-75 in respect of the services specified in column 2 of the Schedule.

18 of 1974.

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

Short titl

Issue of
Rs. 15,01
44,000
out of
the Com-
solidated
Fund of
the Uni-
territory
of Pon-
dicherry
for the
financial
year
1974-75.

Appro-
priation.

THE SCHEDULE

(See sections 2 and 3)

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Conso- lidated Fund	Total
		Rs.	Rs.	Rs.
1	Legislative Assembly . . Revenue	4,28,000	40,000	4,68,000
2	Administrator . . Revenue	10,000	3,75,000	3,85,000
3	Council of Ministers . . Revenue	4,93,000	..	4,93,000
4	Administration of Justice . . Revenue	9,19,000	16,000	9,35,000
5	Elections . . Revenue	1,30,000	..	1,30,000
6	Revenue . . Revenue	27,45,000	..	27,45,000
7	Sales Tax . . Revenue	5,71,000	..	5,71,000
8	Taxes on Vehicles . . Revenue	1,11,000	..	1,11,000
9	Secretariat . . Revenue	15,70,000	..	15,70,000
10	District Administration . . Revenue	21,53,000	..	21,53,000
	Capital	5,50,000	..	5,50,000
11	Treasury and Accounts Administration . . Revenue	10,14,000	..	10,14,000
12	Police . . Revenue	56,50,000	..	56,50,000
13	Jails . . Revenue	2,73,000	..	2,73,000
14	Stationery and Printing . . Revenue	8,69,000	..	8,69,000
15	Miscellaneous Adminis- trative General Services . . Revenue	11,92,000	..	11,92,000
16	Retirement Benefits . . Revenue	21,76,000	..	21,76,000
17	Public Works . . Revenue	1,66,01,000	20,000	1,66,21,000
	Capital	1,13,28,000	..	1,13,28,000
18	Education . . Revenue	2,40,45,000	..	2,40,45,000
	Capital	32,000	..	32,000
19	Medical . . Revenue	1,35,05,000	..	1,35,05,000
20	Information and Publicity . . Revenue	6,58,000	..	6,58,000
21	Labour and Employment . . Revenue	9,10,000	..	9,10,000
22	Social Welfare . . Revenue	54,01,000	..	54,01,000
	Capital	30,000	..	30,000
23	Co-operation . . Revenue	11,74,000	..	11,74,000
	Capital	10,68,000	..	10,68,000

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
24	Miscellaneous General Economic Services	Revenue 5,73,000	..	5,73,000
25	Agriculture	Revenue 56,20,000	..	56,20,000
		Capital 6,50,000	..	6,50,000
26	Animal Husbandry	Revenue 12,91,000	..	12,91,000
		Capital 1,60,000	..	1,60,000
27	Fisheries Department	Revenue 28,56,000	..	28,56,000
		Capital 1,000	..	1,000
28	Community Development	Revenue 39,95,000	..	39,95,000
		Capital 50,000	..	50,000
29	Industries	Revenue 8,30,000	..	8,30,000
		Capital 18,00,000	..	18,00,000
30	Food and Nutrition	Revenue 2,47,000	..	2,47,000
31	Electricity	Revenue 1,53,80,000	..	1,53,80,000
		Capital 57,80,000	..	57,80,000
32	Ports and Pilotage	Revenue 3,28,000	..	3,28,000
		Capital 3,98,000	..	3,98,000
33	Public Debt	Revenue ..	65,28,000	65,28,000
		Capital ..	50,84,000	50,84,000
34	Loans to Government Servants	Capital 25,16,000	..	25,16,000
		TOTAL 13,80,81,000	1,20,63,000	15,01,44,000

waived off, (iii) general tax on the value of property, (iv) general property tax levied by the Government of India or a State Government, and (v) any other tax which may be specified in the Schedule.

THE DIRECT TAXES (AMENDMENT) ACT, 1974

AN ACT further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958, and the Companies (Profits) Surtax Act, 1964 and to provide for certain related matters.

[18th August, 1974.]

An Act further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958, and the Companies (Profits) Surtax Act, 1964 and to provide for certain related matters.

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

CHAPTER I

PRELIMINARY

1. This Act may be called the Direct Taxes (Amendment) Act, Short title,

CHAPTER II

AMENDMENTS TO THE INCOME-TAX ACT, 1961

~~2. In section 10 of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act),—~~

Amendment of section 10.

(a) in sub-clause (viiia) of clause (6), before the Explanation the following proviso shall be inserted, and shall be deemed to have been inserted, with effect from the 1st day of April, 1973, namely:—

“Provided that the Central Government may, if it considers it necessary or expedient in the public interest so to do, waive the condition specified in item (1) of this sub-clause in the case of any individual who is employed in India for designing, erection or commissioning of machinery or plant or supervising activities connected with such designing, erection or commissioning.”;

(b) in clause (15), after item (c) of sub-clause (iv), the following items shall be inserted, and shall be deemed to have been inserted, with effect from the 1st day of April, 1973, namely:—

"(d) by the Industrial Finance Corporation of India established by the Industrial Finance Corporation Act, 1948 or the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 or the Industrial Credit and Investment Corporation of India (a company formed and registered under the Indian Companies Act, 1913), on any moneys borrowed by it from sources outside India, to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment;

15 of 1948.

18 of 1964.

8 of 1913.

(e) by any other financial institution established in India or a banking company to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act), on any moneys borrowed by it from sources outside India under a loan agreement approved by the Central Government where the moneys are borrowed either for the purpose of advancing loans to industrial undertakings in India for purchase outside India of raw materials or capital plant and machinery or for the purpose of importing any goods which the Central Government may consider necessary to import in the public interest, to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment;";

10 of 1949

(c) after clause (17), the following clauses shall be inserted, and shall be deemed to have been inserted, with effect from the 1st day of April, 1973, namely:—

"(17A) any payment made, whether in cash or in kind, in pursuance of awards for literary, scientific and artistic work or attainment, or for proficiency in sports and games, instituted by the Central Government or by any State Government or approved by the Central Government in this behalf:

Provided that the approval granted by the Central Government shall have effect for such assessment year or years (including an assessment year or years commencing before the date on which such approval is granted) as may be specified in the order granting the approval;

(17B) any payment made, whether in cash or in kind, as a reward by the Central Government or any State Government for such purposes as may be approved by the Central Government in this behalf in the public interest;".

3. In section 32 of the Income-tax Act, with effect from the 1st day of April, 1975,—

Amend-
ment of
section 32

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

(vi) in the case of a new ship or a new aircraft acquired after the 31st day of May, 1974 by an assessee engaged in the business of operation of ships or aircraft or in the case of new machinery or plant (other than office appliances or road transport vehicles) installed after that date for the purposes of business of generation or distribution of electricity or any other form of power or of construction, manufacture or production of any one or more of the articles or things specified in the list in the Ninth Schedule or in the case of new machinery or plant (other than office appliances or road transport vehicles) installed after that date in a small-scale industrial undertaking for the purposes of business of manufacture or production of any other articles or things, a sum equal to twenty per cent. of the actual cost of the ship, aircraft, machinery or plant to the assessee, in respect of the previous year in which the ship or aircraft is acquired or the machinery or plant is installed, or if the ship, aircraft, machinery or plant is first put to use in the immediately succeeding previous year, then, in respect of that previous year; but any such sum shall not be deductible in determining the written down value for the purposes of clause (ii):

Provided that the assessee may, before the expiry of the time allowed under sub-section (1) or sub-section (2) of section 139, whether fixed originally or on extension, for furnishing the return of income for the assessment year in respect of which he first becomes entitled to deduction under this clause, furnish to the Income-tax Officer a declaration in writing that the provisions of this clause shall not apply to him, and if he does so, the provisions of this clause shall not apply to him for that assessment year and for every subsequent assessment year; so, however, that the assessee may, by notice in writing furnished to the Income-tax Officer before the expiry of the time allowed under sub-section (1) or sub-section (2) of section 139, whether fixed originally or on extension, for furnishing the return of income for any such subsequent assessment year, revoke his declaration and upon such revocation, the provisions of this clause shall apply to the assessee for that subsequent assessment year and for every assessment year thereafter:

Provided further that no deduction shall be allowed under this clause in respect of—

(a) any machinery or plant installed in any office premises or any residential accommodation, including any accommodation in the nature of a guest-house, and

(b) any ship, aircraft, machinery or plant in respect of which the deduction by way of development rebate is allowable under section 33.

Explanation.—For the purposes of this clause,—

(1) "new ship" or "new aircraft" includes a ship or aircraft which before the date of acquisition by the assessee was used by any other person, if it was not at any time previous to the date of such acquisition owned by any person resident in India;

(2) "new machinery or plant" includes machinery or plant which before its installation by the assessee was used outside India by any other person, if the following conditions are fulfilled, namely:—

(a) such machinery or plant was not, at any time previous to the date of such installation by the assessee, used in India;

(b) such machinery or plant is imported into India from any country outside India; and

(c) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of the Indian Income-tax Act, 1922 or this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee;

(3) an industrial undertaking shall be deemed to be a small-scale industrial undertaking, if the aggregate value of the machinery and plant installed, as on the last day of the previous year, for the purposes of the business of the undertaking does not exceed seven hundred and fifty thousand rupees; and for this purpose the value of any machinery or plant shall be,—

(a) in the case of any machinery or plant owned by the assessee, the actual cost thereof to the assessee; and

(b) in the case of any machinery or plant hired by the assessee, the actual cost thereof as in the case of the owner of such machinery or plant;

(b) in sub-section (2), after the words, brackets and figure "or clause (v)", the words, brackets and figures "or clause (vi)" shall be inserted.

Amend-
ment of
section 34,

4. In section 34 of the Income-tax Act, in clause (ii) of sub-section (2), after the words, brackets and figures "or clause (iv)", the words, brackets and figures "or clause (v) or clause (vi)" shall be inserted with effect from the 1st day of April, 1975.

5. In section 35 of the Income-tax Act,—

(a) in clause (i) of sub-section (1), the following *Explanation* shall be inserted, and shall be deemed to have been inserted, with effect from the 1st day of April, 1974, at the end, namely:—

Amend-
ment of
section
35.

"Explanation.—Where any such expenditure has been laid out or expended before the commencement of the business (not being expenditure laid out or expended before the 1st day of April, 1973) on payment of any salary [as defined in Explanation 2 below sub-section (5) of section 40A] to an employee engaged in such scientific research or on the purchase of materials used in such scientific research, the aggregate of the expenditure so laid out or expended within the three years immediately preceding the commencement of the business shall, to the extent it is certified by the prescribed authority to have been laid out or expended on such scientific research, be deemed to have been laid out or expended in the previous year in which the business is commenced;"

(b) in clause (iv) of sub-section (2), for the word, brackets and figures "and (iii)", the brackets, figures and word ", (iii) and (vi)" shall be substituted with effect from the 1st day of April, 1975;

(c) after sub-section (2), the following sub-section shall be inserted, and shall be deemed to have been inserted, with effect from the 1st day of April, 1974, namely:—

"(2A) Where the assessee pays any sum to a scientific research association or university or college or other institution referred to in clause (ii) of sub-section (1) to be used for scientific research undertaken under a programme approved in this behalf by the prescribed authority having regard to the social, economic and industrial needs of India, then,—

(a) there shall be allowed a deduction of a sum equal to one and one-third times the sum so paid; and

(b) no deduction in respect of such sum shall be allowed under clause (ii) of sub-section (1) for the same or any other assessment year."

6. In section 35B of the Income-tax Act, in clause (a) of sub-section (1), the following proviso shall be inserted, and shall be deemed to have been inserted, with effect from the 1st day of April, 1973, at the end, namely:—

Amend-
ment of
section
35B.

'Provided that in respect of the expenditure incurred after the 28th day of February, 1973 by a domestic company, being a company in which the public are substantially interested, the provisions of this clause shall have effect as if for the words "one and one-third times", the words "one and one-half times" had been substituted.'

7. In section 40A of the Income-tax Act, in sub-section (5), in sub-clause (i) of clause (c), the following proviso shall be inserted, and shall be deemed to have been inserted, with effect from the 1st day of April, 1974, at the end, namely:—

Amend-
ment of
section
40A.

"Provided that where the expenditure is incurred on payment of any salary to an employee or a former employee engaged in

scientific research during any one or more of the three years immediately preceding the commencement of the business and such expenditure is deemed under the *Explanation* to clause (i) of sub-section (1) of section 35 to have been laid out or expended in the previous year in which the business is commenced, the limit referred to in this sub-clause shall, in relation to the previous year in which the business is commenced, be an amount calculated at the rate of five thousand rupees for each month or part thereof comprised in the period of his employment in India during the previous year in which such business is commenced, and in the period of his employment in India during which he was engaged in scientific research during the three years immediately preceding that previous year;".

**Amend-
ment of
section
80A.**

8. In section 80A of the Income-tax Act, in sub-section (8), for the word, figures and letter "section 80H", the words, figures and letters "section 80H or section 80HH" shall be substituted, and shall be deemed to have been substituted, with effect from the 1st day of April, 1974.

**Insertion
of new
section
80HH.**

**Deduction
in respect
of profits
and gains
from
newly
established
indus-
trial
undertakings or
hotel
business
in back-
ward
areas.**

9. In the Income-tax Act, after section 80H, the following section shall be inserted, and shall be deemed to have been inserted, with effect from the 1st day of April, 1974, namely:—

"80HH. (1) Where the gross total income of an assessee includes any profits and gains derived from an industrial undertaking, or the business of a hotel, to which this section applies, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to twenty per cent. thereof.

(2) This section applies to any industrial undertaking which fulfils all the following conditions, namely:—

(i) it has begun or begins to manufacture or produce articles after the 31st day of December, 1970 in any backward area;

(ii) it is not formed by the splitting up, or the reconstruction, of a business already in existence in any backward area;

Provided that this condition shall not apply in respect of any industrial undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such industrial 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 in any backward area;

(iv) it employs ten or more workers in a manufacturing process carried on with the aid of power, or employs twenty or more workers in a manufacturing process carried on without the aid of power.

Explanation.—Where any machinery or plant or any part thereof previously used for any purpose in any backward area is transferred

to a new business in that area or in any other backward area and the total value of the machinery or plant or part so transferred does not exceed twenty per cent. of the total value of the machinery or plant used in the business, then, for the purposes of clause (iii) of this sub-section, the condition specified therein shall be deemed to have been fulfilled.

(3) This section applies to the business of any hotel, where all the following conditions are fulfilled, namely:—

(i) the business of the hotel has started or starts functioning after the 31st day of December, 1970 in any backward area;

(ii) the business of the hotel is not formed by the splitting up, or the reconstruction, of a business already in existence;

(iii) the hotel is for the time being approved for the purposes of this sub-section by the Central Government.

(4) The deduction specified in sub-section (1) shall be allowed in computing the total income in respect of each of the ten assessment years beginning with the assessment year relevant to the previous year in which the industrial undertaking begins to manufacture or produce articles on the business of the hotel starts functioning.

Provided that,—

(i) in the case of an industrial undertaking which has begun to manufacture or produce articles, and

(ii) in the case of the business of a hotel which has started functioning,

after the 31st day of December, 1970 but before the 1st day of April, 1973, this sub-section shall have effect as if the reference to ten assessment years were a reference to ten assessment years as reduced by the number of assessment years which expired before the 1st day of April, 1974.

(5) Where the assessee is a person other than a company or a co-operative society, the deduction under sub-section (1) shall not be admissible unless the accounts of the industrial undertaking or the business of the hotel for the previous year relevant to the assessment year for which the deduction is claimed have been audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288 and the assessee furnishes, along with his return of income, the report of such audit in the prescribed form duly signed and verified by such accountant.

(6) Where any goods held for the purposes of the business of the industrial undertaking or the hotel are transferred to any other business carried on by the assessee, or where any goods held for the purposes of any other business carried on by the assessee are transferred to the business of the industrial undertaking or the hotel and in either case, the consideration, if any, for such transfer as recorded in the accounts of the business of the industrial undertaking or the hotel does not correspond to the market value of such goods as on the date of the transfer, then, for the purposes of the deduction

under this section, the profits and gains of the industrial undertaking or the business of the hotel shall be computed as if the transfer, in either case, had been made at the market value of such goods as on that date:

Provided that where, in the opinion of the Income-tax Officer, the computation of the profits and gains of the industrial undertaking or the business of the hotel in the manner hereinbefore specified presents exceptional difficulties, the Income-tax Officer may compute such profits and gains on such reasonable basis as he may deem fit.

Explanation.—In this sub-section, “market value” in relation to any goods means the price that such goods would ordinarily fetch on sale in the open market.

(7) Where it appears to the Income-tax Officer that, owing to the close connection between the assessee carrying on the business of the industrial undertaking or the hotel to which this section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the assessee more than the ordinary profits which might be expected to arise in the business of the industrial undertaking or the hotel, the Income-tax Officer shall, in computing the profits and gains of the industrial undertaking or the hotel for the purposes of the deduction under this section, take the amount of profits as may be reasonably deemed to have been derived therefrom.

(8) In a case where the assessee is entitled also to the deduction under section 80H in relation to the profits and gains of an industrial undertaking to which this section applies, the deduction under sub-section (1) shall be allowed with reference to the amount of such profits and gains as reduced by the deduction under section 80H in relation to such profits and gains.

(9) In a case where the assessee is entitled also to the deduction under section 80J in relation to the profits and gains of an industrial undertaking or the business of a hotel to which this section applies, effect shall first be given to the provisions of this section.

(10) Nothing contained in this section shall apply in relation to any undertaking engaged in mining.

Explanation.—In this section, “backward area” means an area specified in the list in the Eighth Schedule.

**Amend-
ment of
section
80J.**

10. In section 80J of the Income-tax Act,—

(a) in sub-section (1), for the brackets, words, figures and letter “(reduced by the deduction, if any, admissible to the assessee under section 80H)”, the brackets, words, figures and letters “(reduced by the aggregate of the deductions, if any, admissible to the assessee under section 80H and section 80HH)” shall be substituted, and shall be deemed to have been substituted, with effect from the 1st day of April, 1974;

(b) in sub-section (3), for the word, figures and letter “section 80H”, the words, figures and letters “section 80H, section 80HH” shall be substituted, and shall be deemed to have been substituted, with effect from the 1st day of April, 1974.

11. In section 80P of the Income-tax Act, in sub-section (3),—

(a) for the words, figures and letters "section 80H or section 80J", the words, figures and letters "section 80H or section 80HH or section 80J" shall be substituted, and shall be deemed to have been substituted, with effect from the 1st day of April, 1974;

(b) for the words, figures and letters "section 80H and section 80J", the words, figures and letters "section 80H, section 80HH and section 80J" shall be substituted, and shall be deemed to have been substituted, with effect from the 1st day of April, 1974.

12. In section 80QQ of the Income-tax Act, in sub-section (2),—

(a) for the words, figures and letters "section 80H or section 80J", the words, figures and letters "section 80H or section 80HH or section 80J" shall be substituted, and shall be deemed to have been substituted, with effect from the 1st day of April, 1974;

(b) for the words, figures and letters "sections 80H, 80J and 80P", the words, figures and letters "section 80H, section 80HH, section 80J and section 80P" shall be substituted, and shall be deemed to have been substituted, with effect from the 1st day of April, 1974.

13. In section 271 of the Income-tax Act, for clause (i) of sub-section (1), the following clause shall be substituted and shall be deemed always to have been substituted, namely:—

'(i) in the cases referred to in clause (a), in addition to the amount of the tax, if any, payable by him, a sum equal to two per cent. of the assessed tax for every month during which the default continued, but not exceeding in the aggregate fifty per cent. of the assessed tax.'

Explanation.—In this clause, "assessed tax" means tax as reduced by the sum, if any, deducted at source under Chapter XVII-B or paid in advance under Chapter XVII-C'.

14. In section 295 of the Income-tax Act, after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) The power to make rules conferred by this section shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the rules or any of them and, unless the contrary is permitted (whether expressly or by necessary implication), no retrospective effect shall be given to any rule so as to prejudicially affect the interests of assessee's."

15. In the Income-tax Act, after the Seventh Schedule, the following Schedule shall be inserted, and shall be deemed to have been inserted, with effect from the 1st day of April, 1974, namely:—

Amend-
ment of
section
80P.

Amend-
ment of
section
80QQ.

Amend-
ment of
section
271.

Amend-
ment of
section
295.

Insertion
of Eighth
Schedule.

THE EIGHTH SCHEDULE

(See section 80HH)

List of backward areas

Name of State or Union territory (1)	Backward areas (2)
Andhra Pradesh	The districts of Anantapur, Chittoor, Cuddapah, Karimnagar, Khammam, Kurnool, Mahabubnagar, Medak, Nalgonda, Nellore, Nizamabad, Ongole, Srikakulam and Warangal.
Assam	The districts of Cachar, Goalpara, Kamrup, Lakhimpur, Mikir Hills, North Cachar Hills and Nowgong.
Bihar	The districts of Bhagalpur, Darbhanga, East Champaran, Madhubani, Muzaffarpur, Palamau, Purnea, Saharsa, Samastipur, Santal Parganas, Saran, Sitamarhi, Siwan, Vaishali and West Champaran.
Gujarat	The districts of Amreli, Banas Kantha, Bharuch, Bhavnagar, Junagadh, Kutch, Mehsana, Panch Mahals, Sabar Kantha and Surendranagar.
Haryana	The districts of Bhiwani, Hissar, Jind and Mahendragarh.
Himachal Pradesh	The districts of Chamba, Hamirpur, Kangra, Kinnaur, Kulu, Lahul and Spiti, Sirmur, Solan and Una.
Jammu and Kashmir	The districts of Anantnag, Baramula, Doda, Jammu, Kathua, Ladakh, Punch, Rajauri, Srinagar and Udhampur.
Karnataka	The districts of Belgaum, Bidar, Bijapur, Dharwar, Gulbarga, Hassan, Mysore, North Kanara, Raichur, South Kanara and Tumkur.
Kerala	The districts of Alleppey, Cannanore, Malappuram, Trichur and Thrissur.
Madhya Pradesh	The districts of Balaghat, Bastar, Betul, Bilaspur, Bhind, Chhatarpur, Chhindwara, Damoh, Datia, Dewas, Dhar, Guna, Hoshangabad, Jhabua, Khargone, Mandla, Mandsaur, Morena, Narsinghpur, Panna, Raigarh, Raipur, Raisen, Rajgarh, Rajnandgaon, Ratlam, Rewa, Sagar, Sehore, Seoni, Shajapur, Shivpuri, Sidhi, Surguja, Tikamgarh and Vidisha.
Maharashtra	The districts of Aurangabad, Bhandara, Bhir, Buldhana, Chandrapur, Dhulia and Jalgaon; the district of Kolaba excluding such portion thereof as is comprised in the area designated as the site for the proposed new town of New Bombay by notification No. RPB 1171-18124, I.W., dated the 20th March, 1971, issued

of material (1) beyond planning areas and (2) areas under sub-section (1) of section 113 of the Maharashtra Regional and Town Planning Act, 1966 (Maharashtra Act 37 of 1966) by the Government of Maharashtra (Under Development, Public Health and Housing Department) as amended by notification No. P.RPB 1173-LRPG, dated the 16th August, 1973, issued by that Government; the districts of Nanded, Osmanabad, Parbhani, Ratnagiri and Yeotmal.

Manipur	The whole of the State.
Meghalaya	The districts of Garo Hills, Jaintia Hills and Khasi Hills.
Nagaland	The whole of the State.
Orissa	The districts of Balasore, Bolangir, Dhenkanal, Kalahandi, Keonjhar, Koraput, Mayurbhanj and Phulbani.
Punjab	The district of Bhatinda; so much of the district of Faridkot as formed part of the district of Bhatinda on the 31st day of July, 1972; the districts of Gurdaspur, Hoshiarpur and Sangrur.
Rajasthan	The districts of Alwar, Banswara, Barmer, Bhilwara, Churu, Dungarpur, Jaisalmer, Jalore, Jhalawar, Jhunjhunu, Jodhpur, Nagaur, Sikar, Sirohi, Tonk and Udaipur.
Tamil Nadu	The districts of Dharmapuri, Kanyakumari, Madurai, North Arcot, Ramanathapuram, South Arcot, Thanjavur and Tiruchirapalli.
Tripura	The whole of the State.
Uttar Pradesh	The districts of Almora, Azamgarh, Bahraich, Ballia, Banda, Bara Banki, Basti, Budaun, Bulandshahr, Chamoli, Deoria, Etah, Etawah, Faizabad, Farrukhabad, Fatehpur, Garhwal, Ghazipur, Gonda, Hamirpur, Hardoi, Jalaun, Jaunpur, Jhansi, Mainpuri, Mathura, Moradabad, Pilibhit, Pithoragarh, Pratapgarh, Rae Bareli, Shahjahanpur, Sitapur, Sultanpur, Tehri-Garhwal, Unnao and Uttarkashi.
West Bengal	The districts of Bankura, Birbhum, Burdwan, Cooch Behar, Darjeeling, Hooghly, Jalpaiguri, Malda, Midnapore, Murshidabad, Nadia, Purulia and West Dinajpur.
Andaman and Nicobar Islands	The whole of the Union territory.
Arunachal Pradesh	The whole of the Union territory.
Dadra and Nagar Haveli	The whole of the Union territory.
Goa, Daman and Diu	The whole of the Union territory.
Lakshadweep	The whole of the Union territory.
Mizoram	The whole of the Union territory.
Pondicherry	The whole of the Union territory.

Explanation.—Save as otherwise expressly provided, reference to any district in this Schedule shall be construed as a reference to the areas comprised in that district on the 3rd day of September, 1973 being the date of introduction of the Direct Taxes (Amendment) Bill, 1973 in the House of the People.”.

**Insertion
of Ninth
Schedule.**

16. In the Income-tax Act, the following Schedule shall be inserted at the end with effect from the 1st day of April, 1975, namely:—

“THE NINTH SCHEDULE

[See section 32(1) (vi)]

List of articles or things

1. Iron and steel (metal).
2. Non-ferrous metals.
3. Ferro-alloys and special steels.
4. Steel castings and forgings and malleable iron and steel castings.
5. Thermal and hydro power generation equipment.
6. Transformers and switch gears.
7. Electric motors.
8. Industrial and agricultural machinery.
9. Earth moving machinery.
10. Machine tools.
11. Fertilisers, namely, ammonium sulphate, ammonium sulphate nitrate (double salt), ammonium nitrate, calcium ammonium nitrate (nitrolime stone), ammonium chloride, super phosphate, urea and complex fertilisers of synthetic origin containing both nitrogen and phosphorus, such as ammonium phosphates, ammonium sulphate phosphate and ammonium nitro phosphate.
12. Soda ash.
13. Caustic soda.
14. Commercial vehicles.
15. Ships.
16. Aircraft.
17. Tyres and tubes.
18. Paper, pulp and newsprint.
19. Sugar.
20. Vegetable oils.
21. Textiles (including those dyed, printed or otherwise processed) made wholly or mainly of cotton, including cotton yarn, hosiery and rope.
22. Textiles (including those dyed, printed or otherwise processed) made wholly or mainly of jute, including jute twine and jute rope.
23. Cement and refractories”.

CHAPTER III**AMENDMENT TO THE WEALTH-TAX ACT, 1957**

27 of 1957.

17. In section 46 of the Wealth-tax Act, 1957 (hereinafter referred to as the Wealth-tax Act), for sub-section (3), the following sub-section shall be substituted, namely:—

Amendment of section 46.

“(3) The power to make rules conferred by this section shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the rules or any of them and, unless the contrary is permitted (whether expressly or by necessary implication), no retrospective effect shall be given to any rule so as to prejudicially affect the interests of assessee.”.

CHAPTER IV**AMENDMENTS TO THE GIFT-TAX ACT, 1958**

18 of 1958.

18. In section 17 of the Gift-tax Act, 1958 (hereinafter referred to as the Gift-tax Act), for clause (i) of sub-section (1), the following clause shall be substituted, and shall be deemed to have been substituted, with effect from the 1st day of April, 1963, namely:—

Amendment of section 17.

(i) in the cases referred to in clause (a), in addition to the amount of the gift-tax, if any, payable by him, a sum equal to two per cent. of the assessed tax for every month during which the default continued, but not exceeding in the aggregate fifty per cent. of the assessed tax.

Explanation.—In this clause, “assessed tax” means the gift-tax chargeable under the provisions of this Act as reduced by the amount, if any, for which credit is allowed under section 18;.

19. In section 46 of the Gift-tax Act, for sub-section (3), the following sub-section shall be substituted, namely:—

Amendment of section 46.

“(3) The power to make rules conferred by this section shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the rules or any of them and, unless the contrary is permitted (whether expressly or by necessary implication), no retrospective effect shall be given to any rule so as to prejudicially affect the interests of assessee.”.

CHAPTER V**AMENDMENTS TO THE COMPANIES (PROFITS) SURTAX ACT, 1964**

7 of 1964.

20. In section 9 of the Companies (Profits) Surtax Act, 1964 [hereinafter referred to as the Companies (Profits) Surtax Act], in clause (a), for the words “surtax payable”, the words “surtax chargeable under the provisions of this Act” shall be substituted and shall be deemed always to have been substituted.

Amendment of section 9.

21. In section 25 of the Companies (Profits) Surtax Act, after sub-section (2), the following sub-section shall be inserted, namely:—

Amendment of section 25.

“(2A) The power to make rules conferred by this section shall include the power to give retrospective effect, from a date not earlier

than the date of commencement of this Act, to the rules or any of them and, unless the contrary is permitted (whether expressly or by necessary implication), no retrospective effect shall be given to any rule so as to prejudicially affect the interests of assessee."

CHAPTER VI

MISCELLANEOUS

Section
13 not
to apply
in certain
cases.

22. Where, in the case of an assessee, the Supreme Court has, before the date of introduction of the Direct Taxes (Amendment) Bill, 1973 in the House of the People, held, on an appeal in respect of an order imposing a penalty under clause (i) of sub-section (1) of section 271 of the Income-tax Act for any particular assessment year, that the expression "the amount of the tax, if any, payable by him" in the said clause shall be construed as the amount of the tax payable by him under the notice of demand under section 156 of that Act issued in pursuance of an order of assessment, nothing contained in section 13 of this Act shall apply or be deemed to have ever applied in relation to the order of penalty in the case of such assessee for that particular year.

Special
provision
as to
effect of
section
18(1) (i)
of
Wealth-
tax Act,
as it
stood
during
certain
period.

23. Clause (i) of sub-section (1) of section 18 of the Wealth-tax Act, as it stood during the period commencing on the 1st day of April, 1965 and ending with the 31st day of March, 1969, shall have and be deemed always to have effect as if the words "the tax" occurring therein, at both the places, mean the wealth-tax chargeable under the provisions of that Act.

Special
provision
as to
effect of
section
17(1) (i)
of Gift-tax
Act, as it
stood dur-
ing certain
period.

24. Clause (i) of sub-section (1) of section 17 of the Gift-tax Act, as it stood before the 1st day of April, 1963, shall have and be deemed always to have effect as if the words "such tax" occurring therein mean the gift-tax chargeable under the provisions of that Act as reduced by the amount, if any, for which credit is allowed under section 18 of that Act.

THE CINEMATOGRAPH (AMENDMENT) ACT, 1974

No. 27 OF 1974

[23rd August, 1974.]

An Act further to amend the Cinematograph Act, 1952.

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

1. (1) This Act may be called the Cinematograph (Amendment) Act, 1974.
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.

37 of 1952. 2. In the Cinematograph Act, 1952 (hereinafter referred to as the principal Act), in section 2,—
Amend-
ment
of sec-
tion 2.

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

'(aa) "Appellate Tribunal" means an Appellate Tribunal constituted under sub-section (2) of section 5D;'

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

'(da) "Examining Committee", in relation to a film, means the Examining Committee constituted by special order under section 3B for that film or, as the case may be, the Examining Committee constituted under that section by general order for films of the class to which such film belongs;

(db) "export" means taking out of India to a place outside India;'

(c) clause (dd) shall be re-lettered as clause (dc);

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

'(g) "Revising Committee", in relation to a film, means the Revising Committee constituted by special order under section 3B for that film or, as the case may be, the Revising Committee constituted under that section by general order for films of the class to which such film belongs.'

**Amend-
ment of
section 3.**

3. In section 3 of the principal Act,—

(a) in sub-section (1),—

(i) for the words "not more than nine other members", the words "five other whole-time members and six honorary members" shall be substituted;

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

"Provided that three of the honorary members shall be persons engaged or employed in the film industry.";

(b) in sub-section (2), for the words "shall receive such salary and allowances as may be determined by the Central Government, and the other members", the words "and the other whole-time members shall receive such salaries and allowances as may be determined by the Central Government and the honorary members" shall be substituted.

**Insertion
of new
sections
3A and 3B.**

**Assessors
and
Regional
Officers.**

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

3A. (1) For the purpose of enabling the Board to efficiently discharge its functions, and for the examination of films in different languages, under this Act, the Central Government may appoint as many assessors as it thinks fit for such regional centres as may be determined by that Government:

Provided that not more than seven assessors shall be appointed in relation to films in any particular language.

(2) The assessors shall discharge such functions as are assigned to them by or under this Act and it shall be the duty of every assessor to render such assistance to the Board on any matter in respect of the examination of any film as may be required by the Board.

(3) The assessors shall not be entitled to any salary, but shall receive such fees or allowances as may be prescribed.

(4) At each regional centre, there shall be as many regional officers as the Central Government may think fit to appoint and

rules made in this behalf may provide for the association of regional officers in the examination of films.

3B. (1) The Board may, by special or general order, constitute—

(a) an Examining Committee for the examination under this Act of any film or class of films; and

(b) a Revising Committee, for reconsidering, where it is necessary so to do under this Act, the recommendations of any Examining Committee, for or in relation to any film or any class of films.

(2) Every Examining Committee shall consist of one whole-time member of the Board and two assessors, and the whole-time member shall be the Chairman of the Committee.

(3) Every Revising Committee shall consist of—

(a) the Chairman, one whole-time member, and one honorary member, of the Board; or

(b) two whole-time members, and one honorary member, of the Board,

and the Chairman of the Board or, if he is not a member of the Committee, one of the whole-time members nominated by him, shall be the Chairman of the Committee.”.

5 In section 4 of the principal Act,—

(a) in sub-section (1), for the words “after examining or having the film examined in the prescribed manner”, the words “after the examination of the film as provided in this Act and the rules made thereunder” shall be substituted;

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

“(1A) Any person, desiring to export any film for exhibition outside India, shall, in the prescribed manner, make an application to the Board for a certificate in respect thereof and the Board may, after the examination of the film as provided in this Act and the rules made thereunder,—

(i) sanction the film as a film fit for exhibition outside India; or

(ii) direct the applicant to carry out such excisions or modifications in the film as it thinks necessary, before sanctioning the film as a film fit for exhibition outside India; or

(iii) refuse to sanction the film as a film fit for exhibition outside India.”;

(c) in sub-section (2), after the word, brackets and figure ‘sub-section (1)’, the words, brackets, figures and letter “or under clause (ii) or clause (iii) of sub-section (1A)” shall be inserted.

Examining Committees and Revising Committees.

Amendment of section 4.

**Insertion
of new
section 4A.**

**Examination
of films by
Examining Com-
mittees.**

6. After section 4 of the principal Act, the following section shall be inserted, namely:—

“4A. (1) Every film in respect of which an application is made under section 4 shall be examined in the prescribed manner by the Examining Committee.

(2) The Examining Committee shall examine the film having regard to the principles for guidance in certifying films specified in or under section 5B and make such recommendations to the Board as it deems appropriate:

Provided that if there is a difference of opinion amongst the members of the Committee each member shall record separately his recommendations and the reasons therefor.

(3) The recommendations of the Examining Committee or, as the case may be, the recommendations of each of the members of the Committee, shall be communicated in the prescribed manner to the Board and the Board shall, after making such further examination of the film as it may deem necessary, pass such orders on the application as it deems fit under sections 4 and 5A:

Provided that before passing such orders the Board shall refer the film for further examination to the Revising Committee—

(a) in a case where there is a difference of opinion between the Chairman of the Examining Committee and the other members thereof in respect of all or any of the recommendations;

(b) in any other case, if the applicant represents, when he is given an opportunity for representing his views under sub-section (2) of section 4, that the film shall be so referred.”

**Substitu-
tion of
new sec-
tion for
section 5.**

**Further
examina-
tion by
Revising
Commit-
tee.**

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

“5. (1) Where any film is referred to a Revising Committee under sub-section (3) of section 4A, the Revising Committee shall examine the film in the prescribed manner having regard to the principles for guidance in certifying films specified in or under section 5B and make its recommendations to the Board:

Provided that if there is a difference of opinion amongst the members of the Committee each member shall record separately his recommendations and the reasons therefor.

(2) The recommendations of the Revising Committee or, as the case may be, the recommendations of each of the members of the Committee shall be communicated in the prescribed manner to the Board and the Board may pass such orders on the application as it deems fit under sections 4 and 5A.”

8. In section 5A of the principal Act,—

- (a) in sub-section (1), for the words "If, after examining a film or having it examined in the manner provided in this Act," the words, brackets and figures "If, after the examination, as provided in this Act and the rules made thereunder, of a film in respect of which an application under sub-section (1) of section 4 has been made," shall be substituted;
- (b) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) If, after the examination, as provided in this Act and the rules made thereunder, of a film in respect of which an application under sub-section (1A) of section 4 has been made, the Board considers that the film is a film fit for exhibition outside India, it shall grant to the person applying for a certificate in respect of the film, a certificate to that effect and shall cause the film to be so marked in the prescribed manner.";

- (c) in sub-section (3), for the words "under this section shall be valid throughout India for a period of ten years.", the words, brackets, figures and letter "under sub-section (1) shall be valid throughout India for a period of ten years and a certificate granted by the Board under sub-section (1A) in respect of a film shall be valid for purposes of export of the film for such period as may be prescribed" shall be substituted.

9. In section 5B of the principal Act,—

- (a) in sub-section (1),—

(i) for the words "certified for public exhibition", the words "certified under this Act" shall be substituted;

(ii) after the words "against the interests of", the words "the sovereignty and integrity of India," shall be inserted;

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

"(1A) In particular and without prejudice to the generality of the provisions of sub-section (1), a film shall not be certified as a film fit for exhibition outside India if, in the opinion of the authority competent to grant the certificate, the film or any part of it presents or is likely to present an erroneous, distorted or misleading image of the social, cultural or political institutions of India or any part thereof.";

- (c) in sub-section (2),—

(i) for the word, brackets and figure "sub-section (1)", the words, brackets, figures and letter "sub-section (1) and sub-section (1A)" shall be substituted;

(ii) after the words "public exhibition", the words "or, as the case may be, exhibition outside India" shall be inserted.

10. For section 5C of the principal Act, the following sections shall be substituted, namely:—

'5C. (1) The Central Government shall, by notification in the Official Gazette, nominate twelve persons to serve, as hereinafter provided, as members of Appellate Tribunals.

Amend-
ment of
section 5A.

Amend-
ment of
section 5B.

Substitu-
tion of
new sec-
tions for
section
5C.

Appellate
Tribunals.

(2) Such nomination shall be made from persons—

- (i) who are familiar with the social, cultural or political institutions of India, or
- (ii) who have special knowledge of the various regions of India, or
- (iii) who have special knowledge of films and their impact on society, or
- (iv) who have, for at least ten years, held civil judicial posts or who have been in practice as advocates for at least ten years or who have been members of the Central Legal Service (not below Grade III) for at least three years.

Explanation.—For the purpose of this sub-section, in computing the period during which a person had been an advocate of a High Court, there shall be included any period during which the person has held judicial office after he became an advocate.

(3) Every Appellate Tribunal shall consist of three members appointed by the Central Government from among the persons nominated by it under sub-section (1).

(4) The Central Government shall, by notification in the Official Gazette, designate any officer of Government to function as the Registrar of Appellate Tribunals.

(5) The terms and conditions of service of the members of, and the procedure to be followed by, the Appellate Tribunals shall be such as may be prescribed.

Appeals. 5D. (1) Any person who applies for a certificate in respect of a film and who is aggrieved by an order of the Board—

- (a) refusing to grant the certificate, or
- (b) granting only an "A" certificate, or
- (c) directing the applicant to carry out any excisions or modifications,

may, within thirty days from the date of such order, lodge an appeal with the Registrar of Appellate Tribunals appointed under sub-section (4) of section 5C.

(2) The Central Government shall, as soon as may be upon receipt of information of the lodging of any appeal, constitute an Appellate Tribunal as specified in sub-section (3) of section 5C.

(3) The Appellate Tribunal shall, after such inquiry into the matter as it considers necessary, and after giving the appellant an opportunity for representing his views in the matter, make such order in relation thereto as it thinks fit and the Board shall dispose of the matter in conformity with such order.'

11. In section 6 of the principal Act,—

(a) in sub-section (1), for the words "pending before, or has been decided by, the Board," the words and brackets "pending before the Examining Committee or the Revising Committee or the Board, or has been decided by the Board (but not including any proceeding in respect of any matter which is pending before or has been decided by an Appellate Tribunal)," shall be substituted;

(b) in sub-section (2),—

(i) for the words "by notification", the words "by order published" shall be substituted;

(ii) in clause (a), after the words "any part of India", the words "or, as the case may be, an uncertified film for exhibition outside India, whether generally or in any particular country or countries outside India" shall be inserted;

(iii) in clause (c), after the words "the exhibition", the words "or, as the case may be, export for exhibition" shall be inserted;

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

"(5) The Central Government may, if satisfied in relation to any film in respect of which an order has been made by an Appellate Tribunal under section 5D that it is necessary so to do in the interests of—

(i) the sovereignty and integrity of India; or

(ii) the security of the State; or

(iii) friendly relations with foreign States; or

(iv) public order or decency or morality,

make such inquiry into the matter as it considers necessary, and pass such order in relation thereto as it thinks fit, and the Board shall thereupon dispose of the matter in conformity with such order:

Provided that no such order shall be made prejudicially affecting any person to whom a certificate has been granted except after giving him an opportunity for representing his views in the matter:

Provided further that nothing in this sub-section shall require the Central Government to disclose any fact which it considers to be against public interest to disclose.

(6) The provisions of sub-sections (2) to (4) of this section shall, so far as may be, apply also in relation to every film in respect of which the Central Government may exercise powers under sub-section (5)."

12. In section 6A of the principal Act, for the words "distributor or exhibitor", at both the places where they occur, the words "distributor, exhibitor or exporter" shall be substituted.

Amend-
ment of
section 6.

Amend-
ment of
section 6A.

**Amend-
ment of
section 7.**

13. In section 7 of the principal Act, in sub-section (1), after clause (a), the following clause shall be inserted, namely:—
 "(aa) exports or attempts to export any film which is not certified by the Board as a film fit for exhibition outside India, or".

**Amend-
ment of
section 7A.**

14. In section 7A of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) Where any film which is not certified by the Board as a film fit for exhibition outside India is attempted to be exported, any police officer may, in pursuance of an order made in this behalf by the District Magistrate or any magistrate of the First Class empowered in this behalf by the District Magistrate, enter any place in which he has reason to believe that the film is kept, search it and seize the film."

**Amend-
ment of
section 7C.**

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

- (i) after the word "Board", the words "or an Appellate Tribunal" shall be inserted;
 (ii) for the word "person", the words "person or authority" shall be substituted.

**Amend-
ment of
section 7D.**

16. In section 7D of the principal Act, the words "or of any advisory panel" and the words "or panel, as the case may be" shall be omitted.

**Amend-
ment of
section 7E.**

17. In section 7E of the principal Act, for the words "and of any advisory panel", the words "and of every Appellate Tribunal and all assessors" shall be substituted.

**Amend-
ment of
section 7F.**

18. In section 7F of the principal Act, for the words "advisory panel or any officer or member of the Central Government, Board or advisory panel, as the case may be," the words "any Examining Committee, any Revising Committee, any Appellate Tribunal or the Registrar of Appellate Tribunals or any other officer of the Central Government or any member of the Board or of any Appellate Tribunal or an assessor," shall be substituted.

**Amend-
ment of
section 8.**

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

- (a) in clause (a), after the words "the number of persons who may constitute the Board", the words ", the terms and conditions of service (other than salary and allowances) of the Chairman and other whole-time members of the Board, the allowances or fees and other terms and conditions of service of the honorary members of the Board" shall be inserted;

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

"(aa) the functions of, the fees or allowances payable to, and the other terms and conditions of service of, assessors;

(ab) the procedure of Examining Committees and Revising Committees for examining films and making recommendations to the Board and all matters ancillary thereto;

- (ao) the terms and conditions of service of persons appointed as members of any Appellate Tribunal;";
- (c) in clause (b), the words "as suitable for public exhibition" shall be omitted;
- (d) in clause (e), for the words "may be preferred", the words "may be lodged and the procedure which may be followed for the disposal of appeals" shall be substituted;
- (e) after clause (e), the following clause shall be inserted, namely:—

"(ea) the time within which any act or thing (including the examination of any film and the disposal of any proceedings) shall ordinarily be done under this Act, by the Board, or Examining Committees or Revising Committees or the Central Government or Appellate Tribunal or other officers or authorities under this Act;".

20. In section 9 of the principal Act, for the words "exhibition of any film", the words "exhibition or export of any film" shall be substituted.

21. (1) The provisions of the principal Act, as amended by this Act (the principal Act as so amended being hereafter in this section referred to as the amended Act), shall apply in relation to applications in respect of films made to the Board under sub-section (1) of section 4 of the principal Act and pending immediately before the commencement of this Act, subject to the following provisions, namely:—

(a) The Board may take action under clause (i), clause (ii), clause (iii), or, as the case may be, clause (iv) of the said sub-section (1) in respect of any such film where, before such commencement, the Board,—

(i) has examined the film; or

(ii) had the film examined by a revising committee referred to in rule 25 of the Cinematograph (Censorship) Rules, 1958; or

(iii) had the film examined by an examining committee referred to in rule 23 of the said rules and neither the applicant makes a request for the reference, for further examination, of the film to a revising committee within the time allowed under the principal Act nor the Board considers it necessary to make such a reference.

(b) The Board shall refer such film for further examination to a Revising Committee constituted under the amended Act where, before such commencement,—

(i) the film had been examined by an examining committee, referred to in the said rule 23, and either the applicant makes a request for the reference, for examination, of the film to a Revising Committee within the time allowed under the principal Act or the Board considers it necessary to make such a reference;

(ii) the film has been referred to a revising committee under the said rule 25 and the revising committee has not completed the examination of the film.

Amend-
ment of
section 9.

Special
provision
as to
pending
cases.

(c) The Board shall refer the examination of such film to an examining committee constituted under the Amended Act where, before such commencement,—

(i) the film has not been examined by the Board or referred for examination to an examining committee referred to in rule 23 of the said rules; or

(ii) the film has been referred for examination to an examining committee referred to in the said rule 23, but such committee has not completed the examination of the film.

Explanation.—For the purpose of this sub-section, an examining committee or a revising committee shall be deemed to have examined a film when it has sent the record of its examination of the film to the Chairman of the Board.

(2) All appeals under the principal Act, pending with the Central Government immediately before the commencement of this Act, shall be dealt with in accordance with the provisions of section 5D of the Amended Act.

(3) The Central Government shall exercise its revisional powers in respect of any matter which is pending before it, the Board or any authority under the principal Act immediately before the commencement of this Act, or which has been decided by the Board before such commencement, in accordance with the provisions of section 6 of the Amended Act.

80-100

100-150
150-200
200-250

250-300

(THE COAL MINES CONSERVATION AND DEVELOPMENT) ACT, 1974

No. 28 OF 1974

[26th August, 1974]

An Act to provide for the conservation of coal and development of coal mines and for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Coal Mines (Conservation and Development) Act, 1974.

Short title,
extent
and com-
mence-
ment.

(2) It extends to the whole of India.

(3) It shall come into force on such day¹ as the Central Government may, by notification, appoint in this behalf.

Declara-
tion as
to ex-
pediency of
control by
Central
Govern-
ment.

2. It is hereby declared that it is expedient in the public interest that the Central Government should take under its control the regulation and development of coal mines to the extent hereinafter provided.

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

Defini-
tions.

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

(b) "blending" means the process of intimately mixing different varieties of coal so as to provide a mixture which on carbonisation results in coke;

(c) "coal" includes coke in all its forms but does not include lignite;

¹ 1-4-1975 vide No. G. S. R. 164 (E), dt. 26-3-1975.

(d) "Chief Inspector" and "Inspector" mean the persons respectively appointed as the Chief Inspector of Mines and Inspector of Mines under the Mines Act, 1952, and the provisions of that Act shall apply to the Chief Inspector and to all Inspectors while exercising their powers under this Act or the rules made thereunder;

35 of 1952.

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

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

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

2 of 1934.

(h) "railway" shall have the meaning assigned to it in the Indian Railways Act, 1890;

9 of 1890.

(i) "safety in coal mines" includes the safety of any railway situated on the surface above a coal mine;

(j) "stowing" means the operation of filling, with sand or any other material, or with both, spaces left underground in a coal mine by the extraction of coal;

(k) "washing" means such process or combination of processes as may be approved in this behalf by the Central Government by which the whole or any part of the shaly and mineral matter found in the coal is removed therefrom;

(l) "agent", "mine" and "owner" have the meanings respectively assigned to them in the Mines Act, 1952.

35 of 1952.

CHAPTER II

PROVISIONS RELATING TO CONSERVATION OF COAL AND DEVELOPMENT OF COAL MINES

Power of
Central
Govern-
ment in re-
spect of
conserva-
tion of
coal and
develop-
ment of
coal
mines.

4. (1) The Central Government may, for the purpose of conservation of coal and for the development of coal mines, exercise such powers and take, or cause to be taken, such measures as it may deem necessary or proper or as may be prescribed.

(2) Without prejudice to the generality of the foregoing power, the Central Government may, by order in writing addressed to the owner, agent or manager of a coal mine, require him to take such measures as it may think necessary for the purpose of conservation of coal or for development of coal mines, including—

(a) in any coal mine, stowing for safety, or

(b) the prevention of any factor which may adversely affect the conservation of coal or development of coal mine, or

(c) washing of coal with a view to beneficiating and reducing the ash-contents of coal.

5. (1) The owner of a coal mine shall take, in relation to each coal mine owned by him, such steps as may be necessary to ensure the conservation of coal and development of the coal mine.

(2) Without prejudice to the generality of the provisions of sub-section (1), the owner of a coal mine shall—

(a) execute such stowing and other operations as may be necessary to be taken in furtherance of the objects of this Act in so far as such objects relate to the conservation of coal or development of the coal mine or the utilisation of coal obtained from the coal mine;

(b) acquire such stowing and other materials as may be necessary for ensuring the conservation of coal, and safety in, the coal mine;

(c) undertake research in relation to conservation of coal, development of coal mines and utilisation of coal;

(d) plan and undertake development of the coal mines in a scientific manner;

(e) undertake such other activity as the Central Government may, for the furtherance of the objects of this Act, direct.

6. (1) With effect from the appointed day, there shall be levied and collected on all coal raised and despatched, and on all coke manufactured and despatched, from the collieries in India, such duty of excise, not exceeding rupees ten per tonne, as may be fixed from time to time by the Central Government by notification, and different rates of duty may be levied on different grades or description of coal or coke:

Provided that the Central Government may, by general or special order, exempt any special grade or grades or description of coal or coke from the levy of such duty of excise.

(2) For the purposes of sub-section (1), coal shall be graded by the Central Government in accordance with such specifications as may be laid down by that Government from time to time.

(3) All notifications issued under this section shall be laid, as soon as may be, before both Houses of Parliament.

7. During the period in which any duty of excise is being levied under section 6, the Central Government may, by notification, impose on all coal (including soft and hard coke), imported or brought into India from any place outside India, a duty of customs (which shall be in addition to any duty of customs for the time being leviable under any other law), at the rates equivalent to the rates of duty of excise levied under section 6.

8. The duties of excise levied under section 6 shall be collected by such agencies and in such manner as may be prescribed.

Duty of owner to take steps for the conservation and development of coal mine.

Imposition of duty of excise.

Imposition of customs duty.

Collection of excise duties.

Utilisation of proceeds of duties levied and collected under sections 6 and 7.

9. In each financial year, a sum not exceeding the net proceeds (determined in such manner as may be prescribed) of the duties of excise and customs levied and collected under sections 6 and 7, respectively, during the preceding financial year or years shall be disbursed by the Central Government in accordance with such procedure as may be prescribed, to the owners, agents or managers of coal mines or to any other person for one or more of the following purposes, namely:—

- (a) conservation of coal and development of coal mines;
- (b) grant of stowing materials and other assistance for stowing operations;
- (c) execution of stowing and other operations for the safety in coal mines or conservation of coal;
- (d) prosecution of research work connected with conservation and utilisation of coal; and
- (e) any other purpose connected with the conservation of coal or development of coal mines, or transportation, distribution or utilisation of coal:

Provided that the Central Government may disburse to the owners, agents or managers of coal mines or to any other person, a sum not exceeding the aggregate of the net proceeds of the duties of excise collected under section 8 of the Coal Mines (Conservation, Safety and Development) Act, 1952, and remaining undisbursed before the commencement of this Act, for all or any of the purposes specified in this section.

Duty of owner to open Coal Mine Conservation and Development Account.

10. (1) The owner of every coal mine, to whom any money is disbursed under section 9, shall open a separate account in a scheduled bank, to be known as the "Coal Mine Conservation and Development Account" and shall credit to the said Account all sums so disbursed to him:

Provided that where it is necessary so to do in relation to the different groups of coal mines owned by an owner, separate accounts may be opened in relation to each such group of coal mines.

(2) The money standing to the credit of the Coal Mine Conservation and Development Account and accretions thereto shall be applied by the owner of the coal mine to—

- (a) the furtherance of the objects of this Act;
- (b) the acquisition of stowing or other materials needed for stowing operations in coal mines;
- (c) the execution of stowing and other operations in furtherance of the objects of this Act;
- (d) the prosecution of research work connected with the conservation, development and utilisation of coal and safety in coal mines;
- (e) the planning and development of coal mines in a scientific manner; and
- (f) any other expenditure which the Central Government may direct to be defrayed out of the money standing to the credit of the Account.

(3) The Account, referred to in sub-section (1), shall be kept in such manner and in such form as may be prescribed, and every such account shall be audited by the same person by whom the accounts of the owner of the coal mine are audited.

11. (1) The Chief Inspector or any Inspector may make such examination and inquiries as he thinks fit in order to ascertain whether the provisions of this Act or of any rules and orders made thereunder are being complied with.

Power of
Inspectors.

(2) The Chief Inspector or any Inspector may, with such assistance, if any, as he thinks fit, enter, inspect and examine at any time by day or night any coal mine in order to ensure that stowing or any other operation has been, or is being, done effectively:

Provided that the power conferred by this sub-section shall not be exercised in such a manner as unreasonably to impede or obstruct the working of the mine.

35 of 1952.

(3) Without prejudice to the provisions of the Mines Act, 1952, the Chief Inspector or any Inspector may, by order in writing, addressed to the owner, agent or manager of a coal mine, require him to take such protective measures, including stowing, in the mine as the Chief Inspector or the Inspector may think necessary, if in the opinion of the Chief Inspector or Inspector—

(a) the extraction or reduction of pillars in any part of the coal mine is likely to cause the crushing of pillars or the premature collapse of any part of the workings or otherwise endanger human life or the coal mine or a railway, or

(b) adequate provision against the outbreak of fire or flooding has not been made by providing for the sealing off and isolation of any part of the coal mine or for restricting the area that might be affected by fire or flooding, as the case may be.

(4) The powers conferred on the Inspector under sub-sections (1), (2) and (3) may also be exercised by such officer of the Central Government as that Government may, by notification, specify in this behalf.

CHAPTER III

DISSOLUTION OF THE COAL BOARD AND TRANSFER OF EMPLOYEES THEREOF

12. (1) On the appointed day, the Coal Board, established under section 4 of the Coal Mines (Conservation, Safety, and Development) Act, 1952, shall stand dissolved.

Dissolu-
tion of
the Coal
Board.

(2) On the dissolution of the Coal Board,—

(a) all rights and privileges of the Coal Board shall become the rights and privileges, respectively, of the Central Government;

(b) the Central Government shall be deemed to be the lessee of all properties held by the Coal Board, immediately before the appointed day, under any lease and that Government shall hold the lease under the same terms and conditions under which the lease was held by the Coal Board;

- (c) all other properties, movable and immovable, including cash balances, reserve funds, investments and moneys lying to the credit of the Coal Mines Safety and Conservation Fund and the Coal Development Fund, and all other rights and interests in, or arising out of, such properties as were, immediately before the appointed day, in the ownership, possession, power or control of the Coal Board, and all books of account, registers, records and all other documents of whatever nature relating thereto, shall vest in the Central Government;
- (d) all borrowings, liabilities and obligations of the Coal Board, of whatever kind and subsisting immediately before the appointed day, shall be deemed, on and from the appointed day, to be the borrowings, liabilities or obligations, as the case may be, of the Central Government;
- (e) all contracts entered into, and all matters and things engaged to be done by, with or for, the Coal Board and subsisting immediately before the appointed day, shall be deemed, on and from the appointed day, to have been entered into or engaged to be done by, with or for, the Central Government;
- (f) all licences and permits granted to the Coal Board and in force immediately before the appointed day shall be deemed, on and from the appointed day, to have been granted to the Central Government and shall have effect accordingly.

Power of Central Government to direct vesting of rights in a Government company.

13. Notwithstanding anything contained in section 12, the Central Government may, if it is satisfied that a Government company is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, direct, by an order in writing, that the right, title and interest of the Coal Board in relation to any property shall, instead of continuing to vest in it, vest in the Government company either on the date of publication of the direction or on such earlier or later date (not being a date earlier than the appointed day) as may be specified in the direction, and on such vesting, the liability or obligation, as the case may be, of the Coal Board in relation to such property shall, instead of continuing to be the liability or obligation of the Central Government, become the liability or obligation, as the case may be, of the Government company.

Continuation of suits, etc., against the Central Government.

14. (1) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to the Coal Board is pending by or against such Board, the same shall not abate, be discontinued or be in any way prejudicially affected by reason of the dissolution of the Coal Board; but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Central Government or the Government company in which the property of the Coal Board has become vested, as the case may be.
- (2) Where, before the appointed day, any cause of action for any suit or proceeding or any right to appeal arose in favour of, or against, the Coal Board, and the institution of any suit or proceeding on such cause of action or the filing of such appeal was not barred before the appointed day, such suit or proceeding may be instituted or appeal may be filed by or against the Central Government or the Government company referred to in sub-section (1), as the case may be.

15. (1) Notwithstanding anything contained in any other law for the time being in force or in any contract to the contrary, every officer or other employee of the Coal Board shall, on and from the appointed day, become an officer or other employee, as the case may be, of such Government company or organisation as the Central Government may, in writing, specify and shall hold his office or service in such Government company or organisation, as the case may be, on the same terms and conditions and with the same rights to pension, gratuity and other matters as would have been admissible to him if the Coal Board had not been abolished, and shall continue to do so unless and until his employment in the Government company or organisation is terminated or until his remuneration or terms and conditions of service are duly altered by the Government company or organisation, as the case may be:

Provided that the tenure, remuneration and other terms and conditions of service of any such officer or other employee shall not be altered to his disadvantage except with the previous approval of the Central Government or without such approval, except as a measure of punishment, under the rules of the Government company or the organisation concerned.

(2) Where any officer or other employee of the Coal Board becomes, under sub-section (1), an officer or other employee of any Government company or organisation, the period of service rendered, or deemed to have been rendered, by him under the Coal Board before the appointed day shall be deemed, for the purposes of fixation of pay and other emoluments, pension and other retirement benefits, to be the period of service rendered by him under the said Government company or organisation, as the case may be, as if the Government company or the organisation were in existence during the said period.

16. Notwithstanding anything contained in any other law for the time being in force, the transfer of the services of any officer or other employee from the Coal Board to any Government company or organisation shall not entitle such officer or other employee to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

Transfer of service of existing employees of Coal Board.

No compensation to be paid for the transfer of services of any officer or other employee.

CHAPTER IV MISCELLANEOUS

17. No suit, prosecution or other legal proceedings shall lie against the Central Government or against the Chairman or any other member of the Coal Board or any officer thereof or any other person 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 orders made thereunder, or in pursuance of the Coal Mines (Conservation, Safety and Development) Act, 1952 or any rule made thereunder.

Protection of action taken in good faith.

12 of 1952.

18. (1) The Central Government may, by notification, and subject to the condition of previous publication, make rules to carry out the provisions of this Act.

Power to make rules.

460 Coal Mines (Conservation and Development) [ACT 28 OF 1974]

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

- (a) the measures to be taken for the purpose of conservation of coal and maintenance of safety in coal mines;
- (b) the measures to be taken for the development of coal mines;
- (c) the manner in which, and the conditions subject to which, sums at the credit of the Coal Mine Conservation and Development Account may be applied;
- (d) the form in which the Coal Mine Conservation and Development Account shall be kept;
- (e) any other matter which is required to be, or may be, prescribed.

(3) Any rule made under the provisions of this Act may provide that the contravention thereof shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two thousand rupees, or with both.

(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 rule.

Repeal: ~~19. The Coal Mines (Conservation, Safety and Development) Act, 1952, is hereby repealed.~~

12 of 1952.

Repealed by Act 38 of 1978, S. 2 + Sch. I

THE MAJOR PORT TRUSTS (AMENDMENT) ACT, 1974

AN ACT TO AMEND THE MAJOR PORT TRUSTS ACT, 1963
[No. 29 OF 1974]

WHEREAS it is expedient to amend the Major Port Trusts Act, 1963, in order to facilitate the transfer of the management of the major port trusts to the Central Government;

IT IS ENACTED AS FOLLOWS:—

[29th August, 1974]

An Act to amend the Major Port Trusts Act, 1963.

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

1. (1) This Act may be called the Major Port Trusts (Amendment) Act, 1974. Short title and commencement.

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

~~38 of 1963.~~ 2. In section 1 of the Major Port Trusts Act, 1963 (hereinafter referred to as the principal Act), in sub-section (3), the brackets and words "(not being the major port of Bombay, Calcutta or Madras)" shall be omitted. Amendment of section 1.

3. In section 2 of the principal Act, Amendment of section 2.

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

'(ia) "immovable property" includes wharfage-rights and all other rights exercisable on, over, or in respect of, any land, wharf, dock or pier;';

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

'(z) "vessel" includes anything made for the conveyance, mainly by water, of human beings or of goods and a caisson;'

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

(a) in sub-section (1), for clauses (c) and (d), the following clause shall be substituted, namely:—

115-1-75

461

1. 1.2.1975: Vide Notfn. No. G. S. R. 25(E), dt. 1.2.1975.

2. Ss. 2 to 39 repealed by Act 38 of 1978, S. 2 & Sch. I.

"(c) not more than nineteen persons in the case of each of the ports of Bombay, Calcutta and Madras and not more than seventeen persons in the case of any other port who shall consist of—

(i) such number of persons, as the Central Government may, from time to time, by notification in the Official Gazette, specify, to be appointed by that Government from amongst persons who are in its opinion capable of representing any one or more of such of the following interests as may be specified in the notification, namely:—

- (1) labour employed in the port;
- (2) the Mercantile Marine Department;
- (3) the Customs Department;
- (4) the Government of the State in which the port is situated;
- (5) the Defence Services;
- (6) the Indian Railways; and
- (7) such other interests as, in the opinion of the Central Government, ought to be represented on the Board:

Provided that before appointing any person to represent the labour employed in the port, the Central Government shall obtain the opinion of the trade unions, if any, composed of persons employed in the port and registered under the Trade Unions Act, 1926, and that the number of persons so appointed shall not be less than two;

16 of 1928.

(ii) such number of persons, as the Central Government may, from time to time, by notification in the Official Gazette, specify, to be elected by such bodies and representing any one or more of such of the following interests as may be specified in the notification from among themselves, namely:—

- (1) ship owners;
- (2) owners of sailing vessels;
- (3) shippers; and
- (4) such other interests as, in the opinion of the Central Government, ought to be represented on the Board:

Provided that in a case where any such body is an undertaking owned or controlled by the Government, the person to be elected by such body shall be appointed by the Central Government.”;

(b) in sub-sections (3) and (4), for the words, brackets, letter and figure “clause (d) of sub-section (1)”, the words, brackets, figures and letter “sub-clause (ii) of clause (c) of sub-section (1)” shall be substituted.

5. In clause (c) of sub-section (1) of section 4 of the principal Act,—

(a) for the words "not exceeding twenty-two", the words "not exceeding seventeen" shall be substituted;

Amend-
ment of
section 4

(b) in sub-clause (iii), for the words, brackets, figures and letter "in sub-clauses (ii), (iii), (v) and (vi) of clause (c)", the words, brackets, figure and letter "in sub-clause (i) of clause (c)" shall be substituted.

6. In clause (c) of section 6 of the principal Act, for the proviso, the following proviso shall be substituted, namely:—

Amend-
ment of
section 6

"Provided that this disqualification shall not apply to the Chairman, Deputy Chairman or a Trustee who has been appointed to represent the labour employed in the port or appointed by virtue of office as officer or member of an association formed for the purpose of promoting the interests or welfare of any class of employees of the Board."

7. In sub-section (1) of section 8 of the principal Act, after clause (a), the following clause shall be inserted, namely:—

Amend-
ment of
section 8

"(aa) has, in the opinion of the Central Government, ceased to represent the interest by virtue of which he was appointed or elected; or".

8. In section 19 of the principal Act,—

Amend-
ment of
section
19

(i) after the words "the Government", the words "or an undertaking owned or controlled by the Government" shall be inserted;

16 of 1926.

(ii) for the words and figures "the Indian Trade Unions Act, 1926", the words and figures "the Trade Unions Act, 1926, or other than as officer or member of an association formed for the purpose of promoting the interests or welfare of any class of employees of the Board" shall be substituted.

9. To section 23 of the principal Act, the following proviso shall be added, namely:—

Amend-
ment of
section
23

"Provided that the previous sanction of the Central Government shall be obtained for the inclusion in the said Schedule of those designations and grades of employees and the salaries, fees and allowances payable to them which the Central Government may, by order, specify, and where no such order is made, of such posts (including the salaries and allowances attached thereto) which are required to be created by the Central Government, or for the creation of which the previous sanction of the Central Government is required, under this Act".

Amend-
ment of
section
24.

10. In sub-section (1) of section 24 of the principal Act,—

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

"(a) in the case of a post—

(i) the incumbent of which is to be regarded as the Head of a department; or

(ii) to which such incumbent is to be appointed; or

(iii) the maximum of the pay-scale of which (exclusive of allowances) exceeds two thousand rupees,

be exercisable by the Central Government after consultation with the Chairman;"

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

"(b) in the case of any other post, be exercisable by the Chairman or by such authority as may be prescribed by regulations;"

Amend-
ment of
section
25.

11. In section 25 of the principal Act,—

(i) in sub-section (1),—

(1) in the opening paragraph, the word "promoting," shall be omitted;

(2) for clauses (a) and (b), the following clauses shall be substituted, namely:—

"(a) in the case of an employee holding a post referred to in clause (a) of sub-section (1) of section 24, by the Chairman;

(b) in any other case, by the Chairman or by such authority as may be prescribed by regulations;"

(3) in the proviso, for the words "a Head of a department", the words, brackets and letter "an employee referred to in clause (a)" shall be substituted;

(ii) in sub-section (2),—

(1) in the opening paragraph, the brackets and words "(not being a Head of a department)" shall be omitted;

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

"(a) to the Central Government, where such order is passed by the Chairman;

(b) to the Chairman, where such order is passed by any such authority as is prescribed by regulations under clause (b) of sub-section (1);"

(3) in the proviso, for the words "the Board", in both the places where they occur, the words "the Central Government" shall be substituted.

12. For section 27 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 27.

"27. Notwithstanding anything contained in section 23, the power to create any post, whether temporary or permanent, shall,—

Power to create posts.

(a) in the case of a post the holder of which is to be regarded as the Head of a department or in the case of a post the maximum of the pay-scale of which (exclusive of allowances) exceeds two thousand rupees, be exercisable by the Central Government;

(b) in the case of a post [other than a post referred to in clause (a)], the maximum of the pay-scale of which exceeds such amount as the Central Government may, from time to time, by order fix in this behalf, or where no such amount has been fixed, is not less than one thousand rupees, be exercisable by the Board with the previous sanction of the Central Government;

(c) in the case of any other post, be exercisable by the Chairman."

Amendment of section 29.

13. In sub-section (1) of section 29 of the principal Act, in clause (a), after the words "and funds", the words "and all rights to levy rates" shall be inserted.

Amendment of section 32.

14. In section 32 of the principal Act, for the words "Whenever any immovable property which is required for the purposes of the Board cannot be acquired by agreement", the words "When any immovable property is required for the purposes of the Board" shall be substituted.

Amendment of section 35.

15. In sub-section (2) of section 35 of the principal Act, after clause (j), the following clauses shall be inserted, namely:—

Insertion of new section 35A.

(k) construction of models and plans for carrying out hydraulic studies;

(l) dry docks, slipways, boat basins and workshops to carry out repairs or overhauling of vessels, tugs, boats, machinery or other appliances.".

16. After section 35 of the principal Act, the following section shall be inserted, namely:—

"35A. Without prejudice to the powers exercisable under section 35, the Board of Trustees for the port of Calcutta may, if it considers it necessary so to do for the purposes of this Act,—

Power with respect to landing places and bathing ghats.

(i) provide for sufficient number of public landing places from and upon which the public shall be permitted to embark and to land free of charge;

(ii) occupy any bathing ghat, or remove any landing place, within the port and thereafter prohibit the public from resorting to or using the same:

Provided that the Board shall not exercise any power under this section unless it reserves, sets out, makes and provides for the use of the public, such number of bathing ghats within the port as the Central Government may direct".

Amend-
ment of
section 36.

17. Section 36 of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) A Board may, if it considers it necessary or expedient in the public interest so to do, lend any of its vessels or appliances or the services of any of its employees to any person for such period not exceeding three months and on such terms and conditions as may be agreed upon between the Board and the person concerned.”.

Amend-
ment of
section 42.

18. In sub-section (1) of section 42 of the principal Act,—

(i) in clause (c), the word “and” occurring at the end shall be omitted;

(ii) in clause (d), the word “and” shall be inserted at the end and after the clause as so amended, the following clause shall be inserted, namely:—

“(e) piloting, hauling, mooring, remooring, hooking, or measuring of vessels or any other service in respect of vessels.”.

Amend-
ment of
section 43.

19. In section 43 of the principal Act,—

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

“Provided that no responsibility under this section shall attach to the Board—

(a) until a receipt mentioned in sub-section (2) of section 42 is given by the Board; and

(b) after the expiry of such period as may be prescribed by regulations from the date of taking charge of such goods by the Board.”;

(ii) in sub-section (2), for the words “from the date of the receipt given for the goods”, the words “from the date of taking charge of such goods by the Board” shall be substituted.

Amend-
ment of
section
46.

20. In section 46 of the principal Act,—

(i) in sub-section (1), after the word “mooring”, the words “or undertake any reclamation of foreshore within the said limits” shall be inserted;

(ii) in sub-section (2), after the word “mooring”, the words “or undertakes any reclamation of foreshore” shall be inserted.

Amend-
ment of
section 59.

21. In sub-section (2) of section 59 of the principal Act, for the words “under any law for the time being in force”, the words “under any law for the time being in force relating to customs, other than by way of penalty or fine” shall be substituted.

Amend-
ment of
section 61.

22. In section 61 of the principal Act,—

(i) in sub-section (1), after the words “sell by public auction”, the words “or in such cases as the Board considers it necessary so to do, for reasons to be recorded in writing, sell by tender, private agreement or in any other manner” shall be inserted;

(ii) in sub-section (2), for the words "the Official Gazette", the words "the Port Gazette, or where there is no Port Gazette, in the Official Gazette" shall be substituted.

23. In section 62 of the principal Act,—

(i) in sub-section (1),—

(a) for the words "the Official Gazette", the words "the Port Gazette or where there is no Port Gazette, in the Official Gazette" shall be substituted;

(b) after the words "by public auction", the words "or by tender, private agreement or in any other manner" shall be inserted;

(ii) in sub-section (3), after the words "by public auction", the words "or in such cases as the Board considers it necessary so to do, for reasons to be recorded in writing sell by tender, private agreement or in any other manner" shall be inserted.

24. In section 63 of the principal Act,—

(i) in sub-section (1),—

(a) in clause (c), after the words "in respect thereof", the words and brackets ", including demurrage (other than penal demurrage) payable in respect of such goods for a period of four months from the date of landing" shall be inserted;

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

"(d) in payment of any penalty or fine due to the Central Government under any law for the time being in force relating to customs;

(e) in payment of any other sum due to the Board.";

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

"(2) The surplus, if any, shall be paid to the importer, owner or consignee of the goods or to his agent, on an application made by him in this behalf within six months from the date of the sale of the goods.

(3) Where no application has been made under sub-section (2), the surplus shall be applied by the Board for the purposes of this Act."

25. For section 65 of the principal Act, the following section shall be substituted, namely:—

65. If a Board gives to the officer of the Central Government whose duty it is to grant the port-clearance to any vessel at the port, a notice stating,—

(i) that an amount specified therein is due in respect of rates, fines, penalties or expenses chargeable under this Act or under any regulations or orders made in pursuance thereof, against such vessel, or by the owner or master of such vessel in respect thereof, or against or in respect of any goods on board such vessel; or

Amend-
ment of
section 62.

Amend-
ment of
section 63.

Substitu-
tion of
new
section
for
section 65.

Grant of
port-
clearance
after
pay-
ment of
rates
and
realisa-
tion of
damages,
etc.

(ii) that an amount specified therein is due in respect of any damage referred to in section 116 and such amount together with the cost of the proceedings for the recovery thereof before a Magistrate under that section has not been realised,

such officer shall not grant such port-clearance until the amount so chargeable or due has been paid or, as the case may be, the damage and cost have been realised.”.

Insertion
of new
sections
74A and
74B.

26. After section 74 of the principal Act, the following sections shall be inserted, namely:—

Recognition
as
holder
of Port
Trust
securities
in
certain
cases.

“74A. The person to whom a duplicate security has been issued under section 73 or a new security or securities has or have been issued under section 74 shall be deemed for the purposes of section 74B to have been recognised by the Board as the holder of the security or securities; and a duplicate security or a new security or securities so issued to any person shall be deemed to constitute a new contract between the Board and such person and all persons deriving title thereafter through him.

Legal
effect of
recognition
by the
Board
under
section
74A.

74B. No recognition by the Board of a person as the holder of a Port Trust security or securities shall be called in question by any court so far as such recognition affects the relations of the Board with the person recognised by it as the holder of a Port Trust security or securities or with any person claiming an interest in such security or securities; and any such recognition by the Board of any person shall operate to confer on that person a title to the security or securities subject only to a personal liability to the rightful owner of the security or securities for money had and received on his account.”.

Amend-
ment of
section 75.

27. In section 75 of the principal Act, for the words and figures “the Indian Limitation Act, 1908”, the words and figures “the Limitation Act, 1963” shall be substituted.

9 of 1908.

36 of 1963.

Amend-
ment of
section
78.

28. In clause (a) of section 78 of the principal Act, for the words “other than any sum set apart by the Board as the sinking fund for the purpose of paying off any loan; and”, the following shall be substituted, namely:—

“other than—

(i) any sum set apart by the Board—

(1) as the sinking fund for the purpose of paying off any loan; or

(2) for the payment of pension to its employees; or

(ii) the provident or pension fund established by the Board; and”.

Amend-
ment of
section
82.

29. In sub-section (1) of section 82 of the principal Act, for the words “by two Trustees, one being the Board and the other a person appointed by the Central Government”, the words “by the Board” shall be substituted.

Amend-
ment of
section
88.

30. In sub-section (1) of section 88 of the principal Act,—

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

“(g) such sums as may, from time to time, be agreed upon by the Board and a State Government or the Central Government or any other authority, as a reasonable contribution payable by

the Board towards the expenses in connection with the watch and ward functions of the police force or the Central Industrial Security Force or any other force which the State Government or the Central Government or the other authority, as the case may be, may establish and maintain for the protection of the port and the docks, warehouses and other property of the Board;”;

(ii) in clause (l), after the words “application of the Board”, the words “or otherwise” shall be inserted.

31. In section 102 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The accounts of the Board shall be audited—

(i) once in every year; and

(ii) if so required by the Comptroller and Auditor-General of India, concurrently with the compilation of such accounts,

by the Comptroller and Auditor-General of India or such other persons as may be appointed by him in this behalf and any amount payable to him by the Board in respect of such audit shall be debitible to the general account of the Board.”

32. In section 116 of the principal Act, after the words “any Board”, the words “or any movable property belonging to any Board,” shall be inserted.

33. After section 117 of the principal Act, the following section shall be inserted, namely:—

“117A. Any person who, being a Trustee or an employee of the Board, acquires, directly or indirectly, any share or interest in any contract or employment with, by or on behalf of, any Board, shall be deemed to have committed an offence under section 168 of the Indian Penal Code:

Provided that nothing in this section shall apply to a person who is deemed not to have a share or interest in any contract or employment under the proviso to clause (d) of section 6.”

Amend-
ment of
section
102.

Amend-
ment of
section
116.

Insertion
of new
section
117A.

Person in-
terested in
contracts,
etc., with
the
Board to
be deemed
to have
committ-
ted an
offence
under
section 168
of the
Indian
Penal
Code.

45 of 1860.

34. In section 118 of the principal Act, for the words “magistrate of the first class”, the words “Metropolitan Magistrate or Judicial Magistrate of the first class” shall be substituted.

35. In sub-section (3) of section 122 of the principal Act, for the words “in which it is so laid”, the words “immediately following the session” shall be substituted.

36. In section 123 of the principal Act, for clause (f), the following clause shall be substituted, namely:—

“(f) for the safe, efficient and convenient use, management and control of the docks, wharves, quays, jetties, railways, tramways,

Amend-
ment of
section
118.

Amend-
ment of
section
122.

Amend-
ment of
section
123.

buildings and other works constructed or acquired by, or vested in, the Board, or of any land or foreshore acquired by, or vested in, the Board under this Act;".

Amend-
ment of
section
124.

37. In sub-section (1) of section 124 of the principal Act, after the words "under this Act", the words, brackets and figures ", other than a regulation made under sub-section (2) of section 17," shall be inserted.

Amend-
ment of
section 133.

38. In section 133 of the principal Act, after sub-section (2), the following sub-sections shall be inserted, namely:—

"(2A) On the application of this Act to the port of Bombay, the Bombay Port Trust Act, 1879, except the provisions thereof relating to municipal assessment of the properties of the port of Bombay and matters connected therewith, shall cease to have force in relation to that port.

Bombay
Act 6
of 1879.

(2B) On the application of this Act to the port of Calcutta, the Calcutta Port Act, 1890, except the provisions thereof relating to municipal assessment of the properties of the port of Calcutta and matters connected therewith, shall cease to have force in relation to that port.

Bengal
Act 3
of 1890.

(2C) On the application of this Act to the port of Madras, the Madras Port Trust Act, 1905, shall cease to have force in relation to that port.

Madras
Act 2
of 1905.

(2D) Notwithstanding anything contained in sub-sections (2A), (2B) and (2C),—

(a) every Trustee of the Board of Trustees of the port of Bombay or Madras holding office as such immediately before the application of this Act to the port of Bombay or Madras, as the case may be, shall be deemed to have been appointed or elected as such under this Act and shall continue to hold such office after such application until a Board of Trustees in respect of that port is constituted under the provisions of this Act;

(b) every Commissioner of the port of Calcutta holding office as such immediately before the application of this Act to that port shall be deemed to have been appointed or elected as a Trustee under the provisions of this Act and shall continue to hold such office after such application until a Board of Trustees in respect of that port is constituted under the provisions of this Act;

(c) anything done or any action taken or purported to have been done or taken (including any rule, regulation, bye-law, notification, order or notice made or issued or any resolution passed or any appointment or declaration made or any licence, permission or exemption granted or any rates, charges or duties levied or any penalty or fine imposed) under the Acts referred to in sub-sections (2A), (2B) and (2C) shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act.

10 of 1897.

(2E) Upon the cessation of operation of the provisions of the Acts referred to in sub-sections (2A), (2B) and (2C), the provisions of section 6 of the General Clauses Act, 1897 shall apply as if the provisions first-mentioned were provisions contained in a Central Act and such cessation of operation were a repeal; and the mention of particular matters in sub-section (2D) shall not be held to prejudice or affect the general application of the said section 6 with regard to the effect of repeals.”.

39. To section 134 of the principal Act, the following proviso shall be added, namely:—

Amend-
ment of
section

“Provided that no such order shall be made in respect of a port 134 after the expiry of a period of two years from the appointed day.”.

40. Every member of the Board of Trustees constituted under section 3 of the principal Act in respect of any major port and holding office as such immediately before the commencement of this Act, shall continue to hold such office after such commencement until the reconstitution of the Board in accordance with the provisions of the principal Act, as amended by this Act.

Transi-
tional
provi-
sions

THE ESSENTIAL COMMODITIES (AMENDMENT) ACT, 1974

NO. 30 OF 1974

[29th August, 1974.]

An Act further to amend the Essential Commodities Act, 1955.

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

Short title and commencement.

1. (1) This Act may be called the Essential Commodities (Amendment) Act, 1974.

(2) It shall be deemed to have come into force on the 22nd day of June, 1974.

Amend-
ment of
section 2.

2. In section 2 of the Essential Commodities Act, 1955 (hereinafter referred to as the principal Act), in clause (a), after sub-clause (iv), the following sub-clause and *Explanation* shall be inserted, namely:—

'(iva) drugs.'

Explanation.—In this sub-clause, "drug" has the meaning assigned to it in clause (b) of section 3 of the Drugs and Cosmetics Act, 1940;.

23 of 1940.

Amend-
ment of
section 3.

3. In section 3 of the principal Act, in clause (ii) of sub-section (3B), for the words "where no such price is fixed,", the words "where no such price is fixed, an amount calculated having regard to" shall be substituted.

Amend-
ment of
section 6A.

4. In section 6A of the principal Act, in the opening paragraph, for the words "may order confiscation of the essential commodity so seized:", the following shall be substituted, namely:—

"may order confiscation of—

- (a) the essential commodity so seized;
- (b) any package, covering or receptacle in which such essential commodity is found; and

(c) any animal, vehicle, vessel or other conveyance used in carrying such essential commodity.”.

5. Section 6B of the principal Act shall be re-numbered as sub-section (1) thereof and—

Amend-
ment of
section
6B.

(a) in sub-section (1) as so re-numbered, for the words “essential commodity”, wherever they occur, the words “essential commodity, package, covering, receptacle, animal, vehicle, vessel or other conveyance” shall be substituted;

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

“(2) Without prejudice to the provisions of sub-section (1), no order confiscating any animal, vehicle, vessel or other conveyance shall be made under section 6A if the owner of the animal, vehicle, vessel or other conveyance proves to the satisfaction of the Collector that it was used in carrying the essential commodity without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the animal, vehicle, vessel or other conveyance and that each of them had taken all reasonable and necessary precautions against such use.”.

6. In section 7 of the principal Act, for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:

Amend-
ment of
section 7.

“(1) If any person contravenes any order made under section 3,—

(a) he shall be punishable,—
(i) in the case of an order made with reference to clause (h) or clause (i) of sub-section (2) of that section, with imprisonment for a term which may extend to one year and shall also be liable to fine, and

(ii) in the case of any other order, with imprisonment for a term which shall not be less than three months but which may extend to seven years and shall also be liable to fine:

Provided that the court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than three months;

(b) any property in respect of which the order has been contravened shall be forfeited to the Government;

(c) any package, covering or receptacle in which the property is found and any animal, vehicle, vessel or other conveyance used in carrying the property shall, if the court so orders, be forfeited to the Government.

(2) If any person to whom a direction is given under clause (b) of sub-section (4) of section 3 fails to comply with the direction, he shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to seven years and shall also be liable to fine:

Provided that the court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than three months.

(2A) If any person convicted of an offence under sub-clause (ii) of clause (a) of sub-section (1) or under sub-section (2) is again convicted of an offence under the same provision, he shall be punishable with imprisonment for the second and for every subsequent offence for a term which shall not be less than six months but which may extend to seven years and shall also be liable to fine:

Provided that the court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months.

(2B) For the purposes of sub-sections (1), (2) and (2A), the fact that an offence under sub-clause (ii) of clause (a) of sub-section (1) or under sub-section (2) has caused no substantial harm to the general public or to any individual shall be an adequate and special reason for awarding a sentence of imprisonment for a term of less than three months or six months as the case may be."

**Amend-
ment of
section
10A.**

7. In section 10A of the principal Act,—

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

(b) the words "and bailable" shall be omitted.

**Insertion
of new
sections
10B and
10C.**

8. After section 10A of the principal Act, the following sections shall be inserted, namely:—

**Power of
court to
publish
name
place
of busi-
ness, etc.,
of compa-
nies con-
victed
under the
Act.**

10B. (1) Where any company is convicted under this Act, it shall be competent for the court convicting the company to cause the name and place of business of the company, nature of the contravention, the fact that the company has been so convicted and such other particulars as the court may consider to be appropriate in the circumstances of the case, to be published at the expense of the company in such newspapers or in such other manner as the court may direct.

(2) No publication under sub-section (1) shall be made until the period for preferring an appeal against the orders of the court has expired without any appeal having been preferred, or such an appeal, having been preferred, has been disposed of.

5 of 1898.
2 of 1974.

(v) (3) The expenses of any publication under sub-section (1) shall be recoverable from the company as if it were a fine imposed by the court.

Explanation.—For the purposes of this section, "company" has the meaning assigned to it in clause (a) of the *Explanation* to section 10.

10C. (1) In any prosecution for any offence under this Act which requires a culpable mental state on the part of the accused, the court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Explanation.—In this section, "culpable mental state" includes intention, motive, knowledge of a fact and the belief in, or reason to believe, a fact.

(2) For the purposes of this section, a fact is said to be proved ~~only when the court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.~~

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

"12. Notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973, it shall be lawful for any Metropolitan Magistrate, or any Judicial Magistrate of the first class specially empowered by the State Government in this behalf, to pass a sentence of fine exceeding five thousand rupees on any person convicted of contravening any order made under section 3."

2 of 1974.

10. In section 12A of the principal Act,—

(a) in sub-section (1), for the words "any essential commodity", the words, brackets, letter and figure "any essential commodity [not being an essential commodity referred to in clause (a) of sub-section (2)]" shall be substituted;

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

"(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences relating to—

(a) the contravention of an order made under section 3 with respect to—

- (i) cotton or woollen textiles; or
- (ii) foodstuffs, including edible oilseeds and oils; or
- (iii) drugs; and

Presumption of culpable mental state.

Substitution of new section for section 12.

Special provision regarding fine.

Amendment of section 12A.

Words (1) where any notification issued under sub-section (1) in relation to a special order is in force, the contravention of such special order,

shall be tried in a summary way by a Judicial Magistrate of the first class specially empowered in this behalf by the State Government or by a Metropolitan Magistrate and the provisions of sections 262 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such trial:

Provided that, in the case of any conviction in a summary trial under this section, it shall be lawful for the Magistrate to pass a sentence of imprisonment for a term not exceeding one year:

Provided further that when at the commencement of, or in the course of, a summary trial under this section, it appears to the Magistrate that the nature of the case is such that a sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the Magistrate shall, after hearing the parties, record an order to that effect and thereafter recall any witnesses who may have been examined and proceed to hear or re-hear the case in the manner provided by the said Code.

(c) in sub-section (3),

(i) for the words and figures "the Code of Criminal Procedure, 1898", the words and figures "the Code of Criminal Procedure, 1973" shall be substituted;

(ii) for the words "or of fine not exceeding two thousand rupees, or both", the words "and of fine not exceeding two thousand rupees" shall be substituted;

(iii) for the word and figures "section 517", the word and figures "section 452" shall be substituted;

(iv) the words "of imprisonment or fine" shall be omitted;

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

"(4) All cases relating to the contravention of an order referred to in clause (a) of sub-section (2), not being a special order, and pending before a Magistrate immediately before the commencement of the Essential Commodities (Amendment) Act, 1974, and, where any notification is issued under sub-section (1) in relation to a special order, all cases relating to the contravention of such special order and pending before a Magistrate immediately before the date of the issue of such notification, shall, if no witnesses have been examined before such commencement or the said date, as the case may be, be tried in a summary way under this section, and if any such case is pending before a Magistrate who is not competent to try the same in a summary way under this section, it shall be forwarded to a Magistrate so competent."

11. After section 12A of the principal Act, the following section shall be inserted, namely:—

“12B. No civil court shall grant an injunction or make any order for any other relief against the Central Government or any State Government or a public officer in respect of any act done or purporting to be done by such Government, or such officer in his official capacity, under this Act or any order made thereunder, until after notice of the application for such injunction or other relief has been given to such Government or officer.”

12. In section 8A of the Criminal Law Amendment Act, 1952,—

(a) in sub-section (1),—

(i) for the words, figures and letter “referred to in section 12A of the Essential Commodities Act, 1955”, the words, brackets, figures and letters “referred to in sub-section (1) of section 12A of the Essential Commodities Act, 1955 or of an order referred to in clause (a) of sub-section (2) of that section” shall be substituted;

(ii) after the proviso, the following proviso shall be inserted, namely:—

“Provided further that when at the commencement of, or in the course of, a summary trial under this section, it appears to the special Judge that the nature of the case is such that a sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the special Judge shall, after hearing the parties, record an order to that effect and thereafter recall any witnesses who may have been examined and proceed to hear or re-hear the case in accordance with the procedure prescribed by the said Code for the trial of warrant cases by Magistrates.”;

(b) in sub-section (2),—

(i) for the words “or of fine not exceeding two thousand rupees or both”, the words “and of fine not exceeding two thousand rupees” shall be substituted;

(ii) the words “of imprisonment or fine” shall be omitted;

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

“(3) All cases relating to the contravention of an order referred to in clause (a) of sub-section (2) of section 12A of the Essential Commodities Act, 1955 [not being a special order referred to in sub-section (1) of that section] triable summarily under this section and pending before a Magistrate immediately before the commencement of the Essential Commodities (Amendment) Act, 1974, and, where any notification is issued under sub-section (1) of the said section 12A in relation to a special order, all cases triable summarily under this section in relation to such special order and pending before a Magistrate immediately before the date of the issue of such notification, shall, if no witnesses have been examined before such commencement or the said date, as the case may be, be tried by the special Judge in a summary way under this section.”

Insertion
of new
section
12B.
Grant of
injunction,
etc., by
civil courts.

Amend-
ment of
Act 46 of
1952.

Amendments to section 12A of the principal Act and section 8A of Criminal Law.

Amendment Act not to apply to certain contraventions.

Repeal and saving.

(Amendment) with respect to section 12A [ACT 30 OF 1974]

478 Essential Commodities (Amendment) [ACT 30 OF 1974]

13. (1) The amendments made by section 10 of this Act to section 12A of the principal Act shall not apply to and in relation to any contravention of a special order referred to in the said section 12A which was committed before the commencement of this Act and accordingly the provisions of that section as they stood immediately before such commencement shall continue to apply to and in relation to such contravention as if this Act had not been passed.

(2) The amendments made by section 12 of this Act to section 8A of the Criminal Law Amendment Act, 1952, shall not apply to and in relation to any contravention of a special order referred to in section 12A of the principal Act which was committed before the commencement of this Act and accordingly the provisions of the said section 8A as they stood immediately before such commencement shall continue to apply to and in relation to such contravention as if this Act had not been passed.

~~14. (1) The Essential Commodities (Amendment) Ordinance, 1974,~~ 2 of 1974.

~~is hereby repealed.~~

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, or under section 8A of the Criminal Law Amendment Act, 1952, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, or, as the case may be, under section 8A of the Criminal Law Amendment Act, 1952, as amended by this Act.

4. Repealed by Act 38 of 1978, S. 2 + Sch. I

46 of 1952

46 of 1952

THE FINANCE (NO. 2) ACT, 1974

NO. 31 OF 1974

[31st August, 1974]

An Act further to amend the Income-tax Act, 1961 and the Central Excises and Salt Act, 1944.

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

1. This Act may be called the Finance (No. 2) Act, 1974.

Short title.

2. In the Income-tax Act, 1961, with effect from the 1st day of April, 1975.—

Amendment of
Act 43 of
1961.

(1) in section 80T, in clause (b),—

(a) in sub-clause (i), for the words "thirty-five per cent.", the words "twenty-five per cent." shall be substituted;

(b) in sub-clause (ii) and in the proviso, for the words "fifty per cent.", wherever they occur, the words "forty per cent." shall be substituted;

(2) in section 115, for clause (i), the following clause shall be substituted, namely:—

"(i) the amount of income-tax calculated on the amount of long-term capital gains included in the total income—

(a) on so much of the amount of such long-term capital gains as relate to buildings or lands or any rights in buildings or lands—

(I) where the company is a company in which the public are substantially interested and the total income of the company (as reduced by the amount of long-term capital gains included therein) does not exceed one hundred thousand rupees, at the rate of forty-seven per cent.; and

(2) in any other case, at the rate of fifty-five per cent.; and

(b) on the balance of such long-term capital gains, if any, at the rate of forty-five per cent.; and".

Amend-
ment of
Act 1 of
1944.

3. The Central Excises and Salt Act, 1944 (hereinafter referred to as the Central Excises Act) shall be amended in the manner specified in the Schedule.

THE SCHEDULE

(See section 3)

PART I

In the First Schedule to the Central Excises Act,—

(i) in Item No. 4 under "III. Manufactured tobacco—", for the entry in the third column against sub-item (2), the entry "Two hundred and fifty per cent. *ad valorem.*" shall be substituted;

(ii) in Item No. 16, for the entries in the third column against sub-items (1) and (3), the entries "Sixty per cent. *ad valorem.*" and "Twenty-five per cent. *ad valorem.*" shall, respectively, be substituted;

(iii) in Item No. 16A, for the entry in the third column against sub-item (1), the entry "Sixty per cent. *ad valorem.*" shall be substituted;

(iv) in Item No. 23, for the entry in the third column, the entry "Thirty per cent. *ad valorem.*" shall be substituted;

(v) in Item No. 23C, for the entry in the third column, the entry "fifteen per cent. *ad valorem.*" shall be substituted;

(vi) in Item No. 25, for the entry in the third column, the entry "Seventy rupees per metric tonne." shall be substituted;

(vii) in Item No. 26A, for the entries in the third column against sub-items (1), (1a), (2) and (3), the entries "Four thousand rupees per metric tonne.", "Four thousand rupees per metric tonne.", "Four thousand and five hundred rupees per metric tonne." and "Twenty per cent. *ad valorem.*" shall, respectively, be substituted;

(viii) in Item No. 26B, for the entries in the third column against sub-items (1), (2) and (3), the entries "One thousand and five hundred rupees per metric tonne.", "One thousand and eight hundred rupees per metric tonne." and "Twenty per cent. *ad valorem.*" shall, respectively, be substituted;

(ix) in Item No. 32, for the entries in the third column against sub-items (1), (2), (3) and (4), the entries "Twenty-five per cent. *ad valorem.*", "Forty per cent. *ad valorem.*", "Fifteen per cent. *ad valorem.*" and "Thirty per cent. *ad valorem.*" shall, respectively, be substituted.

PART II

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)

In the First Schedule to the Central Excises Act, for Item No. 14AA, the following Item shall be substituted, namely:—

"14AA CHEMICALS, THE FOLLOWING, NAMELY:—

(1) Calcium carbide, bleaching paste and bleaching	Ten per cent <i>ad valorem</i>
--	-----------------------------------

(1)	(2)	(3)
-----	-----	-----

powder, sodium hydro-sulphite, bicarbonate of soda, bichromates of potassium or sodium, hydrogen peroxide and potassium permanganate.

(2) Caprolactam and dimethyl terephthalate.

Fifty per cent.
ad valorem.

ad valorem. Fifty per cent.
ad valorem.

Bep. by Act.....38 of 1974 S. 2 + Sch. I

**THE INDUSTRIES (DEVELOPMENT AND REGULATION)
AMENDMENT ACT, 1974**

NO. 32 OF 1974

[Published in the Gazette of India, Extraordinary, Part II, on [31st August, 1974.]

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

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

1. (1) This Act may be called the Industries (Development and Regulation) Amendment Act, 1974.

(2) It shall be deemed to have come into force on the 29th June, 1974.

65 of 1951. 2. In the proviso to sub-section (2) of section 18A and in the second proviso to sub-section (2) of section 18FA of the Industries (Development and Regulation) Act, 1951 (hereinafter referred to as the principal Act), for the words "ten years", the words "twelve years" shall be substituted.

6 of 1974. 3. (1) The Industries (Development and Regulation) Amendment Ordinance, 1974, 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 corresponding provisions of the principal Act as amended by this Act.

Short title and commencement.

Amendment of sections 18A and 18FA.

Repeal and saving.

Enq. by Act..... 38..... of 1978, S. 2 + Sch. I
d. govt

THE ALCOCK ASHDOWN COMPANY LIMITED (ACQUISITION OF UNDERTAKINGS) AMENDMENT ACT, 1974

NO. 33 OF 1974

[31st August, 1974]

An Act to amend the Alcock Ashdown Company Limited (Acquisition of Undertakings) Act, 1973.

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

Short title and commencement.

Amendment of section 4.

Repeal.

1. (1) This Act may be called the Alcock Ashdown Company Limited (Acquisition of Undertakings) Amendment Act, 1974.

(2) It shall be deemed to have come into force on the 14th day of December, 1973.

2. In section 4 of the Alcock Ashdown Company Limited (Acquisition of Undertakings) Act, 1973,

(i) in sub-section (1), after the words "possession, power or control of the company," the words "in relation to the undertakings" shall be inserted;

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

'Explanation.—For the avoidance of doubts, it is hereby declared that the expression "undertakings of the company" does not include—

(a) any debts due to the company; and
(b) any amounts recoverable by the company from its shareholders or directors.'

3. The Alcock Ashdown Company Limited (Acquisition of Undertakings) Amendment Ordinance, 1974, is hereby repealed.

56 of 197

5 of 197

[BEGI BO DE TAI]

(1999b) 1999(7) 229-231

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electrode and (P) nortriptyline at 100A is applied and to 50 nmol in 1.8 ml of water. The solution is then sonicated for 10 min to disperse the quinone form of the drug. The drug solution is then added to the reaction mixture and the reaction mixture is then incubated for 1 hr at 37°C. After the reaction is complete, the reaction mixture is extracted with 10 ml of ethyl acetate. The organic layer is then washed with 10 ml of water and dried over anhydrous sodium sulfate. The organic layer is then concentrated under reduced pressure and the residue is purified by column chromatography on a 10 cm column of silica gel using ethyl acetate/hexane (1:1) as the eluent. The product is collected and dried under vacuum to yield 10 mg of product.

THE PRESS COUNCIL (AMENDMENT) ACT, 1974

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Marketing and Sales Department, China: 86-21-5404-2888; Fax: 86-21-5404-2889

NO. 34 OF 1974

[31st August, 1974]

An Act further to amend the Press Council Act, 1965.

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

1. This Act may be called the Press Council (Amendment) Act, 1974.

Short title

34 of 1965. 2. In section 5 of the Press Council Act, 1965 (hereinafter referred to as the principal Act), in sub-section (1A).—

**Amend-
ment of
section 5.**

(a) in the opening portion, for the words, figures and letters "the Chairman and other members holding office as such on the 30th day of September, 1973, shall continue to hold such office until the 30th day of June, 1974:", the words, figures and letters "the Chairman and other members holding office as such on the 29th day of June, 1974, shall continue to hold such office until the 31st day of December, 1974:" shall be substituted, and shall be deemed to have been substituted with effect from the 28th day of June, 1974;

(b) in the proviso, in clause (a), for the figures, letters and words "30th day of June, 1974", the figures, letters and words "31st day of December, 1974" shall be substituted and shall be deemed to have been substituted with effect from the 28th day of June, 1974.

**Amend-
ment of
section 22.**

3. In section 22 of the principal Act, in sub-section (3), for the words "in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following", the words "in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid" shall be substituted.

**Repeal
and
saving.**

4. (1) The Press Council (Amendment) Ordinance, 1974, is hereby repealed.

3 of 1974.

(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 section 2 of this Act.

THE COMPANIES (TEMPORARY RESTRICTIONS ON DIVIDENDS) ACT, 1974

No. 35 OF 1974

[31st August, 1974]

An Act to provide, in the interests of national economic development, for temporary restrictions on the power of certain companies to declare dividends out of profits and for matters connected therewith or incidental thereto.

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

1. (1) This Act may be called the Companies (Temporary Restrictions on Dividends) Act, 1974.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 6th day of July, 1974.

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

(a) "appointed day" means the 6th day of July, 1974;

1 of 1956.
43 of 1961.

(b) "company" has the meaning assigned to it in the Companies Act, 1956, and includes a foreign company within the meaning of section 591 of the Companies Act, 1956, which has made arrangements prescribed under the Income-tax Act, 1961, for the declaration and payment of dividends within India;

(c) "distributable profits", in relation to a company to which this Act applies, means,—

Short title,
extent and
commencement.

Defini-
tions.

(i) one-third of the net profits of the company, or

(ii) an amount required to pay twelve per cent. dividend on the face value of the equity shares of the company and dividend payable on its preference shares,

whichever is lower;

(d) "financial year" has the meaning assigned to it in section 2 of the Companies Act, 1956;

1 of 1956.

(e) "net profits" means net profits of the company as computed in accordance with the provisions of section 349 of the Companies Act, 1956, subject to the modification that—

1 of 1956.

(i) any income-tax payable under the Income-tax Act, 1961, in respect of the profits as so computed or any tax of a similar character payable in respect of such profits under any law in force in any country outside India, and surtax payable in respect of such profits under the Companies (Profits) Surtax Act, 1964, shall also be deducted; and

43 of 1961.

(ii) depreciation shall be provided in accordance with the provisions of section 205 of the Companies Act, 1956;

7 of 1964.

(f) "previous year" and "total income" have the meanings respectively assigned to them in the Income-tax Act, 1961.

13 of 1961.

**Companies
to which
the Act
applies.**

3. This Act shall apply to the following categories of companies, namely:—

43 of 1961.

(a) a company in which the public are substantially interested, as defined in clause (18) of section 2 of the Income-tax Act, 1961;

43 of 1961.

(b) a company, at least seventy-five per cent. of the share capital of which is, throughout the financial year for which any dividend is declared or paid, beneficially held by an institution or fund established in India for a charitable purpose, the income from dividend whereof is exempt from income-tax under section 11 of the Income-tax Act, 1961;

43 of 1961.

(c) an Indian company whose business consists mainly in the construction of ships or in the manufacture or processing of goods or in mining or in the generation or distribution of electricity or any other form of power;

43 of 1961.

(d) an Indian company, the value of whose capital assets, being machinery or plant (other than office appliances or road transport vehicles), as shown in its books on the last day of the financial year for which any dividend is declared or paid, is fifty lakhs of rupees or more;

43 of 1961.

(e), a company which has been exempted under sub-section (3) of section 104 of the Income-tax Act, 1961, from the operation of that section.

Explanation I.—For the purpose of clause (c), the business of a company shall be deemed to consist mainly in the construction of ships or in the manufacture or processing of goods or in mining or in the generation or distribution of electricity or any other form of power, if the income attributable to any of the aforesaid activities included in its gross total income for the relevant financial year is not less than fifty-one per cent. of such total income.

43 of 1961.

Explanation II.—For the purposes of clauses (c) and (d), "Indian company" has the meaning assigned to it in clause (26) of section 2 of the Income-tax Act, 1961, but shall not include a corporation established by or under a Central, State or Provincial Act.

4. (1) For a period of two years from the appointed day, no company to which this Act applies shall declare or pay dividends for any financial year except out of the profits of the company for that financial year and no such dividend shall exceed, in the aggregate, the distributable profits of the company for that financial year:

Provided that nothing in this sub-section shall apply to any dividend which was declared and paid, before the appointed day, to a section of the shareholders of a company but was not paid, before the appointed day, to another section of the shareholders of that company.

(2) In computing the aggregate amount which may be declared or paid by a company to which this Act applies as dividends in accordance with the provisions of this Act, for any financial year, any amount paid or promised or partly paid and partly promised by the company before the appointed day by way of interim dividends for that financial year shall be taken into account; but where the amount of the interim dividend paid by the company before the appointed day exceeds its distributable profits for the financial year for which the interim dividend was paid, no further dividend shall be declared or paid by the company for that financial year.

5. For a period of two years from the appointed day, any dividend declared or paid after the appointed day by a company to which this Act applies, in excess of its distributable profits for a financial year shall, to the extent of such excess, be void, and any amount paid by the company to any shareholder in excess of its distributable profits for that year shall be recovered by the company and no such recovery shall be waived by the company:

Provided that where any such recovery is not practicable, the amount of dividend to the extent of such excess shall be adjusted against the dividend payable for the financial year next following the financial year for which such excess payment of dividend was made.

6. For a period of two years from the appointed day, no company to which this Act applies shall, except with the previous approval of the Central Government and subject to such conditions and limitations as may be specified by that Government, pay or distribute any interim dividends for any financial year, whether ending before or after the appointed day.

Restriction
on declara-
tion of divi-
dends by
companies
to which
the Act
applies.

Dividend
in excess
of distri-
butable
profits
to be
void and
to be re-
covered.

Restriction
on interim
dividends.

Restrictions on other distribution.

(8) For a period of two years from the appointed day, no company to which this Act applies shall, except with the previous approval of the Central Government, by general or special order,—

- (a) make any distribution out of its assets;
- (b) assume, whether conditionally or otherwise, any obligation to make distribution out of its assets;
- (c) grant any loan to any shareholder of the company:

Provided that nothing in clause (c) shall apply to a company which is declared by the Central Government under sub-section (1) of section 620A of the Companies Act, 1956, to be a *Nidhi* or Mutual Benefit Society.

1 of 1956.

Act to have overriding effect.

8. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Companies Act, 1956, or in any other enactment (other than this Act) or in any contract or instrument having effect by virtue of any enactment other than this Act.

1 of 1956.

Penalties.

9. (1) Whoever contravenes any provision of this Act, shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to twice the amount in relation to which such contravention has been made, or with both.

(2) The provisions of section 621 of the Companies Act, 1956, shall apply to the offences against this Act as they apply to the offences against the Companies Act, 1956.

1 of 1956.

Offences.

10. (1) Where an offence against this Act has been committed, every person who at the time the offence was committed was in charge of, and was responsible to, the company committing the offence 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 against this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Power to delegate.

11. The Central Government may, by notification in the Official Gazette, direct that any power which may be exercised by it under this Act (other than the power conferred by section 12) shall, subject to such restrictions and conditions, if any, as it may specify in the notification, be exercised also by—

- (a) such officer or authority subordinate to the Central Government; or
 - (b) such other authority,
- as may be specified in the notification.

Power to make rules.

12. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

13. Nothing in this Act shall apply to a company which is being wound up by the Court or voluntarily or subject to the supervision of the Court.

Act not to apply to companies in liquidation.

14. Every approval referred to in this Act shall be obtained on an application made to the Central Government and the provisions of section 637A of the Companies Act, 1956, shall apply to every such application as if such application were an application under the Companies Act, 1956.

Section
637 A of
Act 1 of
1956.
to apply.

15. 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.

16. (1) The Companies (Temporary Restrictions on Dividends) Ordinance, 1974, and the Companies (Temporary Restrictions on Dividends) Amendment Ordinance, 1974, are hereby repealed.

Repeal and saving.

(2) Notwithstanding such repeal, anything done or any action taken under the Companies (Temporary Restrictions on Dividends) Ordinance, 1974, as amended by the Companies (Temporary Restrictions on Dividends) Amendment Ordinance, 1974 (including any order or declaration made thereunder), shall be deemed to have been done or taken under the corresponding provisions of this Act.

7 of 1974.
9 of 1974.

7 of 1974.
9 of 1974.

On a day following the commencement of this Act, the Central Government may, by order, make such rules as it thinks fit for carrying into effect the provisions of this Act.

For the purposes of this section, "order" means an order made by the Central Government by notification in the Official Gazette under section 3(3) of the Companies Act, 1956, and includes an order made by the Central Government by notification in the Official Gazette under section 3(3) of the Companies (Temporary Restrictions on Dividends) Ordinance, 1974.

Any order made under this section shall be published in the Official Gazette and shall be available for inspection at the office of the Central Government.

Signature: [Signature] Date: [Date] (mm) dd, yy
At witness before him/her

38 of 1978, S. 24 Sch. I
Rep. by Scd.....

THE INDIAN IRON AND STEEL COMPANY (TAKING OVER OF MANAGEMENT) AMENDMENT ACT, 1974

No. 36 OF 1974

Government of India
Ministry of
Finance
(Central
Government)

This Act was passed on the 28th day of June, 1974, and it is hereby enacted as follows:

[31st August, 1974]

An Act to amend the Indian Iron and Steel Company (Taking Over of Management) Act, 1972.

WHEREAS the management of the undertaking of the Indian Iron and Steel Company Limited had vested in the Central Government for a limited period of two years with effect from the 14th day of July, 1972;

AND WHEREAS it is expedient in the public interest that the management of the undertaking of the said Company should continue to vest in the Central Government for a further limited period beyond the said period of two years;

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

Short title and commencement.

1. (1) This Act may be called the Indian Iron and Steel Company (Taking Over of Management) Amendment Act, 1974.

(2) It shall be deemed to have come into force on the 28th day of June, 1974.

Amendment of Section 2.

2. In section 2 of the Indian Iron and Steel Company (Taking Over of Management) Act, 1972 (hereinafter referred to as the principal Act), after clause (a), the following clause shall be inserted, namely:

50 of 1972.

'(aa) "Board of management" means the Board of management constituted under section 4A;'

3. In section 3 of the principal Act,—

Amend-
ment of
section 3.

(i) in sub-section (1), for the words "two years", the words "five years" shall be substituted;

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

"Provided that if the Central Government is of opinion that it is expedient in the public interest that the management of the undertaking of the company should continue to vest in the Central Government after the expiry of the period of five years aforesaid, it may, from time to time, issue directions for such continuance for such further period, not exceeding two years at a time, as may be specified in the directions; so, however, that the total period of such continuance, including the period of five years aforesaid, shall not exceed ten years; and where any such direction is issued, a copy thereof shall be laid, as soon as may be, before both Houses of Parliament."

4. After section 4 of the principal Act, the following sections shall be inserted, namely:—

Insertion
of new
sections
4A, 4B,
4C, 4D
and 4E.

Board of
manage-
ment.

“4A. (1) There shall be a Board of management consisting of a Chairman and not less than four and not more than fourteen other members.

(2) The Chairman and the other members of the Board of management shall be appointed by the Central Government and shall hold office during the pleasure of that Government.

(3) Such of the members of the Board of management as may be specified by the Central Government as whole-time members may be placed in charge of such functions of management of the undertaking of the company as may be specified by that Government.

(4) The Chairman and the other members of the Board of management shall receive from the funds of the undertaking of the company such allowances as may be prescribed for attending any meeting of the Board of management.

4B. (1) On the commencement of the Indian Iron and Steel Company (Taking Over of Management) Amendment Act, 1974, the Central Government may, by notification in the Official Gazette, direct that on and from such date as may be specified in the notification, the general superintendence, direction and management of the affairs and business of the undertaking of the company shall be carried on, for and on behalf of the Central Government, by the Board of management.

Board of
manage-
ment to
manage
the under-
taking of
the com-
pany.

(2) Subject to the other provisions of this Act and to the direction, control and supervision of the Central Government, the Board of management shall be entitled, notwithstanding anything contained in the Companies Act, 1956, to exercise, in relation to the undertaking of the company, all the powers of the Board of Directors of a company (including powers to dispose of any properties or assets of the

REPEALED

494

*Indian Iron and Steel Company (Taking Over
of Management) Amendment*

[ACT 36]

company), whether such powers are derived from the Companies Act, 1956, or from the memorandum or articles of association of the company or from any other source.

Appoint-
ment of
an Admi-
nistrator.

4C. (1) There shall be an Administrator, to be appointed by the Central Government, to assist the Board of management to manage the affairs of the undertaking of the company.

(2) The Chairman or any other member of the Board of management may be appointed by the Central Government as the Administrator.

(3) All officers and other persons employed in connection with the affairs of the undertaking of the company shall be subordinate to the Administrator.

(4) The Administrator shall exercise, subject to the direction, control and supervision of the Board of management, such powers and discharge such functions of management in relation to the undertaking of the company as the Central Government may specify in this behalf.

(5) The Administrator shall receive from the funds of the undertaking of the company such remuneration as the Central Government may fix.

Custodian
to vacate
office.

4D. (1) The Custodian shall, on and from the date on which the management of the undertaking of the company is taken over by the Board of management, vacate his office as such; but nothing in this sub-section shall be construed as prohibiting his appointment as a member of the Board of management or as the Administrator.

(2) On the vacation of his office, the Custodian shall, where he is not appointed as the Administrator, forthwith deliver to the Administrator possession of all assets and properties of the company which are in his possession, custody and control on the date immediately preceding the date on which he vacates his office as the Custodian.

Meetings,
etc., of
the
Board of
manage-
ment.

4E. (1) The Board of management shall meet for the transaction of its business at such time and place as it may think fit:

Provided that the Chairman may, whenever he thinks fit, and shall, upon the written requisition of not less than two members, call a special meeting.

(2) The quorum for a meeting of the Board of management shall be one-third of its total strength (any fraction contained in that one-third be rounded off as one) or three members, whichever is higher.

(3) The Chairman, or in his absence, any member chosen by the members present from amongst themselves, shall preside at a meeting of the Board of management.

REPEALED

OF 1974]

Indian Iron and Steel Company (Taking Over
of Management) Amendment

495

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

(5) All orders and decisions of the Board of management shall be authenticated by the signature of the Chairman or any other member authorised by the Board of management in this behalf and all other instruments issued by the undertaking of the company shall be authenticated with the signature of the Administrator or any other officer of the undertaking of the company authorised by the Board of management in this behalf.

(6) The Board of management shall regulate its own procedure.”

5. Section 5 of the principal Act shall be omitted.

Omission
of sec-
tion 5.

6. In section 7 of the principal Act, in sub-section (1), for the words “period of two years referred to in that sub-section”, the words “period of five years referred to in that sub-section or the further period specified in any directions issued under the proviso thereto” shall be substituted.

Amend-
ment of
section 7.

7. In section 9 of the principal Act, for the word “Custodian”, wherever it occurs, the words “Administrator, Board of management or Custodian” shall be substituted.

Amend-
ment of
section 9.

8. In section 12 of the principal Act, after the words “any notification”, the word “direction,” shall be inserted.

Amend-
ment of
section 12.

9. In section 13 of the principal Act, for the word “Custodian”, wherever it occurs, the words “Administrator, Board of management or Custodian” shall be substituted.

Amend-
ment of
section 13.

10. In section 16 of the principal Act, in sub-section (2), for clause (a), the following clause shall be substituted, namely:—

Amend-
ment of
section 16.

“(a) allowances which may be received by the Chairman and other members of the Board of management for attending any meeting of the Board of management;”.

4 of 1974.

11. (1) The Indian Iron and Steel Company (Taking Over of Management) Amendment Ordinance, 1974 is hereby repealed.

Repeal
and
saving.

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

THE ADDITIONAL EMOLUMENTS (COMPULSORY DEPOSIT) ACT, 1974

ARRANGEMENT OF SECTIONS.

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title, extent and commencement.
2. Definitions.
3. Persons to whom this Act applies.
4. Act to have overriding effect.

CHAPTER II

COMPULSORY DEPOSIT OF ADDITIONAL EMOLUMENTS

5. Additional Wages Deposit Account and Additional Dearness Allowance Deposit Account.
6. Duty of employer or other person to make deductions of additional wages and additional dearness allowance from emoluments.
7. Deposits to carry simple interest.
8. Assessment for the purpose of income-tax.
9. Repayment of deposits.
10. Power of Central Government to frame schemes.
11. Rounding off.

CHAPTER III

MISCELLANEOUS

12. Amounts due to be first charge in the case of insolvency or liquidation of the employer.
13. Transfer of establishments.
14. Penalties.
15. Offences by companies.
16. Cognizance of offences.

SECTIONS

17. Power to exempt.
18. Power to delegate.
19. Protection against attachment.
20. Power to call for returns and inspect accounts.
21. Protection of action taken in good faith.
22. Persons performing functions under this Act to be public servants.
23. Recovery of arrears.
24. Power to make rules.
25. Rules and schemes to be laid before Parliament.
26. Power to remove difficulties.
27. Repeal and saving.

THE ADDITIONAL EMOLUMENTS (COMPULSORY
DEPOSIT) ACT, 1974

No. 37 OF 1974

[1st September, 1974]

An Act to provide, in the interests of national economic development, for the compulsory deposit of additional emoluments and for the framing of a scheme in relation thereto, and for matters connected therewith or incidental thereto.

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

CHAPTER I
PRELIMINARY

**Short title,
extent
and com-
mencement.**

1. (1) This Act may be called the Additional Emoluments (Compulsory Deposit) Act, 1974.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 6th day of July, 1974, except section 14 which shall come into force at once.

Definitions.

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

(a) "appointed day" means the 6th day of July, 1974;

(b) "additional dearness allowance" means such dearness allowance as may be sanctioned from time to time, after the appointed day, over and above the amount of dearness allowance payable in accordance with the rate in force immediately before the date from which such sanction of additional dearness allowance is to take effect.

Explanation I.—Where payment of dearness allowance is linked to a cost of living index or any other factor, any automatic payment, after the appointed day, of dearness allowance in consequence of any rise in such cost of living index or in consequence of any change in such other factor shall, notwithstanding the provisions of this clause, be deemed to be the additional dearness allowance.

Explanation II.—For the purpose of computation of the additional dearness allowance in relation to an employee who enters into any post after the appointed day, dearness allowance payable, immediately before the appointed day, in relation to such post shall be deemed to be the dearness allowance payable to such employee as if he were holding that post on the appointed day and any excess over and above the said dearness allowance shall be deemed, for the purposes of this Act, to be the additional dearness allowance in relation to such employee;

(c) "additional wages" means such wages, over and above the wages payable to an employee in accordance with the rates in force immediately before the appointed day, as may become payable to the employee in respect of any period after the appointed day in pursuance of any wage revision, whether by or under an agreement or settlement between the parties or any award, decree or order of any court, tribunal or other authority or otherwise, but does not include—

(i) any increment due to the employee in accordance with the time scale of pay applicable to the post held by him immediately before the appointed day, and any consequent increase in any allowance (not being dearness allowance) admissible under any rule or order in force immediately before the appointed day;

(ii) any higher wages payable to the employee on his—

(a) promotion to a higher post and any increment, being an increment within the prescribed limits, due to the employee in such higher post

(b) deputation or transfer to an equivalent post or to any post involving higher responsibilities and duties;

(iii) any special pay, honorarium, fee or reward payable for any special work done;

(iv) any remuneration payable for overtime work;

(v) any increase in wages consequent on the revision of the minimum rates of wages fixed under the Minimum Wages Act, 1948;

(vi) any increase in wages sanctioned in pursuance of the recommendations made—

(a) by the Third Central Pay Commission;

(b) before the appointed day, by any Pay Commission appointed by a State Government, in relation to the employees of that Government;

500 Additional Emoluments (Compulsory Deposit) [ACT 37]

(c) by any committee constituted, before the appointed day, by Parliament, Supreme Court or any High Court in relation to any employee of Parliament, Supreme Court or High Court, as the case may be.

Explanation I.—Where any wage revision made after the appointed day is to be effective from a date prior to the appointed day, the wages payable immediately before the appointed day, before such wage revision, shall, for the purposes of computation of additional wages, be deemed to be the wages.

Explanation II.—Any bonus (including incentive and production bonus) paid after the appointed day at a rate over and above the rate at which it was last paid before the appointed day, shall be deemed for the purposes of this Act, to be additional wages;

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

(e) "dearness allowance" means all cash payments, by whatever name called, made to an employee on account of rise in the cost of living;

(f) "Deposit Account" means an account opened and maintained under section 5;

(g) "emoluments" includes wages and dearness allowance;

(h) "employer" means—

(i) in relation to an establishment which is a factory, the owner or occupier of the factory, including the agent of such owner or occupier, and where a person is named as manager of the factory under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948, the person so named;

(ii) in relation to an establishment belonging to or under the control of the Central Government or a State Government, the person or authority appointed by the appropriate Government for the supervision and control of the employees, or where no person has been so appointed, the head of the Department concerned;

(iii) in relation to an establishment belonging to or under the control of any local authority, the person appointed by such authority for the supervision and control of the employees, or where no person has been so appointed, the Chief Executive Officer of the local authority;

(iv) in any other case, the person who, or the authority which, has the ultimate control over the affairs of the establishment, and where the said affairs are entrusted to any other person, whether called a manager, managing director or by any other name, such person;

and includes, in the case of a deceased employer, the legal representative of such deceased employer;

10 of 1949.

63 of 1948.

(i) "local authority" means any municipal committee, district board, body of port commissioners, panchayat or other authority legally entitled to, or entrusted by the Central or any State Government with the control or management of any municipal or local fund;

(j) "nominated authority" means such authority as may be nominated by the Central Government for the purposes of this Act and different authorities may be nominated for different purposes;

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

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

(m) "scheme" means a scheme framed under this Act;

(n) "specified authority" means the authority specified under sub-section (1) of section 5;

(o) "wages" means all remuneration (whether by way of salary, allowances or otherwise) expressed, or capable of being expressed, in terms of money, which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes—

(i) any remuneration payable under any agreement, or settlement between the parties or any award, decree or order of any court, tribunal or other authority;

(ii) any remuneration to which the person employed is entitled in respect of overtime work or holidays or any leave period;

(iii) any additional remuneration payable under the terms of employment, including bonus, whether under a scheme of profit sharing or otherwise;

(iv) any sum to which the person employed is entitled under any scheme framed under any law for the time being in force;

(v) any allowance paid for house accommodation, or where house accommodation is provided, the value of such accommodation, and the value of electricity or water, or both, supplied, and the value of medical attendance or other amenity,

but does not include—

(1) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;

(2) any travelling or running allowance or the value of any travelling concession;

- (3) any sum, not exceeding rupees two hundred and fifty per annum, paid to the employed person to defray special expenses entailed on him by the nature of his employment;
- (4) any compensation or gratuity payable on the termination of employment;
- (5) any dearness allowance.

Persons to whom this Act applies.

3. This Act shall apply to an employee of—

(a) the Central or State Government;

(b) a local authority;

(c) a company as defined in section 3 of the Companies Act, 1956, including a foreign company within the meaning of section 591 of the Companies Act, 1956, and a Government company as defined in section 617 of that Act;

1 of 1956.

43 of 1961.

(d) any other corporation, including a society or body established by, or registered under, a Central, Provincial or State Act;

(e) any individual, association of persons or body of individuals, partnership firm or Hindu undivided family required by the Income-tax Act, 1961 to deduct income-tax at source from the emoluments paid to their employees;

43 of 1961.

(f) any establishment owned or maintained in India by a trust, fund or institution established for a charitable or religious purpose, and required by the Income-tax Act, 1961, to deduct income-tax at source from the emoluments paid to their employees;

43 of 1961.

(g) any establishment, not being an establishment owned by Government, local authority or person specified, respectively, in clauses (a) to (f) (both inclusive), to which the provisions of any law relating to provident funds (other than those established under the Public Provident Fund Act, 1968) apply;

23 of 1968.

(h) any other establishment, not being an establishment to which any of the foregoing clauses apply, established at the instance, or in pursuance of a resolution, of the Central or State Government or wholly or substantially financed by the Central or State Government.

Explanation.—Where any grant or loan to an establishment from the Consolidated Fund of India or of any State or of any Union territory having a Legislative Assembly in a financial year is not less than rupees five lakhs and the amount of such grant or loan is not less than seventy-five per cent. of the total expenditure of that establishment, such establishment shall be deemed, for the purposes of this Act, to be substantially financed by the Central or State Government, as the case may be.

4. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

Act to have overriding effect.

CHAPTER II

COMPULSORY DEPOSIT OF ADDITIONAL EMOLUMENTS

5. (1) There shall be opened by such authorities as may be specified in the scheme two separate accounts, to be known, respectively, as the Additional Wages Deposit Account and the Additional Dearness Allowance Deposit Account, and different authorities may be specified for different establishments or different categories of employees or establishments.

Additional Wages Deposit Account and Additional Dearness Allowance Deposit Account.

(2) The specified authority shall, in relation to each Deposit Account, open a separate ledger account in the name of each employee in relation to whom any contribution is made to the said Account, and credit the contributions so made in the said ledger account.

6. (1) For the purposes of this Act, the deductions specified in sub-section (2) shall be made,—

Duty of employer or other person to make deductions of additional wages and additional dearness allowance from emoluments.

(a) in the case of additional wages, for a period of one year from the appointed day; and

~~two years~~ (b) in the case of additional dearness allowance, for a period of ~~two years~~ from the appointed day.

(2) On the commencement of this section,—

(a) every employer, who draws, from the Consolidated Fund of India or of any State or of any Union territory having a Legislative Assembly, and disburses, after the appointed day, emoluments of an employee to whom this Act applies, shall, as and when emoluments are disbursed by him for any period, deduct from the emoluments so disbursed, the whole of the additional wages and one-half of the additional dearness allowance and credit the amount so deducted, in accordance with the scheme, to the Additional Wages Deposit Account and the Additional Dearness Allowance Deposit Account, respectively;

(b) every other employer, who disburses, after the appointed day, emoluments to any employee to whom this Act applies, shall, as and when emoluments are disbursed by him for any period, deduct from the emoluments so disbursed, the whole of the additional wages and one-half of the additional dearness allowance, and shall remit, in accordance with the scheme, the amounts so deducted to the nominated authority and on receipt of such amounts the nominated authority shall credit the amounts so received to the Additional Wages Deposit Account and the Additional Dearness Allowance Deposit Account, respectively.

Subs. by Act 74 of 1976, S.2 (w.e.f. 11.6.76).

(c) any employee, to whom this Act applies, who draws, after the appointed day, his own emoluments shall,—

(i) if he is employed in an establishment owned or maintained by Government, make deductions from his salary bill in respect of the whole of the additional wages and one-half of the additional dearness allowance and the specified authority shall credit the amount so deducted, in accordance with the scheme, to the Additional Wages Deposit Account and the Additional Dearness Allowance Deposit Account, respectively;

(ii) if he is employed in any other establishment, remit the whole of the additional wages and one-half of the additional dearness allowance, in accordance with the scheme, to the nominated authority, and on receipt of such amount, the nominated authority shall credit the amount so received to the Additional Wages Deposit Account and the Additional Dearness Allowance Deposit Account, respectively.

Explanation.—In computing the amount to be credited to the Additional Wages Deposit Account and the Additional Dearness Allowance Deposit Account, the amount contributed in relation to such additional wages or additional dearness allowance shall not—

(a) to the extent of the contribution which is compulsorily required to be made to any provident or other fund under any law for the time being in force; or

(b) to the extent of the contribution made to any other provident fund, recognised under any other law for the time being in force, at a rate not exceeding the rate at which such contribution was being made immediately before the appointed day, be taken into account.

(3) The specified authority shall, as soon as may be practicable after the end of each year, prepare separately, in relation to the amounts credited to the respective Deposit Accounts to the credit of each employee, and furnish to the employee a copy of the said accounts showing therein the amounts credited thereto in relation to the employee.

Deposits to carry simple interest.

7. (1) Every amount credited under section 6, in relation to an employee in a Deposit Account, shall carry simple interest at a rate, which shall be two and a half per cent. over and above the bank deposit rate.

(2) The interest due on the amount credited in any Deposit Account shall be calculated in such manner as may be specified in the scheme.

(3) Interest accruing on amounts credited under section 6 to any Deposit Account shall enure to the benefit of the employees in relation to whom such amounts have been credited.

(4) For the purpose of the deductions under section 80L of the Income-tax Act, 1961, interest received on a deposit under this Act shall be deemed to be interest received on a deposit with a banking company to which the Banking Regulation Act, 1949, applies.

Assessment for the purpose of income-tax.

8. (1) For the purposes of computing, under the Income-tax Act, 1961, the total income of an employee, the amount credited to his ledger account in the Additional Wages Deposit Account or the Additional Dearness Allowance Deposit Account shall not be included in his total income of the previous year in which it is so credited; but so much of

the amount as is repaid to him shall be liable to be included in his total income of the previous year in which it is repaid.

- 43 of 1961. (2) For the purposes of computing, under the Income-tax Act, 1961, the total income of an employee, the amount repaid to him under this Act shall be deemed to be salary paid to him in arrears and the provisions of sub-section (1) of section 89 of that Act shall apply accordingly.

Explanation.—In this section, “previous year” and “total income” have the meanings respectively assigned to them in the Income-tax Act, 1961.

- 43 of 1961. 9. (1) Subject to the provisions of sub-section (2), every amount credited to the Deposit Accounts shall be repayable with interest due thereon,—

Repay-
ment of
deposits.

(a) in the case of an amount credited to the Additional Wages Deposit Account, at any time after the expiry of one year from the appointed day; and

(b) in the case of an amount credited to the Additional Dearness Allowance Deposit Account at any time after the expiry of two years from the appointed day.

Provided that nothing in this section shall prevent earlier repayment of any amount credited to either of the Deposit Accounts with interest due thereon in any case in which any person authorised by the Central Government in this behalf is satisfied that extreme hardship will be caused unless such repayment is made:

Provided further that an employee may, at his option, retain the whole or any part of the amount credited in relation to him in the Additional Wages Deposit Account or the Additional Dearness Allowance Deposit Account, or both, until his superannuation or until such date as may be specified by the Central Government in this behalf:

Provided also that the whole of the amount standing to the credit of an employee (not being an employee in a seasonal establishment) in either or both of the Deposit Accounts shall be repaid to him on his superannuation or resignation from office or on the termination of his employment.

(2) The aggregate amount credited to any Deposit Account by or in relation to an employee shall be repaid to the employee in five equal annual instalments commencing from the expiry of one year or two years, as the case may be, from the appointed day, together with interest due on the whole, or, as the case may be, part of the amount of compulsory deposit which remains unpaid.

[any Additional
Wages Deposit
Account]

4xx

10. (1) The Central Government shall, by notification, frame one or more schemes in relation to the amounts credited to the Deposit Accounts under this Act.

(2) A scheme framed under sub-section (1) may provide for—

(a) the authorities by which the Additional Wages Deposit Account and the Additional Dearness Allowance Deposit Account shall be opened and maintained;

Power of
Central
Govern-
ment to
frame
schemes.

(b) the time and manner in which amounts deducted from additional wages or additional dearness allowance shall be deducted and credited to the respective Deposit Account;

(c) the documents to be issued to persons in relation to whom amounts have been credited to the Deposit Accounts as evidence of such credit;

(d) authority or authorities by or through which credits to the Deposit Accounts may be made;

(e) the accounts to be maintained with respect to the amounts credited to the Deposit Accounts and the officer by whom such Accounts shall be maintained;

(f) the nomination of persons to receive the amount standing in a Deposit Account to the credit of an employee in the event of his death, and cancellation or change of such nomination;

(g) the issue of duplicate of any document issued as evidence of any credit in the event of loss or destruction of the original and the fee, not exceeding rupees two, on the payment of which such duplicate may be issued;

(h) repayment of amounts credited to the Deposit Accounts with interest due thereon and the conditions, if any, under which such repayment may be made;

(i) any other matter which may be necessary or proper for the effective implementation of the scheme.

(3) A scheme framed under this section may provide that all or any of its provisions shall take effect, either prospectively or retrospectively, on such date, not being a date earlier than the appointed day, as may be specified in this behalf in the scheme and every scheme framed under this section shall have effect notwithstanding anything contained in any law (other than this Act) for the time being in force or in any instrument having effect by virtue of any enactment other than this Act.

(4) The Central Government may make a scheme to add to, amend or vary any scheme framed under sub-section (1).

Rounding off.

11. Where the amount of any credit to be made in any Deposit Account contains a part of a rupee, then, such part, if it is fifty paise or more, shall be increased to one complete rupee and if it is less than fifty paise, it shall be ignored.

CHAPTER III

MISCELLANEOUS

Amounts due to be first charge in the case of insolvency or liquidation of the employer.

12. (1) Where any amount required by this Act to be credited to any Deposit Account or remitted to a nominated authority has not been so credited or remitted by any employer, the amount in respect of which such omission or failure was made, together with interest due thereon calculated at the rate specified in sub-section (1) of section 7, shall, in the event of the employer being adjudicated by any court to be insolvent or, being a company is ordered by any court to be wound up, be deemed to be first charge on the assets of the insolvent or of the company, as the case may be, and shall have priority over all other debts and be paid in full.

(2) The court shall cause the sum which is required, under sub-section (1), to be paid in priority to all other debts to be remitted to the nominated authority for crediting the same to the appropriate Deposit Account.

13. Where an employer, in relation to an establishment to which this Act applies, transfers that establishment in whole or in part by sale, gift or otherwise or grants any licence in respect of such establishment, the employer and the person to whom the establishment is so transferred or the licence is so given shall be jointly and severally liable to credit to the appropriate Deposit Account or, as the case may be, remit to the nominated authority, the sums which are required by this Act to be so credited or remitted:

Provided that the liability of the transferee or licensee shall be limited to the value of the assets obtained by him on such transfer or licence, as the case may be.

14. (1) Whoever, with a view to—

(a) avoiding making any deduction of additional wages and additional dearness allowance and crediting the same to the Additional Wages Deposit Account or the Additional Dearness Allowance Deposit Account, as the case may be, or

(b) aiding or abetting any other person to avoid making any such deduction or credit,

knowingly makes, or causes to be made, any statement or representation which he knows to be false or does not believe to be true, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) Any employer who omits or fails to credit to any Deposit Account or remit any amount to the nominated authority, as and when such credit or remittance becomes due under this Act or any scheme framed thereunder, shall be punished—

(a) with imprisonment for a term which shall not be less than three months but may extend—

(i) in the case of the first offence, to six months, and

(ii) in the case of any second or subsequent offence, to one year;

Provided that the court may, for any adequate and special reasons, to be recorded by it in the judgment, impose a sentence of imprisonment for a term lesser than three months or a fine in lieu of imprisonment; and

(b) also with fine which shall not be less than the amount which has not been credited to a Deposit Account or remitted to the nominated authority as required by this Act, and the interest due thereon, calculated at the rate specified in sub-section (1) of section 7, but may extend to twice the said amount and the interest due thereon, and out of the fine, if realised, the court trying the offence shall cause an amount equal to the amount which has not been credited to a Deposit Account or remitted to the nominated authority with interest due thereon, to be remitted to the nominated authority for

Transfer
of estab-
lish-
ments.

Penalties.

due crediting the same to the appropriate Deposit Account, and on such sum being remitted to the nominated authority, the liability of the employer shall, to the extent of the amount so remitted by the court, stand discharged.

Employment
Regulation
and
Control
of
Salaries
and
Wages

Offences
by
companies.

Additional

(3) Whoever contravenes any provision of this Act or any scheme or order made thereunder for which no penalty has been separately provided for shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

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

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

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

Explanation.—For the purposes of this section,—

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

(b) "director", in relation to a firm, means a partner in the firm, and, in relation to a Hindu undivided family, means the Karta of such family.

Cogni-
zance of
offences.

Power to
exempt.

16. No court shall take cognizance of any offence punishable under this Act except upon a complaint made by the Central Government or any officer or authority authorised in writing by the Central Government in this behalf.

17. Where the Central Government is of the opinion that it is necessary or expedient so to do either in the public interest or having regard to the peculiar circumstances of any case, it may, by notification, and subject to such conditions, if any, as it may specify in the notification,—

(a) exempt any establishment or category of employees working in any establishment from the operation of all or any of the provisions of this Act;

(b) exempt, in the case of extreme hardship to any employee, from crediting any amount in relation to such employee to the Additional Wages Deposit Account;

(c) empower deductions from additional wages in relation to an employee or class of employees at a rate lesser than the rate specified in this Act.

18. The Central Government may, by notification, direct that any power which may be exercised by it under this Act or any scheme framed under this Act shall, subject to such restrictions and conditions, if any, as it may specify in the notification, be exercised also by—

Since you (a) such officer or authority subordinate to the Central Government; or (b) any other person who has been engaged in the preparation of the said letter or note given under section 17 of the Act.

(b) such State Government or such officer or authority subordinate to a State Government; or

(c) such other person or authority,

as may be specified in the notification:

Provided that the powers conferred by section 10 and section 24 shall

not be delegated under this section.

date 19. (1) The amount standing to the credit of any employee in any

Deposit Account shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the employee.

(2) Any amount standing to the credit of an employee in any Deposit Account at the time of his death and payable to his nominee under the scheme shall vest in the nominee and shall be free from any debt or other liability incurred by the deceased or incurred by the nominee before the death of the employee.

20. (1) The nominated authority or any officer authorised by the nominated authority in this behalf may call for such returns, as may be prescribed, from any employer to whom this Act applies.

(2) The books of account and other books and papers of any employer to whom this Act applies shall be open to inspection by the nominated authority or any person authorised by the Central Government in this behalf during business hours:

Provided that such inspection may be made without giving any previous notice to the employer or any officer of the employer.

(3) The nominated authority or any authorised officer may, during the course of inspection,

(i) make, or cause to be made, copies of the books of account and other books and papers;

(ii) place, or cause to be placed, any marks of identification thereon in token of the inspection having been made.

(4) If after inspection the nominated authority or the authorised officer finds that any additional wages or additional dearness allowance has not been credited by the employer to the appropriate Deposit Account or, as the case may be, remitted to the nominated authority, it or he shall determine the amount in respect of which such credit or remittance has not been made:

Provided that no such determination shall be made except after giving to the employer a reasonable opportunity of being heard.

Power to delegate.

**Notice to
all Creditors
Protection
against
attachment.**

Success
. Cited
-that you
your
when
to a sum
of \$1,
Power to
call for
returns
and to inspect
accounts.

new
system of
education
has
been
introduced
and
is
now
in
use
in
the
schools
of
the
United
States.

(5) It shall be the duty of every employer to whom this Act applies, to furnish to the nominated authority a copy of the award, decree or order of any court, tribunal or other authority or agreement or settlement relating to wage revision or revision of dearness allowance, and also to produce such books of account and other books and papers as the nominated authority or the officer making the inspection may require.

(6) Where any revision of wages or dearness allowance is made otherwise than in pursuance of any award, decree or order of any court, tribunal or other authority or agreement or settlement, the employer shall give an intimation to the nominated authority about such revision of wages or dearness allowance and furnish to the nominated authority such books of account and other books and papers as that authority may require.

**Protection
of action
taken in
good
faith.**

21. No suit or other legal proceeding shall lie against the Central Government or any State Government or any officer authorised by the Central or State Government to discharge any functions under this Act, for any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any scheme framed thereunder.

**Persons
performing
functions
under
this Act
to be
public
servants.**

22. Any person to whom any power of the Central Government is delegated under section 18 or who is authorised to exercise any power specified in section 20 shall, if he is not a public servant, be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

**Recovery
of arrears**

23. Without prejudice to the provisions of section 14, any amount which ought to have been credited under this Act to a Deposit Account or remitted to the nominated authority but has not been so credited or remitted in accordance with the provisions of this Act or scheme or order made thereunder, shall be payable by the employer, together with interest due thereon calculated at twice the rate at which interest is payable under sub-section (1) of section 7, and in default of such payment, such amount, together with interest due thereon at the aforesaid rate, shall be recoverable as an arrear of land revenue:

Provided that where any such amount has been recovered by the court under sub-section (2) of section 14, the said amount shall not be recoverable under this section.

**Power
to make
rules.**

24. The Central Government may, by notification, make rules to carry out the provisions of this Act.

**Rules and
schemes
to be
laid
before
Parlia-
ment.**

25. Every rule and every scheme 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 the scheme, or both Houses agree that the rule or scheme should not be made, the rule or scheme shall thereafter have effect only in such modified form or be of

no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or scheme.

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

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

Power to remove difficulties.

Repeal and saving.

8 of 1974.

27. (1) The Additional Emoluments (Compulsory Deposit) Ordinance, 1974 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed (including any appointment, exemption, nomination, direction or order made thereunder) shall be deemed to have been done or taken under the corresponding provisions of this Act, and the repeal of the said Ordinance shall not affect any penalty or punishment incurred in respect of any offence committed against the said Ordinance or any investigation or legal proceeding in respect of such penalty or punishment and any such investigation or legal proceeding may be instituted or continued and any such penalty or punishment may be imposed as if section 12 and other provisions of the said Ordinance, necessary for the purposes aforesaid, had been included in this Act.

112. (Georg Döbereiner) *Zinnoberkohle* [LATE 30] 10
10 mächtiges Band von fast schwarzer, sehr feiner, grob
zusammengesetzter Kohle mit einem kleinen Anteil an
grauem Gestein. Die Kohle ist von einer dünnen, hellen
Schicht abgesetzt.

THE COMPULSORY DEPOSIT SCHEME (INCOME-TAX PAYERS) ACT, 1974

holding a 20% interest in the subject land, the other 80% being held by
NO. 38 OF 1974
the Plaintiff's wife, Mrs. Patricia McGinn.

2180 (Continued from page 2179) *Leptothrix* (D.) sp.
Indicates species in *key* given

[1st September, 1974.]

An Act to provide, in the interest of national economic development

to **for compulsory deposit by certain classes of income-tax payers**

and for the framing of a scheme in relation thereto, and for matter

done connected therewith or incidental thereto.

zuliebenen liegt in nicht weiter dauerndem Zustand dagegen zu verhindern.

Be it enacted by Parliament in the Twenty-fifth Year of the Republic,

of India as follows:

¹⁻⁶¹ This Act was introduced by Senator Paul Laxalt.

Short title, extent and commencement. 1. (1) This Act may be called the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974.

(Income-tax Payers) Act, 1974.

(3) It shall be deemed to have come into force on the 17th day of July, 1974.

(3) It shall be deemed to have come

July, 1974.

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

(a) "compulsory deposit" means compulsory deposit under this Act;

(b) "deposit" means a deposit of money;

(c) "depositor" means a person who is liable to make a compulsory deposit;

(d) "Income-tax Act" means the Income-

(e) all other words and expressions used herein but not defined and defined in the Income-tax Act shall have the meanings, respectively, assigned to them in that Act.

) Subject to the provisions of this Act, the persons specified in

3. (1) Subject to the provisions of this Act, the persons specified in sub-section (2) shall be liable to make compulsory deposits for the assessment of their income.

sub-section (2) shall be liable to make compulsory deposits for the assessment period ending on the 1st day of April 1975 and the amounts deposited

~~ment year commencing on the 1st day of April~~

Persons
liable to
make
compul-
sory depo-
sits

✓ Searched by Act 66 of 1976, S. 43 (w.e.f. 1.4.76)

² Subs. by Act 29 of 1977, s. 36 (w.e.f. 1-4-1977).

³ Sales. by Act 21 of 1979, s. 46 (w.e.f. 1.4.1979)

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

(a) every person, being—

(i) an individual, who is a citizen of India;

(ii) a Hindu undivided family;

(iii) a trustee appointed under a trust declared by a duly executed instrument in writing, whether testamentary or otherwise (including any Wakf deed which is valid under the Mussalman Wakf Validating Act, 1913), if the income in respect of which the trustee is liable to income-tax as a representative assessee or any part thereof is not specifically receivable on behalf or for the benefit of any one person or where the individual shares of the persons on whose behalf or for whose benefit such income or such part thereof is receivable are indeterminate or unknown; and

(b) every person who is assessable under the Income-tax Act in respect of the total income of an individual, or a Hindu undivided family or a trustee specified in clause (a).

4. (1) Where, in relation to an assessment year referred to in sub-section (1) of section 3, the current income of any person, being an individual or a Hindu undivided family or a trustee specified in clause (a) of sub-section (2) of that section, exceeds fifteen thousand rupees, such person, or if any other person is assessable under the Income-tax Act in respect of the total income of such person, the person so assessable, shall make, in accordance with and subject to the provisions of this Act and any scheme framed thereunder, a compulsory deposit for that assessment year at the rates specified in the Schedule.

Requirement as to compulsory deposit

(2) Where, in the case of any person specified in sub-section (2) of section 3, a deduction is required to be made under the Additional Emoluments (Compulsory Deposit) Ordinance, 1974, the amount of the compulsory deposit which such person is liable to make under this Act for any assessment year shall be reduced by the amount deducted under that Ordinance during the financial year immediately preceding that assessment year; and where such deduction is equal to or exceeds the amount of such compulsory deposit, it shall not be necessary for such person to make a compulsory deposit for that assessment year.

Explanation.—When any Central Act repeals and replaces (with or without any modification) the Additional Emoluments (Compulsory Deposit) Ordinance, 1974, the references to the said Ordinance in this sub-section shall be construed as references to such Central Acts.

(3) For the purposes of this section, "current income", in relation to an assessment year, means,—

(a) in a case where the Income-tax Officer has made an order under sub-section (1) or sub-section (3) of section 210 of the Income-tax Act requiring the person to pay advance tax during the financial year immediately preceding that assessment year and the person has not sent an estimate under sub-section (1) or sub-section (2) or sub-section (3A) of section 212 of that Act;

(i) if the total income of the latest previous year in respect of which the person has been assessed by way of regular assessment forms the basis of computation of advance tax payable by him, such total income [exclusive of capital gains and income referred to in sub-clause (ix) of clause (24) of section 2 of the Income-tax Act] as increased by the net agricultural income, if any, which has been taken into account for the purposes of charging income-tax for the assessment year relevant to that previous year; or

(ii) if the total income of the previous year on the basis of which income-tax has been paid by the person under section 140A of the Income-tax Act forms the basis of computation of advance tax, such total income [exclusive of capital gains and income referred to in sub-clause (ix) of clause (24) of section 2 of the Income-tax Act] as increased by the net agricultural income, if any, returned by the person in the return of income for the assessment year relevant to that previous year;

[Section 209 A or]
[section 212] (b) in a case where an estimate is sent by the person under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) of section 212 of the Income-tax Act the total income [exclusive of capital gains and income referred to in sub-clause (ix) of clause (24) of section 2 of the Income-tax Act] as estimated by him of the period which would be the previous year for that assessment year, as increased by the net agricultural income, if any, of that period, as estimated by him;

(c) in any other case, if the total income of the person, as estimated by him, of the period which would be the previous year for that assessment year exceeds the maximum amount not chargeable to income-tax in his case, such total income [exclusive of capital gains and income referred to in sub-clause (ix) of clause (24) of section 2 of the Income-tax Act] as increased by the net agricultural income, if any, of that period, as estimated by him.

Explanation.—In this sub-section, "net agricultural income" means the net agricultural income as defined in the Finance Act of the relevant year.

Sus. by Act 19 of 1978, S. 40 (w.e.f. 1-4-1978).

5. A depositor shall make the compulsory deposit for an assessment year referred to in sub-section (1) of section 3,—

(a) in a case where such depositor is required to pay advance tax under the Income-tax Act in the financial year immediately preceding that assessment year, at any time (in one sum or in instalments of his choice) before the expiry of the date on which the last instalment of advance tax is payable by him in accordance with the provisions of section 211 or, as the case may be, sub-section (3A) of section 212 of that Act;

(b) in any other case, at any time (in one sum or in instalments of his choice) before the end of the financial year immediately preceding that assessment year.

6. (1) If, in relation to an assessment year referred to in sub-section (1) of section 3, the correct income of a person falling under clause (c) of sub-section (3) of section 4 exceeds fifteen thousand rupees and such person has failed to make the compulsory deposit for that assessment year, the Income-tax Officer shall, by order in writing, direct that such person shall make the compulsory deposit with reference to his correct income.

(2) For the purposes of this section, "correct income" of a person, in relation to an assessment year, means—

(i) in a case where the person has furnished the return of income under section 139 of the Income-tax Act, the total income [exclusive of capital gains and income referred to in sub-clause (ix) of clause (24) of section 2 of the Income-tax Act] returned by him, as increased by the net agricultural income, if any, returned by him;

(ii) in a case where the person has failed to furnish the return of income under section 139 of the Income-tax Act and assessment is made under section 144 of that Act, the total income [exclusive of capital gains and income referred to in sub-clause (ix) of clause (24) of section 2 of the Income-tax Act] determined on assessment, as increased by the net agricultural income, if any, determined on assessment.

Explanation.—In this sub-section, "net agricultural income" has the meaning assigned to it in the *Explanation* to sub-section (3) of section 4.

7. (1) Every compulsory deposit made by or recovered from a depositor shall carry simple interest at a rate equal to the bank deposit rate.

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

(2) The interest shall be calculated in such manner as may be specified in the scheme framed under section 19.

316 Compulsory Deposit Scheme (Income-tax Payers) [ACT 38]

(3) For the purposes of the deduction under section 80L of the Income-tax Act, interest received on a compulsory deposit shall be deemed to be interest received on a deposit with a banking company to which the Banking Regulation Act, 1949, applies.

10 of 1949.

Repay-
ment of
compu-
lsoy
deposit.

8. The amount of compulsory deposit made by or recovered from a depositor in any financial year shall be repayable in five equal annual instalments commencing from the expiry of two years from the end of that financial year, together with the interest due on the whole or, as the case may be, part of the amount of the compulsory deposit which has remained unpaid:

Provided that nothing in this section shall prevent earlier repayment of the deposit or any instalment thereof together with the interest due in any case in which the Income-tax Officer is satisfied that extreme hardship will be caused unless such repayment is made.

Intima-
tion re-
garding
compu-
lsoy depo-
sit.

9. Every depositor shall send to the Income-tax Officer, along with the return of income for the assessment year for which he is liable to make a compulsory deposit, proof of the fact of such deposit having been made.

Penalty
for fail-
ure to
make
compu-
lsoy depo-
sit.

10. (1) If, in relation to an assessment year referred to in sub-section (1) of section 3, any person who is liable to make a compulsory deposit [being a person falling under clause (a) or clause (b) of sub-section (3) of section 4]—

(a) has failed to make the compulsory deposit within the time allowed under section 5, or

(b) has made the compulsory deposit within such time but the deposit so made falls short of the requisite amount,

the Income-tax Officer shall, by order in writing, direct that such person shall pay, by way of penalty, a sum—

(i) which, in the case referred to in clause (a), shall be equal to twenty-five per cent. of the compulsory deposit which he is liable to make; and

(ii) which, in the case referred to in clause (b), shall be equal to twenty-five per cent. of the amount by which the compulsory deposit made by him falls short of the requisite amount.

(2) If, in relation to an assessment year referred to in sub-section (1) of section 3, the correct income of a person falling under clause (c) of sub-section (3) of section 4, exceeds fifteen thousand rupees and such person—

(a) has failed to make the compulsory deposit within the time allowed under section 5, or

(b) has made the compulsory deposit within such time on the basis of his own estimate but the deposit so made is less than

seventy-five per cent. of the compulsory deposit which he would have been liable to make on the basis of his correct income; the Income-tax Officer shall, by order in writing, direct that such person shall pay by way of penalty a sum—

- (i) which, in the case referred to in clause (a), shall be equal to twenty-five per cent. of the compulsory deposit calculated with reference to his correct income; and
- (ii) which, in the case referred to in clause (b), shall be equal to twenty-five per cent. of the amount by which the compulsory deposit made by him falls short of the compulsory deposit calculated with reference to his correct income.

Explanation.—In this sub-section, “correct income” has the meaning assigned to it in sub-section (2) of section 6.

(3) No order imposing a penalty under this section shall be made against any person unless such person has been heard or has been given a reasonable opportunity of being heard.

11. (1) Every Director of Inspection, Commissioner of Income-tax, Additional Commissioner of Income-tax, Appellate Assistant Commissioner of Income-tax, Inspecting Assistant Commissioner of Income-tax, Income-tax Officer and Inspector of Income-tax, shall have the like powers and perform the like functions under this Act as he has and performs under the Income-tax Act, and for the exercise of his powers and the performance of his functions, his jurisdiction under this Act shall be the same as he has under the Income-tax Act and for this purpose compulsory deposit under this Act shall be deemed to be tax chargeable under that Act.

(2) All officers and persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Board;

Provided that no such orders, instructions or directions shall be issued—

- (a) so as to require any authority referred to in sub-section (1), to dispose of a particular case in a particular manner; or
- (b) so as to interfere with the discretion of the Appellate Assistant Commissioner in the exercise of his appellate functions.

(3) Every Income-tax Officer employed in the execution of this Act shall observe and follow the orders, instructions and directions, issued for his guidance by the Director of Inspection or by the Commissioner or by the Inspecting Assistant Commissioner within whose jurisdiction he performs his functions.

12. Any depositor, aggrieved by any order of the Income-tax Officer imposing a penalty under section 10, may appeal to the Appellate Assistant Commissioner and the provisions of the Income-tax Act relating to appeals, reference and revision shall, so far as may be, apply in relation to such order as they apply in relation to an order of the Income-tax Officer imposing a penalty under section 221 of that Act.

Rectification of mistakes.

13. (1) With a view to rectifying any mistake apparent from the record, the Income-tax Officer, the Appellate Assistant Commissioner, the Commissioner and the Appellate Tribunal may, of his, or its, own motion or on an application by the depositor in this behalf, amend any order passed by him or it in any proceeding under this Act, within four years of the date on which such order was passed.

(2) An amendment which has the effect of enhancing the compulsory deposit or any penalty imposed under this Act shall not be made under this section unless the authority concerned has given notice to the depositor of its intention so to do and has allowed the depositor a reasonable opportunity of being heard.

(3) Where an amendment is made under this section, the order shall be passed in writing by the authority concerned.

(4) Where any such amendment has the effect of enhancing the compulsory deposit or the penalty imposed under this Act, the Income-tax Officer shall serve on the depositor a notice specifying the sum which has to be deposited or paid.

Collection and recovery of compulsory deposit and penalty.

14. (1) When, in consequence of any order passed under this Act, any compulsory deposit or penalty has to be made or paid, the Income-tax Officer shall serve upon the depositor a notice specifying the sum which has to be deposited or paid.

(2) The sum specified in a notice under sub-section (1) shall be deposited or, as the case may be, paid within thirty-five days of the service of the notice at the place and with or to the person mentioned in the notice:

Provided that on an application made by the depositor before the expiry of the said period of thirty-five days, the Income-tax Officer may extend the time for making the deposit or payment or allow the deposit or payment to be made by instalments subject to such conditions as he may think fit to impose in the circumstances of the case.

(3) If a depositor fails to make the compulsory deposit within the time allowed under section 5, or if he fails to deposit or, as the case may be, pay the amount which he is required to deposit or pay by notice under sub-section (1) within the time allowed under sub-section (2) (whether fixed originally or on extension), at the place and with or to the person mentioned in the said notice, the depositor shall be deemed to be in default.

(4) Any arrear of compulsory deposit and any penalty imposed under this Act shall be recoverable in the manner provided in Chapter XVII-D of the Income-tax Act for recovery of arrears of tax and for this purpose the provisions of that Chapter shall apply as if references to the assessee therein were references to the depositor.

Rounding off.

15. (1) The amount of the current income, correct income and compulsory deposit shall be rounded off to the nearest multiple of ten rupees and, for this purpose, any part of a rupee consisting of paise shall be ignored and thereafter if such amount is not a multiple of ten, then, if the last figure in that amount is five or more, the amount shall be increased to the next higher amount which is a multiple of ten and if the last figure is less than five, the amount shall be reduced to the next lower amount which is a multiple of ten.

Explanation.—In this sub-section, “current income” and “correct income” have the meanings respectively assigned to them in sub-section (3) of section 4 and sub-section (2) of section 6.

(2) The amount of penalty payable under the provisions of this Act shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise, it shall be ignored.

16. The provisions of Chapter XV of the Income-tax Act relating to liability in special cases shall, so far as may be, apply in relation to compulsory deposits and penalties imposable under this Act as they apply in relation to income-tax payable and penalties imposable under that Act.

Applicability of Chapter XV of Income-tax Act.

17. (1) The amount of compulsory deposit and interest thereon standing to the credit of any depositor shall not be liable to attachment under a decree or order of any court in respect of any debt or liability incurred by the depositor.

Protection against attachment.

(2) The amount of compulsory deposit and interest thereon standing to the credit of a depositor at the time of his death and payable to his nominee shall vest in the nominee and shall be free from debt or other liability incurred by the deceased or incurred by the nominee before the death of the depositor.

18. No suit, prosecution or other legal proceeding shall lie against the Government or against any officer of the Government for anything which is in good faith done or intended to be done under this Act or any scheme framed thereunder.

Protection of action taken in good faith.

19. (1) The Central Government shall, by notification in the Official Gazette, frame a scheme or schemes, to be called Compulsory Deposit (Income-tax Payers) Scheme or Schemes, in relation to compulsory deposits.

Compulsory Deposit Scheme.

(2) A scheme framed under sub-section (1) may provide for—

(a) the manner in which compulsory deposits shall be made;

(b) the documents to be issued to persons by whom deposits have been made as evidence of such deposits;

(c) the authority or authorities by or through whom the deposits may be collected;

(d) the nomination of any person to receive the amount standing to the credit of a depositor in the event of his death or in cancellation or change of such nomination;

(e) the issue of duplicate of any document issued as evidence of any deposit in the event of loss or destruction of the original and the fee (not exceeding two rupees) on the payment of which such duplicate may be issued;

(f) any other matter which may be necessary or proper for the effective implementation of the scheme.

(3) The Central Government may, by notification in the Official Gazette, add to, amend or vary any scheme framed under sub-section (1).

(4) A scheme framed under sub-section (1) or a notification issued under sub-section (3) may provide that all or any of its provisions shall take effect either prospectively or retrospectively on such date as may be specified in this behalf in the scheme or notification.

(5) Any scheme framed under sub-section (1) or any notification issued under sub-section (3) shall have effect notwithstanding anything contained in any law for the time being in force (other than this Act) or any instrument having effect by virtue of any law other than this Act.

(6) Every scheme framed under sub-section (1) and every notification issued under sub-section (3) shall be laid, as soon as may be, after it is framed or issued before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the scheme or notification or both Houses agree that the scheme or notification should not be framed or issued, the scheme or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that scheme or notification.

Power to remove difficulties 20. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

Repeal and saving 21. (1) The Compulsory Deposit Scheme (Income-tax Payers) Ordinance, 1974, is hereby repealed.

10 of 1974.

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

THE SCHEDULE

[See section 4(1)]

RATES OF COMPULSORY DEPOSIT

[Paragraph A]

- | | |
|--|--|
| (1) Where the current income exceeds Rs. 15,000 but does not exceed Rs. 25,000 | 4 per cent. of the current income; |
| (2) Where the current income exceeds Rs. 25,000 but does not exceed Rs. 70,000 | Rs. 1,000 plus 6 per cent. of the amount by which the current income exceeds Rs. 25,000; |
| (3) Where the current income exceeds Rs. 70,000 | Rs. 3,700 plus 8 per cent. of the amount by which the current income exceeds Rs. 70,000; |

42ns. by Act 66 of 1976, S. 43 (w.e.f. 1.4.76).

or 1974] Compulsory Deposit Scheme (Income-tax Payers) 521

Provided that where the current income exceeds Rs. 15,000 but does not exceed Rs. 15,620, the compulsory deposit shall in no case exceed the amount by which the current income exceeds Rs. 15,000:

PROVIDED FURTHER THAT WHERE IN THE CASE OF ANY DEPOSITOR THE AMOUNT OF COMPULSORY DEPOSIT CALCULATED IN ACCORDANCE WITH THE FOREGOING PROVISIONS IS LESS THAN RS. 100, IT SHALL NOT BE NECESSARY FOR HIM TO MAKE SUCH DEPOSIT.

Explanation.—In this Schedule, “current income” has the meaning assigned to it in sub-section (3) of section 4.

1. Subs. by Act 66 of 1976, s. 43. (w.e.f. 1.4.76).

2. Subs. by Act 19 of 1978, s. 40 (w.e.f. 1.4.1978).

29 Law-67.

THE UNIVERSITY OF HYDERABAD ACT, 1974

ARRANGEMENT OF SECTIONS

SECTIONS

1. Short title and commencement.
2. Definitions.
3. The University.
4. Objects.
5. Powers of the University.
6. Jurisdiction.
7. University open to all classes, castes and creed.
8. Visitor.
9. Chief Rector.
10. Officers of the University.
11. The Chancellor.
12. The Vice-Chancellor.
13. The Pro-Vice-Chancellors.
14. Deans of Schools.
15. The Registrar.
16. The Finance Officer.
17. Other officers.
18. Authorities of the University.
19. The Court.
20. The Executive Council.
21. The Academic Council.
22. Other authorities of the University.
23. Planning Board.
24. Statutes.
25. Statutes how made.
26. Ordinances.
27. Regulations.
28. Annual report.
29. Annual accounts.
30. Conditions of service of employees.
31. Procedure of appeal and arbitration in disciplinary cases against students.

SECTIONS

32. Right to appeal.
33. Provident and pension funds.
34. Disputes as to constitution of University authorities and bodies.
35. Constitution of Committees.
36. Filling of casual vacancies.
37. Proceedings of University authorities or bodies not invalidated by vacancies.
38. Protection of action taken in good faith.
39. Mode of proof of University record.
40. Power to remove difficulties.
41. Transitional provisions.

THE SCHEDULE

THE UNIVERSITY OF HYDERABAD ACT, 1974

No. 39 OF 1974

[3rd September, 1974.]

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

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

Short title and commencement.

1. (1) This Act may be called the University of Hyderabad Act, 1974.

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

Definitions.

2. In this Act, 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) "Chancellor", "Vice-Chancellor" and "Pro-Vice-Chancellor" mean, respectively, the Chancellor, Vice-Chancellor and Pro-Vice-Chancellor of the University;

(e) "College" means a College maintained by the University;

(f) "Court" means the Court of the University;

(g) "Department" means a Department of Studies, and includes a Centre of Studies;

(h) "employee" means any person appointed by the University, and includes teachers and other staff of the University;

(i) "Executive Council" means the Executive Council of the University;

(j) "Hall" means a unit of residence or of corporate life for the students of the University, College or Institution, provided, maintained or recognised by the University;

(k) "Institution" means an academic institution, not being a College, maintained by the University;

(l) "Principal" means the Head of a College or an Institution;

(m) "recognised institution" means an institution of higher learning recognised by the University;

(n) "recognised teachers" means persons working in any recognised institution or in any Institution associated with the University and recognised by the University for the purpose of imparting instruction or conducting research or both;

(o) "School" means a School of Studies of the University;

(p) "Statutes", "Ordinances" and "Regulations", mean, respectively, the Statutes, Ordinances and Regulations of the University for the time being in force;

(q) "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 designated as teachers by the Ordinances;

(r) "University" means the University of Hyderabad.

3. (1) There shall be established, in the State of Andhra Pradesh, a University by the name of "University of Hyderabad".

The University.

(2) The headquarters of the University shall be at Hyderabad and it may establish campuses at such other places within its jurisdiction as it may deem fit.

(3) The first Chancellor and the first Vice-Chancellor and the first members of the Court, the Executive Council and 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 "University of Hyderabad".

(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 and by the example of its corporate life, and, in particular, to make special provisions for integrated courses in humanities and science in the educational programmes of the University and to take appropriate measures for promoting interdisciplinary studies and research in the University.

Objects.

**Powers
of the
University.**

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

- (1) to provide for instructions in such branches of learning as the University may, from time to time, determine and to make provision for research and for the advancement and dissemination of knowledge;
- (2) to grant, subject to such conditions as the University may determine, diplomas or certificates to, and confer degrees and 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;
- (3) to organise and to undertake extra-mural studies and extension services;
- (4) to confer honorary degrees or other distinctions in the manner prescribed by the Statutes;
- (5) to provide instruction, including correspondence and such other courses, to such persons as are not members of the University, as it may determine;
- (6) to institute Principalships, Professorships, Readerships, Lecturerships, and other teaching or academic posts required by the University and to appoint persons to such Principalships, Professorships, Readerships, Lecturerships or other posts;
- (7) to recognise an Institution of higher learning for such purposes as the University may determine and to withdraw such recognition;
- (8) to recognise persons working in any recognised institution or in any Institution associated with the University for imparting instruction or supervising research or both, and to withdraw such recognition;
- (9) to appoint persons working in any other University or organisation as teachers of the University for a specified period;
- (10) to create administrative, ministerial and other posts and to make appointments thereto;
- (11) 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;
- (12) to establish such campuses, special centres, specialised laboratories or other units for research and instruction as are, in the opinion of the University, necessary for the furtherance of its objects;
- (13) to institute and award fellowships, scholarships, studentships, medals and prizes;
- (14) to establish and maintain Colleges, Institutions and Halls;

(15) to make provision for research and advisory services; and for that purpose to enter into such arrangements with other Institutions or bodies as the University may deem necessary;

(16) to declare a College, an Institution or a Department as an autonomous College or Institution or Department, as the case may be;

(17) to determine standards for admission into the University, which may include examination, evaluation or any other method of testing;

(18) to demand and receive payment of fees and other charges;

(19) to supervise the residences of the students of the University and to make arrangements for promoting their health and general welfare;

(20) to make special arrangements in respect of women students as the University may consider desirable;

(21) to regulate and enforce discipline among the employees and students of the University and take such disciplinary measures in this regard as may be deemed by the University to be necessary;

(22) to make arrangements for promoting the health and general welfare of the employees;

(23) to receive donations and to acquire, hold, manage and dispose of any property, movable or immovable, including trust and endowment properties for the purposes of the University;

(24) 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;

(25) to do all such other acts and things as may be necessary, incidental or conducive to the attainment of all or any of the objects of the University.

6. (1) The jurisdiction of the University shall extend to the whole of the State of Andhra Pradesh.

Juris-
diction.

(2) No institution affiliated to or associated with or maintained by any other University in the State of Andhra Pradesh shall be recognised by the University of Hyderabad for any purpose except with the prior approval of the Government of the State of Andhra Pradesh and the concerned University.

7. The University shall be open to persons of either sex and of whatever race, creed, caste, 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 admitted therein, as a teacher or student, or to hold any office therein, or to graduate thereat or to enjoy or exercise any privilege thereof.

Univer-
sity 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 admission of students of the weaker sections of the people and, in particular, of the Scheduled Castes and the Scheduled Tribes.

Visitor.

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

(2) 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; 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.

(3) The Visitor shall, in every case, give notice to the University of his intention to cause an inspection or inquiry to be made and on receipt of such notice, the University shall have the right to make such representations to the Visitor, as it may consider necessary.

(4) After considering the representations, if any, made by the University, the Visitor may cause to be made such inspection or inquiry as is referred to in sub-section (2).

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

(6) The 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, and the Vice-Chancellor shall communicate to the Executive Council the views of the Visitor with such advice as the Visitor may be pleased to offer upon the action to be taken thereon.

(7) The Executive Council 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.

(8) Where the Executive Council 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, issue such directions as he may think fit and the Executive Council shall comply with such directions.

(9) 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 this Act, the Statutes or Ordinances:

Provided that before making any such order, he shall call upon the University to show cause why such an order should not be made; and, if any cause is shown within a reasonable time, he shall consider the same.

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

9. The Governor of the State of Andhra Pradesh shall be the Chief Rector of the University.

Chief
Rector.

- 10.** The following shall be the officers of the University:
- (1) The Chancellor;
 - (2) The Vice-Chancellor;
 - (3) The Pro-Vice-Chancellor or, if more than one are appointed, the Pro-Vice-Chancellors;
 - (4) The Deans of Schools;
 - (5) The Registrar;
 - (6) The Finance Officer; and
 - (7) Such other officers as may be declared by the Statutes to be officers of the University.

11. (1) The Chancellor shall be appointed by the Visitor in such manner as may be prescribed by the Statutes.

(2) The Chancellor shall, by virtue of his office, be the Head of the University.

(3) The Chancellor shall, if present, preside at the convocations of the University held for conferring degrees.

12. (1) The Vice-Chancellor shall be appointed by the Visitor in such manner 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 subsection 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 shall exercise such other powers and perform such other functions as may be prescribed by the Statutes or Ordinances.

13. Every 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.

14. 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.

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

Officers
of the
Univer-
sity.

The Chan-
cellor.

The Vice
Chanc-
elor.

The Pro-
Vice-
Chanc-
elors.

Deans of
Schools.

The Re-
gistrar.

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

The Finance Officer.

16. 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.

Other officers.

17. The manner of appointment and powers and duties of 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 Boards of Schools; and

(5) Such other authorities as may be declared by the Statutes to be 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 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.

Other authorities of the University.

22. The constitution, powers and functions of the Boards of Schools and of such other authorities as may be declared by the Statutes to be authorities of the University, shall be prescribed by the Statutes.

23. (1) There shall be constituted a Planning Board of the University which shall advise generally on the planning and development of the University and keep under review the standard of education and research in the University.

Planning Board.

(2) The constitution of the Planning Board and the manner of appointment of its members shall be prescribed by the Statutes.

(3) The Visitor may determine a date with effect from which the Planning Board shall stand dissolved.

24. 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 the authorities and other bodies of the University, as may be constituted from time to time;

(b) the election and continuance in office of the members of the said authorities and bodies, the filling of vacancies of members, and all other matters relative 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 and other terms and conditions of service;

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

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

(f) the conditions of service of employees including provision for pension, insurance and provident fund, the manner of termination of service and disciplinary action;

(g) the principles governing seniority of service of employees;

(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 establishment and recognition of Students' Union or associations of teachers, academic staff or other employees;

(k) the participation of students in the affairs of the University;

(l) the conferment of honorary degrees;

(m) the withdrawal of degrees, diplomas, certificates and other academic distinctions;

(n) the institution of fellowships, scholarships, studentships, medals and prizes;

(o) the maintenance of discipline among the students;

(p) the establishment and abolition of Schools, Departments, Halls, Colleges and Institutions;

Statutes.

- (q) the extent of autonomy which a College, Institution or Department may have and the matters in relation to which such autonomy may be exercised;
- (r) the delegation of powers vested in the authorities or officers of the University; and
- (s) all other matters which by this Act are to be, or may be, provided by the Statutes.

**Statutes
how
made:**

25. (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);

Provident that the Executive Council shall not make, amend or repeal any Statute 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 approval of the Visitor who may assent thereto or withhold assent or remit the same to the Executive Council for 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.

**Ordin-
ances.**

26. (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 award of degrees, diplomas, certificates and other academic distinctions, the qualifications for the same and the means to be taken relating to the granting and obtaining of the same;
- (d) the fees to be charged for courses of study in the University and for admission to the examinations, degrees and diplomas of the University;
- (e) the conditions of award of fellowships, scholarships, studentships, medals and prizes;

- (f) the conduct of examinations, including the term of office and of appointment and the duties of examining bodies, examiners and moderators;
- (g) the conditions of residence of the students of the University;
- (h) 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;
- (i) the appointment and emoluments of employees other than those for whom provision has been made in the Statutes;
- (j) the establishment of Centres of Studies, Boards of Studies, Special Centres, Specialised Laboratories and other Committees;
- (k) the terms and conditions of the recognition of Institutions of higher learning and its withdrawal;
- (l) the terms and conditions on which persons working in any recognised institution or in any Institution associated with the University may be recognised as teachers and for withdrawing such recognition;
- (m) the manner of co-operation or collaboration or association with other Universities, authorities or Institutions of higher learning;
- (n) the creation, composition and functions of any other body which is considered necessary for improving the academic life of the University;
- (o) such other terms and conditions of service of teachers and other academic staff as are not prescribed by the Statutes;
- (p) the management of Colleges and Institutions established by the University; and
- (q) all other matters which by this Act or the Statutes 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.

27. 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 appointed by them and not provided for by this Act, the Statutes or the Ordinances in the manner prescribed by the Statutes.

Regula-
tions.

28. (1) The annual report of the University shall be prepared under the direction of the Executive Council 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.

Annual
report.

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

Annual accounts.

29. (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.

(2) The annual accounts when audited shall be published in the Gazette of India and a copy of the accounts together with the report of the Comptroller and Auditor-General 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 accounts together with the report of the Comptroller and Auditor-General of India, as submitted to the Visitor, shall also be submitted to the Central Government who shall, as soon as may be, cause the same to be laid before both Houses of Parliament.

Conditions of service of employees.

30. (1) Every employee 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.

(2) Any dispute arising out of a 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. 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. Every such request shall be deemed to be a submission to arbitration, upon the terms of this section, within the meaning of the Arbitration Act, 1940.

2 of 1940.

Procedure of appeal and arbitration in disciplinary cases against students.

31. (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.

(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-section (2) of section 30 shall, as far as may be, apply to a reference made under this sub-section.

Right to appeal.

32. Every employee or student of the University 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 and thereupon the Executive Council may confirm, modify or reverse the decision appealed against.

19 of 1925.

33. (1) The University shall constitute for the benefit of its employees such pension or provident 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.

Prov-i-
dent and
pension
funds.

(2) Where such provident 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.

34. 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.

Disputes
as to
constitu-
tion of
Univer-
sity autho-
rities and
bodies.

Constitu-
tion of
Com-
mittees.

35. Where any authority of the University is given power by this Act or the Statutes to appoint Committees, such Committees shall, save as otherwise provided, consist of the members of the authority concerned and of such other persons (if any) as the authority in each case may think fit.

Filling of
casual
vacan-
cies.

36. 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 conveniently may be, by the person or body who appointed, elected or co-opted the member whose place has become vacant and the 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.

Proceed-
ings of
Univer-
sity autho-
rities or
bodies
not
invali-
dated by
vacancies.

37. 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.

Protec-
tion of
action
taken
in good
faith.

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

Mode of
proof of
University
record.

39. 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 or resolution, 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.

Power to remove difficulties.

40. 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.

Transitional provisions.

41. Notwithstanding anything contained in this Act and the Statutes—

(a) the first Chancellor and the first Vice-Chancellor shall be appointed by the Visitor and each of the said officers shall hold office for a term of five years;

(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 Academic Council shall consist of not more than twenty-one members, who shall be nominated by the Visitor and 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;

(e) the first Academic Council shall be constituted on the expiry of a period of one year from the commencement of this Act and during the said period of one year, the powers of the Academic Council shall be performed by the Planning Board constituted under section 23.

THE SCHEDULE

[See section 25(1)]

THE STATUTES OF THE UNIVERSITY

The Vice-Chancellor.

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

(2) The Vice-Chancellor shall hold office for a term of five years from the date on which he enters upon his office:

Provided that the Visitor may direct that a Vice-Chancellor, whose term of office has expired, shall continue in office for such period, not exceeding a total period of one year, as may be specified in the direction.

(3) Notwithstanding anything contained in clause (2), a person appointed as Vice-Chancellor shall, if he attains the age of sixty-five

years during the term of his office or any extension thereof, retire from office.

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

(i) There shall be paid to the Vice-Chancellor a salary of three thousand rupees per mensem 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 personally 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—

(a) the University; or

(b) any other University or College or Institution maintained by, or affiliated to, that University,

is appointed as Vice-Chancellor, he shall be allowed to continue to contribute to the provident fund to which he is a subscriber, and the contribution of the University shall be limited to what he had been contributing immediately before his appointment as Vice-Chancellor.

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

(iv) The Vice-Chancellor shall be entitled to leave on full pay for one-eleventh of the period spent by him on active service.

(v) The Vice-Chancellor shall also be entitled, on medical grounds or otherwise, to leave without pay for a period not exceeding three months during the term of his office:

Provided that such leave may be converted into leave on full pay to the extent to which he is entitled to leave under sub-clause (iv).

(5) If the office of the Vice-Chancellor becomes vacant due to death, resignation or otherwise or if he is unable to perform his duties owing to absence, illness or any other cause, the Pro-Vice-Chancellor or if there are more than one Pro-Vice-Chancellor, the senior-most Pro-Vice-Chancellor, 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:

Provided that if a Pro-Vice-Chancellor is not available, the senior-most Professor shall perform the duties of the Vice-Chancellor.

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

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

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

Pro-Vice-Chancellors.

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, and he shall be eligible for re-appointment:

Provided that a Pro-Vice-Chancellor shall retire on attaining the age of sixty-five years:

Provided further that the Pro-Vice-Chancellor shall, while discharging the duties of the Vice-Chancellor under clause (5) of Statute 1, 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 no 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 Ordinances.

(4) A 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.

Regis-trar.

4. (1) The Registrar shall be a whole-time salaried officer of the University.

(2) The emoluments and other terms and conditions of service of the Registrar shall be such as may be prescribed by the Ordinances:

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.

(3) 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 office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(4) (a) The Registrar shall have power to take disciplinary action against such of the employees, excluding teachers of the University and academic staff, as may be specified in the orders 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 concerned has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(b) An appeal shall lie to the 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 powers of the Registrar is called for, the Registrar shall, upon conclusion 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.

(5) The Registrar shall be *ex officio* Secretary of the Executive Council, the Academic Council and the Boards of Schools, but shall not be deemed to be a member of any of these authorities. He shall be *ex officio* Member-Secretary of the Court.

(6) 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 charge;

(b) to issue all notices convening meetings of the Court, the Executive Council, the Academic Council, the Boards of Schools, the Boards of Studies, the Boards of Examiners and of any Committees appointed by the authorities of the University;

(c) to keep the minutes of all the meetings of the Court, the Executive Council, the Academic Council, the Boards of Schools and of any Committees appointed by the authorities of the University;

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

(e) 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;

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

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

**Finance
Officer.**

5. (1) The Finance Officer shall be a whole-time salaried officer of the University.

(2) The emoluments and other terms and conditions of service of the Finance Officer shall be such as may be prescribed by the Ordinances:

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.

(3) 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.

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

(5) 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 these Statutes or the Ordinances:

Provided that the Finance Officer shall not incur any expenditure or make any investment exceeding ten thousand rupees without the previous approval of the Executive Council.

(6) 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 purposes for which they are granted or allotted;

(c) be responsible for the preparation of annual accounts and the budget of the University and for their presentation to the 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) call for explanation for unauthorised expenditure and for 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.

(7) The receipt of the Finance Officer or of 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.

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:

Deans of
Schools of
Studies.

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 Professor in a School, the Vice-Chancellor, or a Pro-Vice-Chancellor if 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 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.

(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. The Dean 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.

7. (1) Each Department shall have a Head who shall be a Professor and whose duties and functions and terms and conditions of appointment shall be prescribed by the Ordinances:

Heads of
Depart-
ments.

Provided that if there is one or more than one Professor in any Department, the Head of the Department shall be appointed in the manner prescribed by the Ordinances:

Provided further that in a Department where there is no Professor, a Reader may be appointed as Head of the Department in the manner prescribed by the Ordinances:

Provided also that if there is no Professor or Reader, in a Department, the Dean of the Faculty concerned shall act as the Head of that Department.

(2) It shall be open to a Professor or Reader to decline the offer of appointment as the Head of the Department.

(3) A person 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.

Deans of Students' Welfare.

8. (1) Every Dean of Students' Welfare shall be appointed from amongst the teachers of the University, not below the rank of a Reader, by the Executive Council on the recommendation of the Vice-Chancellor.

(2) Every Dean appointed under clause (1) shall be a whole-time officer and shall hold office for a term of three years and shall be eligible for re-appointment:

Provided that the Executive Council may, if it is considered necessary, appoint, on the recommendation of the Vice-Chancellor, a teacher, not below the rank of a Reader, to discharge the duties of the Dean of Students' Welfare in addition to his duties as such teacher, and in such a case, the Executive Council may sanction a suitable allowance to be paid to him.

(3) A person who is appointed as a Dean of Students' Welfare shall continue to hold his lien on his substantive post and shall be eligible to all the benefits that would have otherwise accrued to him, but for his appointment as the Dean of Students' Welfare.

(4) When the office of a Dean of Students' Welfare is vacant or when the Dean of Students' Welfare is, by reason of illness or 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 duties and powers of a Dean of Students' Welfare shall be prescribed by the Ordinances.

Proctors

9. (1) Every 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) Every Proctor shall hold office for a term of two years and shall be eligible for re-appointment.

Librarians.

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

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

Meetings of the Court.

11. (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, by a Pro-Vice-Chancellor, or if there is no Pro-Vice-Chancellor, by the Registrar.

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

Quorum
for
meetings
of the
Execu-
tive
Council.

13. (1) The Executive Council shall have the 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, these 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, qualifications 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 these Statutes and the Ordinances;

Powers
and func-
tions of
Execu-
tive
Council.

- (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, shares or securities as it shall, from time to time, think fit, or in the purchase of immovable property in India, with the like powers of varying such investments 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-Chancellors, 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; and
- (xviii) to exercise such other powers and perform such other duties as may be conferred or imposed on it by this Act, or these Statutes.

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

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

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

Powers
of the
Academic
Council.

- (a) to exercise general supervision over the academic policies of the University and to give directions regarding methods of instruction, co-operative teaching among Colleges and Institutions, evaluation of research or improvements 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 these Statutes and the Ordinances regarding the academic functioning of the University, discipline, residences, admissions, award of fellowships and studentships, fee concessions, corporate life and attendance.

16. (1) The Planning Board shall consist of the following members, namely:—

The Plan-
ning
Board.

- (i) the Vice-Chancellor, who shall be the Chairman of the Board; and
 - (ii) not more than eight persons of high academic standing.
- (2) The members of the Planning Board shall be appointed by the Visitor and shall hold office for such period as he may determine.
- (3) The Planning Board shall, in addition to all other powers vested in it by this Act, have the right to advise the Executive Council and the Academic Council on any academic matter.
- (4) On the date determined by the Visitor under sub-section (3) of section 23, this Statute shall cease to have effect.

17. (1) The University shall have such Schools of Studies as may be specified by the Ordinances.

Schools.
of Studies
and depart-
ments,

(2) Every School shall have a School Board. 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.

(b) No Department shall be established or abolished except by these Statutes:

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.

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

(i) teachers of the Department;

(ii) Dean of the School or Deans of the Schools concerned;

(iii) honorary Professors, if any, attached to the Department; and

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

(d) The functions of a Department shall be prescribed by the Ordinances.

Boards
of
Studies.

18. (1) Each Department shall function as a Board of Studies.

(2) Notwithstanding anything contained in clause (1) the Academic Council may establish, by an Ordinance, such Board of Studies, as may be considered necessary for inter-disciplinary research.

(3) The function of the Board of Studies shall be prescribed by the Ordinances.

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

(i) The Vice-Chancellor;

(ii) A Pro-Vice-Chancellor appointed by the Executive Council;

(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 twice every year to examine the accounts and to scrutinise proposals for expenditure.

(6) 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.

(7) 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
Com-
mittees.

20. (1) There shall be Selection Committees for making recommendations to the Executive Council for appointment to the posts of Professor, Reader, Lecturer, 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, the

Pro-Vice-Chancellor or if there are more than one Pro-Vice-Chancellor a Pro-Vice-Chancellor appointed by the Executive Council, a nominee of the Visitor and the persons specified in the corresponding entry in column 2 of the said Table and, in the case of appointment of a Professor, Reader or Lecturer in a Department where there is no Head of the Department, shall also consist of a person nominated by the Planning Board from amongst its members:

TABLE

1	2
Professor	<ul style="list-style-type: none"> (i) The Head of the Department concerned, if he is a Professor. (ii) One Professor to be nominated by the Vice-Chancellor. (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.
Reader or Lecturer	<ul style="list-style-type: none"> (i) The Head of the Department concerned. (ii) One Professor to be nominated by the Vice-Chancellor. (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 Lecturer will be concerned.
Librarian	<ul style="list-style-type: none"> (i) Two persons not in the service of the University, who have special knowledge of the subject of Library Science or Library Administration to be nominated by the Executive Council. (ii) One person, not in the service of the University, nominated by the Executive Council.
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.

NOTE 2.—The Professor to be nominated shall be a Professor concerned with the speciality for which the selection is being made and that the 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 or if there are more than one Pro-Vice-Chancellor, the senior-most Pro-Vice-Chancellor, shall preside at the meetings of a Selection Committee.

(4) The meetings of a Selection Committee shall be convened by the Vice-Chancellor or in his absence, by the Pro-Vice-Chancellor or if there are more than one Pro-Vice-Chancellor, the senior-most 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 case of sudden casual vacancies in 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 these Statutes, be continued in service on such temporary employment, unless he is subsequently selected by a local Selection Committee or a regular Selection Committee, for a temporary or permanent appointment, as the case may be.

Special mode of appointment.

21. (1) Notwithstanding anything contained in Statute 20, the Executive Council may invite a person of high academic distinction and professional attainments to accept a post of Professor in the University 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 under-

taking a joint project, in accordance with the manner laid down in the Ordinances.

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

Appoint-
ment for
a fixed
tenure.

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

Recog-
nised
teachers.

(2) The manner of recognising teachers and withdrawal of such recognition shall be prescribed by the Ordinances.

(3) The period of recognition of a teacher shall be determined by Ordinances made in that behalf.

24. 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. Any such committee may deal with any subject delegated to it subject to subsequent confirmation by the authority appointing it.

Commit-
tees.

25. (1) All the teachers of the University shall, in the absence of any agreement to the contrary, be governed by the terms and conditions of service as specified in these Statutes, the Ordinances and the Regulations.

Terms
and
conditions
of service
of Univer-
sity tea-
chers.
Seniority
List.

(2) Every teacher of the University shall be appointed on a written contract, the form of which shall be prescribed by the Ordinances. A copy of the contract shall be deposited with the Registrar.

26. (1) Whenever, in accordance with these Statutes, any person is to hold an office or be a member of an authority of the University by rotation according to seniority, such seniority shall be determined according to the length of continuous service of such person in his grade, and, in accordance with such other principles as the 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.

27. (1) Where there is an allegation of misconduct against a teacher, or a member of the academic staff, the Vice-Chancellor may, if he thinks fit, by order in writing, place the teacher under suspension and shall forthwith report to the Executive Council the circumstances in which the order was made:

Removal of
teachers.

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 his contract of service or of his appointment, the Executive Council shall be entitled to remove a teacher or a member of the academic staff on the ground of misconduct.

(3) Save as aforesaid, the Executive Council shall not be entitled to remove a teacher or a member of the academic staff except for good cause and after giving three months' notice in writing or on payment of three months' salary in lieu of notice.

(4) No teacher or a member of the academic staff shall be removed under clause (2) or under clause (3) until 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 or a member of the academic staff shall require a two-thirds majority of the members of the Executive Council present and voting.

(6) The removal of a teacher or a member of the academic staff shall take effect from the date on which the order of removal is made:

Provided that where a teacher or a member of the academic staff is under suspension at the time of his removal, the removal shall take effect from the date on which he was placed under suspension.

(7) Notwithstanding anything contained in these Statutes, a teacher or a member of the academic staff may resign by giving three months' notice in writing to the Executive Council or on payment to the University of three months' salary in lieu thereof.

**Removal
of em-
ployees
other
than
teachers
of the
Univer-
sity.**

28. (1) Notwithstanding anything contained in the terms of his contract of service or of his appointment, an employee, other than a teacher or a member of the academic staff, may be removed by the authority which is competent to appoint the employee—

(a) if he is of unsound mind or is a deaf-mute or suffers from contagious leprosy;

(b) if he is an undischarged insolvent;

(c) if he has been convicted by a court of law of any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months;

(d) if he is otherwise guilty of misconduct.

Provided that no employee shall be removed from his office unless a resolution to that effect is passed by the Executive Council by a majority of two-thirds of its members present and voting.

(2) No employee shall be removed under clause (1) until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(3) Where the removal of such employee is for a reason other than that specified in sub-clause (c) or sub-clause (d) of clause (1), he shall be given three months' notice in writing or paid three months' salary in lieu of such notice.

(4) Notwithstanding anything contained in these Statutes, an employee, not being a teacher or a member of the academic staff, shall be entitled to resign,—

(i) if he is a permanent employee, only after giving three months' notice in writing to the appointing authority or paying to the University three months' salary in lieu thereof;

(ii) if he is not a permanent employee, only after giving one month's notice in writing to the appointing authority or paying to the University one month's salary in lieu thereof:

Provided that such resignation shall take effect from the date on which the resignation is accepted by the appointing authority.

29. (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, 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.

30. 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.

31. (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 the exercise of his powers, by order, direct that any student or students be expelled, or rusticated, for a specified period, or be not admitted to a course or courses of study in a College, Institution or Department of the University for a stated period, or be punished with fine for an amount to be specified in the order, or be debarred from taking an examination or examinations conducted by the University, College, Institution or a Department for one or more years, or that the results of the student or students concerned in the examination or examinations in which he or they have appeared be cancelled.

(4) The Principals of Colleges, Institutions, Heads of Special Centres, 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, Special Centres, Schools and teaching Departments in the University as may

be necessary for the proper conduct of such Colleges, Institutions, Special Centres, Schools and teaching in the Departments.

(5) Without prejudice to the powers of the Vice-Chancellor, the Principals 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, Heads of Special Centres, 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. Every student shall be supplied with a copy of the rules made by the University and a copy of the supplementary rules shall be supplied to the students concerned.

(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.

**Convo-
cations.**

32. Convocations 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.

**Resigna-
tion.**

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.

**Disquali-
fication.**

35. (1) A person shall be disqualified for being chosen as, and for being, a member of any of the authorities of the University—

(a) if he is of unsound mind or is a deaf-mute or suffers from contagious leprosy;

(b) if he is an undischarged insolvent;

(c) 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 for the decision of 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 mem-
bership
and
office.**

36. Notwithstanding anything contained in these Statutes, no person who is not ordinarily resident in India shall be eligible to be an officer of the University or a member of any authority of the University.

37. Notwithstanding anything contained in these Statutes, a person Member 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.

38. (1) The first Ordinances made under sub-section (2) of section 26 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 26, other than those enumerated in clause (o) 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 re-affirmed 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.

39. (1) The authorities of the University may make Regulations consistent with this Act, and these Statutes and the Ordinances:

Regulations.

(a) laying down the procedure to be observed at their meetings and the number of members required to form a quorum;

(b) providing for all matters which are required by this Act, these Statutes or the Ordinances to be prescribed by Regulations;

(c) providing for all other matters solely concerning such authorities or committees appointed by them and not provided for by this Act, these 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 meetings 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 this Statute or the annulment of any such Regulation.

Delega-
tion of
powers.

40. Subject to the provisions of this Act and these 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.

Rep. by Act.....38.....of 1978, S. 2 + Sch I

THE ESSO (ACQUISITION OF UNDERTAKINGS IN INDIA)
AMENDMENT ACT, 1974

NO. 40 OF 1974

[7th September, 1974.]

An Act to amend the ESSO (Acquisition of Undertakings in India) Act, 1974.

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

1. This Act may be called the ESSO (Acquisition of Undertakings in India) Amendment Act, 1974.

Short title.

2. In section 13 of the ESSO (Acquisition of Undertakings in India) Act, 1974, in sub-section (1), for the words "one hundred and eighty days", the words "one year" shall be substituted.

Amendment of section 13.

38 of 1978 S. 2 + Sch. I

Rep. by

THE COMPANIES (AMENDMENT) ACT, 1974

PROVISIONAL ENACTMENT

NO. 41 OF 1974

RECEIVED ON 10.9.1974

[10th September, 1974.]

[After publication in the]

An Act further to amend the Companies Act, 1956, the Securities Contracts (Regulation) Act, 1956 and the Monopolies and Restrictive Trade Practices Act, 1969.

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

Short title and commencement.

1. (1) This Act may be called the Companies (Amendment) Act, 1974.

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

Amend-
ment of
section 2.

2 In the Companies Act, 1956 (hereinafter referred to as the principal Act), in section 2,—

(i) after clause (18), the following clause shall be inserted, namely:—

(18A) "group" means a group of two or more individuals, associations, firms or bodies corporate, or any combination thereof, which exercises or is in a position to exercise, or has the object of exercising, control over any body corporate, firm or trust.

Explanation.—If any question arises as to whether two or more individuals, associations, firms or bodies corporate, or any combination thereof, constitute, or fall within, a "group", the Company Law Board shall, after giving such individuals, associations, firms or bodies corporate, or any combination thereof, a reasonable opportunity of being heard, decide the same;

(ii) to clause (25), the following Explanations shall be added, namely:—

Explanation I.—For the purposes of this Act, references to "managing agent" shall be construed as references to any individual, firm, or body corporate who, or which, was, at any time before the 3rd day of April, 1970, the managing agent of any company.

17 of 1969. **Explanation II.**—For the removal of doubts, it is hereby declared that notwithstanding anything contained in section 6 of the Companies (Amendment) Act, 1969, this clause shall remain, and shall be deemed always to have remained, in force;—

(iii). in clause (30), on the expiry of six months from the commencement of the Companies (Amendment) Act, 1974,—

(i) in sub-clause (a), for the words "the secretaries and treasurers or the secretary", the words "or the secretaries and treasurers" shall be substituted;

(ii) sub-clause (c) shall be omitted;

(iv) in clause (36), after the words "other document", the words "inviting deposits from the public or" shall be inserted;

(v) to clause (44), the following Explanations shall be added, namely:—

Explanation I.—For the purposes of this Act, references to "secretaries and treasurers" shall be construed as references to any firm or body corporate which was, at any time before the 3rd day of April, 1970, secretaries and treasurers of any company.

17 of 1969. **Explanation II.**—For the removal of doubts, it is hereby declared that notwithstanding anything contained in section 6 of the Companies (Amendment) Act, 1969, this clause shall remain, and shall be deemed always to have remained, in force;—

(vi) in clause (45),—

(a) for the words "any individual, firm or body corporate", the words "any individual possessing the prescribed qualifications," shall be substituted;

(b) for the words "purely ministerial or administrative duties", the words "ministerial or administrative duties;" shall be substituted.

3. After section 4 of the principal Act, the following section shall be inserted, namely:—

"4A. (1) Each of the financial institutions specified in this subsection shall be regarded, for the purposes of this Act, as a public financial institution, namely:—

(i) the Industrial Credit and Investment Corporation of

Insertion
of new
section
4A.

Public
financial
institu-
tions.

REPEALED

558

Companies (Amendment)

[ACT 41]

India Limited, a company formed and registered under the Indian Companies Act, 1913;

7 of 1913.

(ii) the Industrial Finance Corporation of India, established under section 3 of the Industrial Finance Corporation Act, 1948;

15 of 1948.

(iii) the Industrial Development Bank of India, established under section 3 of the Industrial Development Bank of India Act, 1964;

18 of 1964.

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

31 of 1956.

(v) the Unit Trust of India, established under section 3 of the Unit Trust of India Act, 1963.

52 of 1963.

(2) Subject to the provisions of sub-section (1), the Central Government may, by notification in the Official Gazette, specify such other institution as it may think fit to be a public financial institution:

Provided that no institution shall be so specified unless—

(i) it has been established or constituted by or under any Central Act; or

(ii) not less than fifty-one per cent. of the paid-up share capital of such institution is held or controlled by the Central Government.”.

Amend-
ment of
section
10E.

4. In section 10E of the principal Act,—

(i) in sub-section (2), for the word “five”, the word “nine” shall be substituted;

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

“(4B) Without prejudice to the provisions of sub-section (4A), the Board, with the previous approval of the Central Government, may, by order in writing, form one or more Benches from among its members and authorise each such Bench to exercise and discharge such of the Board’s powers and functions as may be specified in the order; and every order made or act done by a Bench in exercise of such powers or discharge of such functions shall be deemed to be the order or act, as the case may be, of the Board.

(4C) Every Bench referred to in sub-section (4B) shall have powers which are vested in a Court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

(a) discovery and inspection of documents or other material objects producible as evidence;

(b) enforcing the attendance of witnesses and requiring the deposit of their expenses;

(c) compelling the production of documents or other material objects producible as evidence and impounding the same;

5 of 1908.

REPEALED

OF 1974]

Companies (Amendment)

559

- (d) examining witnesses on oath;
(e) granting adjournments;
(f) reception of evidence on affidavits.

5 of 1898.

45 of 1860.

(4D) Every Bench shall be deemed to be a civil court for the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898, and every proceeding before the Bench shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and for the purpose of section 196 of that Code.”.

Amend-
ment of
sections 17,
18 and 19.

5. (1) In sections 17, 18 and 19 of the principal Act, for the word “Court”, wherever it occurs, the words “Company Law Board” shall be substituted.

(2) Nothing contained in sub-section (1) shall apply to any proceedings under section 17, or under sub-section (4) of section 18, which is pending at the commencement of the Companies (Amendment) Act, 1974, before any Court or to any alteration of the memorandum of a company which has been confirmed, before such commencement, by any Court.

Amend-
ment of
section
43A.

6. In section 43A of the principal Act,—

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

(1A) Without prejudice to the provisions of sub-section (1), where the average annual turnover of a private company, whether in existence at the commencement of the Companies (Amendment) Act, 1974, or incorporated thereafter, is not, during the relevant period, less than rupees one crore, the private company shall, irrespective of its paid-up share capital, become, on and from the expiry of a period of three months from the last day of the relevant period during which the private company had the said average annual turnover, a public company by virtue of this sub-section:

Provided that even after the private company has so become a public company, its articles of association may include provisions relating to the matters specified in clause (iii) of sub-section (1) of section 3 and the number of its members may be, or may at any time be reduced, below seven.

(1B) Where not less than twenty-five per cent. of the paid-up share capital of a public company, having share capital, is held by a private company, the private company shall,—

(a) on and from the date on which the aforesaid percentage is first held by it after the commencement of the Companies (Amendment) Act, 1974, or

(b) where the aforesaid percentage has been first so held before the commencement of the Companies (Amend-

~~REPEALED~~

560C

Companies (Amendment)

[ACT 41¹⁰

ment) Act, 1974, on and from the expiry of the period of three months from the date of such commencement, unless within that period the aforesaid percentage is reduced below twenty-five per cent of the paid-up share capital of the public company,

become, by virtue of this sub-section, a public company, and thereupon all other provisions of this section shall apply thereto:

Provided that even after the private company has so become a public company, its articles of association may include provisions relating to the matters specified in clause (iii) of sub-section (1) of section 3 and the number of its members may be, or may at any time be reduced, below seven;"

(ii) in sub-section (8), after clause (b), the following clause shall be inserted, namely:—

"(c) that the private company, irrespective of its paid-up share capital, did not have, during the relevant period, an average annual turnover of rupees one crore or more;"

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

'(9) Every private company, having share capital, shall file with the Registrar along with the annual return a certificate signed by both the signatories of the return, stating that since the date of the annual general meeting with reference to which the last return was submitted, or in the case of a first return, since the date of the incorporation of the private company, it did not hold twenty-five per cent or more of the paid-up share capital of one or more public companies.

Explanation.—For the purposes of this section,—

(a) "relevant period" means the period of three consecutive financial years,

(i) immediately preceding the commencement of the Companies (Amendment) Act, 1974, or

(ii) a part of which immediately preceded such commencement and the other part of which immediately followed such commencement, or

(iii) immediately following such commencement or at any time thereafter;

(b) "turnover" of a company, means the aggregate value of the realisation made from the sale, supply or distribution of goods or on account of services rendered, or both, by the company during a financial year.'

Inser-
tion of
new sec-
tions 58A
and 58B.

7. After section 58 of the principal Act, the following sections shall be inserted, namely:—

Deposits
not to be

'58A. (1) The Central Government may, in consultation with the Reserve Bank of India, prescribe the limits up to which, the

manner in which and the conditions subject to which deposits may be invited or accepted by a company either from the public or from its members.

(2) No company shall invite, or allow any other person to invite or cause to be invited on its behalf, any deposit unless—

(a) such deposit is invited or is caused to be invited in accordance with the rules made under sub-section (1), and

(b) an advertisement, including therein a statement showing the financial position of the company, has been issued by the company in such form and in such manner as may be prescribed.

(3) (a) Every deposit accepted by a company at any time before the commencement of the Companies (Amendment) Act, 1974, in accordance with the directions made by the Reserve Bank of India under Chapter IIIB of the Reserve Bank of India Act, 1934, shall, unless renewed in accordance with clause (b), be repaid in accordance with the terms of such deposit.

(b) No deposit referred to in clause (a) shall be renewed by the company after the expiry of the term thereof unless the deposit is such that it could have been accepted if the rules made under sub-section (1) were in force at the time when the deposit was initially accepted by the company.

(c) Where, before the commencement of the Companies (Amendment) Act, 1974, any deposit was received by a company in contravention of any direction made under Chapter IIIB of the Reserve Bank of India Act, 1934, repayment of such deposit shall be made in full on or before the 1st day of April, 1975, and such repayment shall be without prejudice to any action that may be taken under the Reserve Bank of India Act, 1934 for the acceptance of such deposit in contravention of such direction.

(4) Where any deposit is accepted by a company after the commencement of the Companies (Amendment) Act, 1974, in contravention of the rules made under sub-section (1), repayment of such deposit shall be made by the company within thirty days from the date of acceptance of such deposit or within such further time, not exceeding thirty days, as the Central Government may, on sufficient cause being shown by the company, allow.

(5) Where a company omits or fails to make repayment of a deposit in accordance with the provisions of clause (c) of sub-section (3), or in the case of a deposit referred to in sub-section (4), within the time specified in that sub-section,

(a) the company shall be punishable with fine which shall not be less than twice the amount in relation to which the repayment of the deposit has not been made, and out of the fine, if realised, an amount equal to the amount in relation to which the repayment of deposit has not been made, shall be paid by the Court, trying the offence, to the person to whom repayment of the deposit was to be made, and on such payment, the liability of the company to make repayment of the deposit shall, to the extent of the amount paid by the Court, stand discharged;

invited
without
issuing an
advertis-
ement.

2 of 1934.

2 of 1934.

REPEALED

562

Companies (Amendment)

[ACT 41]

(b) every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

(6) Where a company accepts or invites, or allows or causes any other person to accept or invite on its behalf, any deposit in excess of the limits prescribed under sub-section (1) or in contravention of the manner or condition prescribed under that sub-section or in contravention of the provisions of sub-section (2), as the case may be,—

(a) the company shall be punishable,—

(i) where such contravention relates to the acceptance of any deposit, with fine which shall not be less than an amount equal to the amount of the deposit so accepted,

(ii) where such contravention relates to the invitation of any deposit, with fine which may extend to one lakh rupees but shall not be less than five thousand rupees;

(b) every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

(7) (a) Nothing contained in this section shall apply to,—

(i) a banking company, or

(ii) such other company as the Central Government may, after consultation with the Reserve Bank of India, specify in this behalf.

(b) Except the provisions relating to advertisement contained in clause (b) of sub-section (2), nothing in this section shall apply to such classes of financial companies as the Central Government may, after consultation with the Reserve Bank of India, specify in this behalf.

Explanation.—For the purposes of this section “deposit” means any deposit of money with, and includes any amount borrowed by, a company but shall not include such categories of amount as may be prescribed in consultation with the Reserve Bank of India.

Provi-
sions
relating
to pros-
pectus to
apply to
advertis-
ement.

Amend-
ment of
section
73.

58B. The provisions of this Act relating to a prospectus shall, so far as may be, apply to an advertisement referred to in section 58A.'

8. In section 73 of the principal Act,—

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

“(1) Where a prospectus, whether issued generally or not, states that an application has been, or will be, made for permission for the shares or debentures offered thereby to be dealt in one or more recognized stock exchanges, such prospectus shall state the name of the stock exchange or, as the case may be, each such stock exchange, and any allotment made on an

~~REPEALED~~

of 1974]

Companies (Amendment)

563

application in pursuance of such prospectus shall, whenever made, be void if the permission has not been applied for before the tenth day after the first issue of the prospectus, or, where such permission has been applied for before that day, if the permission has not been granted by the stock exchange or each such stock exchange, as the case may be, before the expiry of ten weeks from the date of the closing of the subscription lists:

Provided that where an appeal against the decision of any recognized stock exchange refusing permission for the shares or debentures to be dealt in on that stock exchange has been preferred under section 22 of the Securities Contracts (Regulation) Act, 1956, such allotment shall not be void until the dismissal of the appeal.”;

(ii) in sub-section (2),—

(a) for the words “or has not been granted as aforesaid”, the words “or, such permission having been applied for, has not been granted as aforesaid” shall be substituted;

(b) for the words “five per cent.”, the words “twelve per cent.” shall be substituted;

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

“(2A) Where permission has been granted by the recognized stock exchange or stock exchanges for dealing in any shares or debentures in such stock exchange or each such stock exchange and the moneys received from applicants for shares or debentures are in excess of the aggregate of the application moneys relating to the shares or debentures in respect of which allotments have been made, the company shall repay the moneys to the extent of such excess forthwith without interest, and if such money is not repaid within eight days, from the day the company becomes liable to pay it, the directors of the company shall be jointly and severally liable to repay the money with interest at the rate of twelve per cent. per annum from the expiry of the said eighth day:

Provided that a director shall not be liable if he proves that the default in the repayment of the money was not due to any misconduct or negligence on his part.

(2B) If default is made in complying with the provisions of sub-section (2A), the company and every officer of the company who is in default shall be punishable with fine which may extend to five thousand rupees, and where repayment is not made within six months from the expiry of the eighth day, also with imprisonment for a term which may extend to one year.”;

(iv) in sub-section (3), for the words, brackets and figure “so long as the company may become liable to repay it under sub-section (2)”, the words, brackets and figure “until the permission has been granted, or where an appeal has been preferred against the refusal to grant such permission, until the disposal of the appeal, and the money standing in such separate account shall, where the permission has not been applied for as aforesaid or has not been granted, be repaid within the time and in the manner specified in sub-section (2)” shall be substituted;

42 of 1956.

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

"(3A) Moneys standing to the credit of the separate bank account referred to in sub-section (3) shall not be utilised for any purpose other than the following purposes, namely:—

(a) adjustment against allotment of shares, where the shares have been permitted to be dealt in on the stock exchange or each stock exchange specified in the prospectus; or

(b) repayment of moneys received from applicants in pursuance of the prospectus, where shares have not been permitted to be dealt in on the stock exchange or each stock exchange specified in the prospectus, as the case may be, or, where the company is for any other reason unable to make the allotment of share.";

(vi) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) For the purposes of this section, it shall be deemed that permission has not been granted if the application for permission, where made, has not been disposed of within the time specified in sub-section (1).".

Amend-
ment of
section 79.

9. (1) In section 79 of the principal Act,—

(i) in sub-sections (2) and (3), for the word "Court", wherever it occurs, the words "Company Law Board" shall be substituted;

(ii) in sub-section (2),—

(a) in clause (ii), the words and brackets "(not exceeding ten per cent. or such higher percentage as the Central Government may permit in any special case)" shall be omitted;

(b) to clause (ii), the following proviso shall be added, namely:—

"Provided that no such resolution shall be sanctioned by the Company Law Board if the maximum rate of discount specified in the resolution exceeds ten per cent., unless that Board is of opinion that a higher percentage of discount may be allowed in the special circumstances of the case,".

(2) Nothing contained in sub-section (1) shall affect any issue of shares at a discount which has been sanctioned by the Court or any proceeding relating to such sanction which is pending before the Court at the commencement of the Companies (Amendment) Act, 1974.

Substitu-
tion of
new sec-
tion for
section
90.

Savings.

10. For section 90 of the principal Act, the following section shall be substituted, namely:—

"90. (1) Nothing in sections 85, 86, 88 and 89 shall, in the case of any shares issued by a public company before the commencement

of this Act, affect any voting rights attached to the shares save as otherwise provided in section 89, or any rights attached to the shares as to dividend, capital or otherwise.

(2) Nothing in sections 85 to 89 shall apply to a private company, unless it is a subsidiary of a public company.

(3) For the removal of doubts, it is hereby declared that on and from the commencement of the Companies (Amendment) Act, 1974, the provisions of section 87 shall apply in relation to the voting rights attached to preference shares issued by a public company before the 1st day of April, 1956, as they apply to the preference shares issued by a public company after that date.

Explanation.—For the purposes of this section, references to a public company shall be construed as including references to a private company which is a subsidiary of a public company.”.

11. After section 94 of the principal Act, the following section shall be inserted, namely:—

“94A. (1) Notwithstanding anything contained in this Act, where the Central Government has, by an order made under sub-section (4) of section 81, directed that any debenture or loan or any part thereof shall be converted into shares in a company, the conditions contained in the memorandum of such company shall, where such order has the effect of increasing the nominal share capital of the company, stand altered and the nominal share capital of such company shall stand increased by an amount equal to the amount of the value of the shares into which such debentures or loans or part thereof has been converted.

(2) Where, in pursuance of an option attached to debentures issued or loans raised by the company, any public financial institution proposes to convert such debentures or loans into shares in the company, the Central Government may, on the application of such public financial institution, direct that the conditions contained in the memorandum of such company shall stand altered and the nominal share capital of such company shall stand increased by an amount equal to the amount of the value of the shares into which such debentures or loans or part thereof has been converted.

(3) Where the memorandum of a company becomes altered, whether by reason of an order made by the Central Government under sub-section (4) of section 81 or sub-section (2) of this section, the Central Government shall send a copy of such order to the Registrar and also to the company and on receipt of such order, the company shall file in the prescribed form, within thirty days from the date of such receipt, a return to the Registrar with regard to the increase of share capital and the Registrar shall, on receipt of such order and return, carry out the necessary alterations in the memorandum of the company.”.

12. After section 108 of the principal Act, the following sections shall be inserted, namely:—

Inser-
tion of
new sec-
tion 94A.

Share
capital
to stand
increased
where
an order
is made
under
section
81 (4).

Inser-
tion of
new sec-
tions 108A
to 108H.

REPEALED

566

Companies (Amendment)

[ACT 41]

Restriction on the acquisition of shares.

108A. (1) Except with the previous approval of the Central Government, no individual, group constituent of a group, firm, body corporate, or bodies corporate under the same management, shall jointly or severally acquire or agree to acquire, whether in his or its own name or in the name of any other person, any equity shares in a public company, or a private company which is a subsidiary of a public company, if the total nominal value of the equity shares intended to be so acquired exceeds, or would, together with the total nominal value of any equity share already held in the company by such individual, firm, group, constituent of a group, body corporate, or bodies corporate under the same management, exceed twenty-five per cent. of the paid-up equity share capital of such company.

(2) Any person who acquires any share in contravention of the provisions of sub-section (1), shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both.

Restriction on the transfer.

108B. (1) Every body corporate, or bodies corporate under the same management, holding whether singly or in the aggregate, ten per cent. or more of the nominal value of the subscribed equity share capital of any other company, shall, before transferring one or more of such shares, give to the Central Government an intimation of its or their proposal to transfer such share, and every such intimation shall include a statement as to the particulars of the share proposed to be transferred, the name and address of the person to whom the share is proposed to be transferred, the share holding, if any, of the proposed transferee in the concerned company and such other particulars as may be prescribed.

(2) Where, on receipt of an intimation given under sub-section (1) or otherwise, the Central Government is satisfied that as a result of such transfer, a change in the composition of the Board of directors of the company is likely to take place and that such change would be prejudicial to the interests of the company or to the public interest, it may by order, direct that—

(a) no such share shall be transferred to the proposed transferee:

Provided that no such order shall preclude the body corporate or, bodies corporate from intimating, in accordance with the provisions of sub-section (1), to the Central Government its proposal to transfer the share to any other person, or

(b) where such share is held in a company engaged in any industry specified in Schedule XIII, such share shall be transferred to the Central Government or to such corporation owned or controlled by that Government as may be specified in the direction.

(3) Where a direction is made by the Central Government under clause (b) of sub-section (2), the share referred to in such direction shall stand transferred to the Central Government or the corporation specified therein, and the Central Government or the specified corporation, as the case may be, shall pay, in cash, to the body cor-

porate or bodies corporate from which such share stands transferred, an amount equal to the market value of such share, within the time specified in sub-section (4).

Explanation.—In this sub-section, “market value” means, in the case of a share which is quoted on any recognised stock exchange, the value quoted at such stock exchange on the date on which the direction is made, and, in any other case, such value as may be mutually agreed upon between the holder of the share and the Central Government or the specified corporation, as the case may be, or in the absence of such agreement, as may be determined by the Court.

(4) The market value referred to in sub-section (3) shall be given forthwith, where there is no dispute as to such value or where such value has been mutually agreed upon, but where there is a dispute as to the market value, such value as estimated by the Central Government or the corporation, as the case may be, shall be given forthwith and the balance, if any, shall be given within thirty days from the date when the market value is determined by the Court.

(5) If the Central Government does not make any direction under sub-section (2) within sixty days from the date of receipt by it of the intimation, given under sub-section (1), the provisions contained in sub-section (2) with regard to the transfer of such share shall not apply.

(6) (a) Every body corporate which makes any transfer of shares in contravention of the provisions of this section, shall be punishable with fine which may extend to five thousand rupees.

(b) Where any contravention of this section has been made by a company, every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years.

108C. (1) No body corporate, or bodies corporate under the same management, which holds, or hold in the aggregate, ten per cent. or more of the nominal value of the equity share capital of a foreign company, having an established place of business in India, shall transfer any share in such foreign company to any citizen of India or any body corporate incorporated in India except with the previous approval of the Central Government and such previous approval shall not be refused unless the Central Government is satisfied that such transfer would be prejudicial to the public interest.

Restriction
on the
transfer of
shares of
foreign
companies.

(2) (a) Every body corporate which makes any transfer of shares in contravention of the provisions of this section, shall be punishable with fine which may extend to five thousand rupees.

(b) Where any contravention of this section has been made by a company, every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years.

REPEALED

568

Companies (Amendment)

[ACT 41]

**Power of
Central
Govern-
ment to
direct com-
panies not
to give
effect to
the trans-
fer.**

108D. (1) Where the Central Government is satisfied that as a result of the transfer of any share or block of shares of a company, a change in the controlling interest of the company is likely to take place and that such change is prejudicial to the interests of the company or to the public interest, that Government may direct the company not to give effect to the transfer of any such share or block of shares and—

(a) where the transfer of such share or block of shares has already been registered, not to permit the transferee or any nominee or proxy of the transferee to exercise any voting or other rights attaching to such share or block of shares,

(b) where the transfer of such share or block of shares has not been registered, not to permit any nominee or proxy of the transferor to exercise any voting or other rights attaching to such share or block of shares.

(2) Where any direction is made by the Central Government under sub-section (1), the share or the block of shares referred to therein shall stand retransferred to the person from whom it was acquired and thereupon the amount paid by the transferee for the acquisition of such share or block of shares shall be refunded to him by the person from whom such share or block of shares was acquired by such transferee.

(3) If the refund referred to in sub-section (2) is not made within a period of thirty days from the date of the direction referred to in sub-section (1), the Central Government shall, on the application of the person entitled to get the refund, direct, by order, the refund of such amount and such order may be enforced as if it were a decree made by a civil court.

(4) The person to whom any share or block of shares stand retransferred under sub-section (2) shall, on making refund under sub-section (2) or sub-section (3), be eligible to exercise voting or other rights attaching to such share or block of shares.

**Time
within
which
refusal
to be
communi-
cated.**

108E. Every request made to the Central Government for according its approval to the proposal for the acquisition of any share referred to in section 108A or the transfer of any share referred to in section 108C shall be presumed to have been granted unless, within a period of sixty days from the date of receipt of such request, the Central Government communicates to the person by whom the request was made, that the approval prayed for cannot be granted.

**Penalty
for contra-
vention of
sections
108A, 108B
or 108C.**

108F. (1) Every person who exercises any voting or other right in relation to any share acquired in contravention of the provisions of section 108A, section 108B or section 108C shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

~~REPEALED~~

or 1974]

Companies (Amendment)

569

(2) If any company gives effect to any voting or other right exercised in relation to any share acquired in contravention of the provisions of section 108A, section 108B or section 108C, the company and every officer of the company who is in default shall be punishable with fine which may extend to five thousand rupees, or with imprisonment for a term which may extend to three years, or with both.

108G. Nothing contained in section 108A, section 108B, section 108C or section 108D shall apply to the transfer of any share to, or by,—

(a) any company in which not less than fifty-one per cent. of the share capital is held by the Central Government;

(b) any corporation (not being a company) established by or under any Central Act;

(c) any public financial institution specified by or under section 4A.

Nothing
in sections
108A to
108D to
apply to
Govern-
ment com-
panies, etc.

108H. References in sections 108A, 108B, 108C and 108D to shares or share capital, as the case may be, shall be construed as references to shares or share capital, respectively, of a body corporate owning any undertaking to which the provisions of Part A of Chapter III of the Monopolies and Restrictive Trade Practices Act, 1969, apply.

54 of 1969.

Construc-
tion of
references
to "shares"
or "share
capital" in
sections
108A to
108D.

13. (1) In section 141 of the principal Act, for the word "Court", wherever it occurs, the words "Company Law Board" shall be substituted.

Amend-
ment of
section 141.

(2) Nothing in sub-section (1) shall affect any order made by the Court under section 141 or any proceeding relating to any matter specified in that section which is pending before the Court at the commencement of the Companies (Amendment) Act, 1974.

14. In section 186 of the principal Act, in sub-section (1), for the word "Court", wherever it occurs, the words "Company Law Board" shall be substituted.

Amend-
ment of
section 186.

15. After section 187B of the principal Act, the following sections shall be inserted, namely:—

Inser-
tion of
new sec-
tions 187C
and 187D.

"187C. (1) Notwithstanding anything contained in section 150, section 153B or section 187B, a person, whose name is entered, at the commencement of the Companies (Amendment) Act, 1974, or at any time thereafter, in the register of members of a company as the holder of a share in that company but who does not hold the beneficial interest in such share, shall, within such time and in such form as may be prescribed, make a declaration to the company specifying the name and other particulars of the person who holds the beneficial interest in such share.

Declara-
tion by
persons
not hold-
ing bene-
ficial inte-
rest in any
share.

REPEAL AND

370

Companies (Amendment)

FACT 41

(2) Notwithstanding anything contained elsewhere in this Act, a person who holds a beneficial interest in a share or a class of shares of a company shall, within thirty days from the commencement of the Companies (Amendment) Act, 1974, or within thirty days after his becoming such beneficial owner, whichever is later, make a declaration to the company specifying the nature of his interest, particulars of the person in whose name the shares stand registered in the books of the company and such other particulars as may be prescribed.

(3) Whenever there is a change in the beneficial interest in such shares the beneficial owner shall, within thirty days from the date of such change, make a declaration to the company in such form and containing such particulars as may be prescribed.

(4) Notwithstanding anything contained in section 153 where any declaration referred to in sub-section (1), sub-section (2) or sub-section (3) is made to a company, the company shall make a note of such declaration, in its register of members and shall file, within thirty days from the date of receipt of the declaration by it, a return in the prescribed form with the Registrar with regard to such declaration.

(5) (a) If any person, being required by the provisions of sub-section (1), sub-section (2) or sub-section (3), to make a declaration, fails, without any reasonable excuse, to do so, he shall be punishable with fine which may extend to one thousand rupees for every day during which the failure continues.

(b) If a company fails to comply with the provisions of this section, the company, and every officer of the company who is in default, shall be punishable with fine which may extend to one hundred rupees for every day during which the default continues.

(6) Any charge, promissory note or any other collateral agreement, created, executed or entered into in relation to any share, by the ostensible owner thereof, or any hypothecation by the ostensible owner of any share, in respect of which a declaration is required to be made under the foregoing provisions of this section, but not so declared, shall not be enforceable by the beneficial owner or any person claiming through him.

(7) Nothing in this section shall be deemed to prejudice the obligation of a company to pay dividend in accordance with the provisions of section 206, and the obligation shall, on such payment, stand discharged.

187D. Where it appears to the Central Government that there are good reasons so to do, it may appoint one or more Inspectors to investigate and report as to whether the provisions of section 187C have been complied with with regard to any share, and thereupon the provisions of section 247 shall, as far as may be, apply to such investigation as if it were an investigation ordered under that section.”

OF 1974]

Companies (Amendment)

577

Amend-
ment of
section
192.

16. In section 192 of the principal Act, in sub-section (4),

(i) in item (ii) of clause (ee), for the word and figures "section 294", the words and figures "section 294 or section 294AA" shall be substituted;

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

"(g) copies of the terms and conditions of appointment of a sole selling agent appointed under section 294 or of a sole selling agent or other person appointed under section 294AA?"

17. After section 204 of the principal Act, the following section shall be inserted, namely:—

'204A. (1) Except with the previous approval of the—

(a) company in general meeting, and

(b) Central Government,

no company shall, during a period of five years from the commencement of the Companies (Amendment) Act, 1974, appoint as secretary, consultant or adviser or to any other office, by whatever name called,—

(i) any individual, firm or body corporate who, or which, had at any time after the 15th day of August, 1960, been holding office as the managing agents or secretaries and treasurers of the company, or

(ii) any associate of the managing agents or secretaries and treasurers as aforesaid:

Provided that where any such appointment has been made before the commencement of the Companies (Amendment) Act, 1974, no such appointment shall be continued by the company after a period of six months from such commencement unless such appointment has been approved by the company in general meeting and the Central Government before the expiry of the said period.

(2) (a) Where—

(i) any individual, firm or body corporate, who, or which, had at any time after the 15th day of August, 1960, been holding office as the managing agents or secretaries and treasurers of the company, or

(ii) any associate of the managing agents or secretaries and treasurers as aforesaid;

has been appointed by such company at any time during a period of five years preceding the 3rd day of April, 1970, or at any time after that date, as its secretary, consultant or adviser, or to any other office under it, by whatever name called, the Central Government may, if it appears to it that there is good reason for so doing, require the company to furnish to it such information as it may consider necessary, with regard to the terms and conditions of the appointment of such individual, firm or body corporate as secretary, consultant or adviser or as the holder of such other office, for the purpose of determining whether or not such terms and conditions are prejudicial to the interest of the company.

(b) If the company refuses or neglects to furnish any such information, the Central Government may appoint a competent person

Insertion
of new
section
204A.

Restrictions
on the
appointment
of former
managing
agents or
secretaries
and trea-
surers to
any office.

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the Adas

REPEALED

572

Companies (Amendment)

[Act 41]

to investigate and report on the terms and conditions of appointment to any of the offices referred to in clause (a) and the provisions of section 240A shall, so far as may be, apply, to such investigation, as they apply to any other investigation made under any other provision of this Act.

(c) If, after perusal of the information furnished by the company, or, as the case may be, the report submitted by the person appointed under clause (b), the Central Government is of opinion that the terms and conditions of appointment to any of the offices referred to in clause (a) are prejudicial to the interests of the company, it may, by order, make such variations in those terms and conditions as would, in its opinion, no longer render such terms and conditions of appointment prejudicial to the interests of the company.

(d) As from such date as may be specified by the Central Government in the order aforesaid, the appointment referred to in clause (a) shall be regulated by the terms and conditions as varied by that Government.

(3) For the purposes of this section, the expression "appointment" includes re-appointment, employment and re-employment."

18. In section 205 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) Notwithstanding anything contained in sub-section (1), on and from the commencement of the Companies (Amendment) Act, 1974, no dividend shall be declared or paid by a company for any financial year out of the profits of the company for that year arrived at after providing for depreciation in accordance with the provisions of sub-section (2), except after the transfer to the reserves of the company of such percentage of its profits for that year, not exceeding ten per cent., as may be prescribed:

Provided that nothing in this sub-section shall be deemed to prohibit the voluntary transfer by a company of a higher percentage of its profits to the reserves in accordance with such rules as may be made by the Central Government in this behalf".

19. After section 205 of the principal Act, the following sections shall be inserted, namely:—

Insertion
of new
sections
205A and
205B.

Unpaid
dividend
to be
trans-
ferred to
special
dividend
account.

205A. (1) Where, after the commencement of the Companies (Amendment) Act, 1974, a dividend has been declared by a company but has not been paid, or the warrant in respect thereof has not been posted, within forty-two days from the date of the declaration, to any shareholder entitled to the payment of the dividend, the company shall, within seven days from the date of expiry of the said period of forty-two days, transfer the total amount of dividend which remains unpaid or in relation to which no dividend warrant has been posted within the said period of forty-two days, to a special account to be opened by the company in that behalf in any scheduled bank, to be called "Unpaid Dividend Account of....Company Limited/Company (Private) Limited".

(2) Where the whole or any part of any dividend, declared by a company before the commencement of the Companies (Amendment) Act,

REPEALED

of 1974]

Companies (Amendment)

573

ment) Act, 1974, remains unpaid at such commencement, the company shall, within a period of six months from such commencement, transfer such unpaid amount to the account referred to in sub-section (1).

(3) Where, owing to inadequacy or absence of profits in any year, any company proposes to declare dividend out of the accumulated profits earned by the company in previous years and transferred by it to the reserves, such declaration of dividend shall not be made except in accordance with such rules as may be made by the Central Government in this behalf, and, where any such declaration is not in accordance with such rules, such declaration shall not be made except with the previous approval of the Central Government.

(4) If the default is made in transferring the total amount referred to in sub-section (1) or any part thereof to the unpaid dividend account of the concerned company, the company shall pay, from the date of such default, interest on so much of the amount as has not been transferred to the said account, at the rate of twelve per cent. per annum and the interest accruing on such amount shall enure to the benefit of the members of the company in proportion to the amount remaining unpaid to them.

(5) Any money transferred to the unpaid dividend account of a company in pursuance of this section which remains unpaid or unclaimed for a period of three years from the date of such transfer, shall be transferred by the company to the general revenue account of the Central Government but a claim to any money so transferred to the general revenue account may be preferred to the Central Government by the person to whom the money is due and shall be dealt with as if such transfer to the general revenue account had not been made, the order, if any, for payment of the claim being treated as an order for refund of revenue.

(6) The company shall, when making any transfer under sub-section (5) to the general revenue account of the Central Government any unpaid or unclaimed dividend, furnish to such officer as the Central Government may appoint in this behalf a statement in the prescribed form setting forth in respect of all sums included in such transfer, the nature of the sums, the names and last known addresses of the person entitled to receive the sum, the amount to which each person is entitled and the nature of his claim thereto and such other particulars as may be prescribed.

(7) The company shall be entitled to a receipt from the Reserve Bank of India for any money transferred by it to the general revenue account of the Central Government and such receipt shall be an effectual discharge of the company in respect thereof.

(8) If a company fails to comply with any of the requirements of this section, the company and every officer of the company who is in default, shall be punishable with fine which may extend to five hundred rupees for every day during which the failure continues.

REPEALED

574

Companies (Amendment)

[Act 41]

Payment
of unpaid
or un-
claimed
dividend.

205B. Any person claiming to be entitled to any money transferred under sub-section (5) of section 205A to the general revenue account of the Central Government, may apply to the Central Government for an order for payment of the money claimed; and the Central Government may, if satisfied, whether on a certificate by the company or otherwise, that such person is entitled to the whole or any part of the money claimed, make an order for the payment to that person of the sum due to him after taking such security from him as it may think fit.'

Amend-
ment of
section
209.

20. In section 209 of the principal Act, in sub-section (4),—

- (i) the brackets and letter "(a)" shall be omitted;
- (ii) clauses (b), (c) and (d) shall be omitted.

Insertion
of new
section
209A.

21. After section 209 of the principal Act, the following section shall be inserted, namely:—

Inspection
of books
of account,
etc., of
compa-
nies.

"209A. (1) The books of account and other books and papers of every company shall be open to inspection during business hours—

(i) by the Registrar, or

(ii) by such officer of Government as may be authorised by the Central Government in this behalf:

Provided that such inspection may be made without giving any previous notice to the company or any officer thereof.

(2) It shall be the duty of every director, other officer or employee of the company to produce to the person making inspection under sub-section (1), all such books of account and other books and papers of the company in his custody or control and to furnish him with any statement, information or explanation relating to the affairs of the company as the said person may require of him within such time and at such place as he may specify.

(3) It shall also be the duty of every director, other officer or employee of the company to give to the person making inspection under this section all assistance in connection with the inspection which the company may be reasonably expected to give.

(4) The person making the inspection under this section may, during the course of inspection,—

(i) make or cause to be made copies of books of account and other books and papers, or

(ii) place or cause to be placed any marks of identification thereon in token of the inspection having been made.

(5) Notwithstanding anything contained in any other law for the time being in force or any contract to the contrary, any person making an inspection under this section shall have the same powers as are vested in a civil court under the Code of Civil Procedure,

5 of 1908.

1908, while trying a suit, in respect of the following matters, namely:—

(i) the discovery and production of books of account and other documents, at such place and such time as may be specified by such person;

(ii) summoning and enforcing the attendance of persons and examining them on oath;

(iii) inspection of any books, registers and other documents of the company at any place.

(6) Where an inspection of the books of account and other books and papers of the company has been made under this section, the person making the inspection shall make a report to the Central Government.

(7) Any officer authorised to make an inspection under this section shall have all the powers that a Registrar has under this Act in relation to the making of inquiries.

(8) If default is made in complying with the provisions of this section, every officer of the company who is in default shall be punishable with fine which shall not be less than five thousand rupees, and also with imprisonment for a term not exceeding one year.

(9) Where a director or any other officer of a company has been convicted of an offence under this section he shall, on and from the date on which he is so convicted, be deemed to have vacated his office as such and on such vacation of office, shall be disqualified for holding such office in any company, for a period of five years from the such date.”.

22. In section 217 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

(2A) (a) The Board's report shall also include a statement showing the name of every employee of the company who—

(i) if employed throughout the financial year, was in receipt of remuneration for that year which, in the aggregate, was not less than thirty-six thousand rupees; or

(ii) if employed for a part of the financial year, was in receipt of remuneration for any part of that year, at a rate which, in the aggregate, was not less than three thousand rupees per month.

(b) The statement referred to in clause (a) shall also indicate,—

(i) whether any such employee is a relative of any director or manager of the company and if so, the name of such director, and

(ii) such other particulars as may be prescribed.

Explanation.—“Remuneration” has the meaning assigned to it in the *Explanation* to section 198.

23. In section 224 of the principal Act,—

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

Amend-
ment of
section
217.

Amend-
ment of
section
224.

REPEALED

§76

Companies (Amendment)

[ACT 41]

"Provided that before any appointment or re-appointment of auditor or auditors is made by any company at any annual general meeting, a written certificate shall be obtained by the company from the auditor or auditors proposed to be so appointed to the effect that the appointment or re-appointment, if made, will be in accordance with the limits specified in sub-section (1B).";

(ii) in sub-sections (1) and (1A), the words "unless he is a retiring auditor" shall be omitted;

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

(1B) On and from the financial year next following the commencement of the Companies (Amendment) Act, 1974, no company or its Board of directors shall appoint or re-appoint any person or firm as its auditor if such person or firm is, at the date of such appointment or re-appointment, holding appointment as auditor of the specified number of companies or more than the specified number of companies:

Provided that in the case of a firm of auditors, "specified number of companies" shall be construed as specified number of companies per partner of the firm:

Provided further that where any partner of the firm is also a partner of any other firm or firms of auditors, the number of companies which may be taken into account, by all the firms together, in relation to such partner shall not exceed the specified number in the aggregate:

Provided also that where any partner of a firm of auditors is also holding office, in his individual capacity, as the auditor of one or more companies, the number of companies which may be taken into account in his case shall not exceed the specified number, in the aggregate.

(1C) For the purposes of enabling a company to comply with the provisions of sub-section (1B), a person or firm holding, immediately before the commencement of the Companies (Amendment) Act, 1974, appointment as the auditor of a number of companies exceeding the specified number, shall, within sixty days from such commencement, intimate his or its unwillingness to be re-appointed as the auditor from the financial year next following such commencement, to the company or companies of which he or it is not willing to be re-appointed as the auditor; and shall simultaneously intimate to the Registrar the names of the companies of which he or it is willing to be re-appointed as the auditor and forward a copy of the intimation to each of the companies referred to therein.

Explanation I.—For the purposes of sub-sections (1B) and (1C), "specified number" means,—

(a) in the case of a person or firm holding appointment as auditor of a number of companies each of which has a paid-up share capital of less than rupees twenty-five lakhs, twenty such companies;

(b) in any other case, twenty companies, out of which not more than ten shall be companies each of which has a paid-up share capital of rupees twenty-five lakhs or more.

17 OCTOBER
1974]

Companies (Amendment)

577

872

Explanation II.—In computing the specified number, the number of companies in respect of which or any part of which any person or firm has been appointed as an auditor, whether singly or in combination with any other person or firm, shall be taken into account.';

(iv) in sub-section (2), for the words "At any annual general meeting", the words "Subject to the provisions of sub-section (1B) and section 224A, at any annual general meeting" shall be substituted.

24. After section 224 of the principal Act, the following section shall be inserted, namely:—

224A. (1) In the case of a company in which not less than twenty-five per cent. of the subscribed share capital is held, whether singly or in any combination, by

- (a) a public financial institution or a Government company or Central Government or any State Government, or
- (b) any financial or other institution established by any Provincial or State Act in which a State Government holds not less than fifty-one per cent. of the subscribed share capital, or
- (c) a nationalised bank or an insurance company carrying on general insurance business,

the appointment or re-appointment at each annual general meeting of an auditor or auditors shall be made by a special resolution.

(2) Where any company referred to in sub-section (1) omits or fails to pass at its annual general meeting any special resolution appointing an auditor or auditors, it shall be deemed that no auditor or auditors had been appointed by the company at its annual general meeting, and thereupon the provisions of sub-section (3) of section 224 shall become applicable in relation to such company.

Explanation.—For the purposes of this section,

(a) "general insurance business" has the meaning assigned to it in the General Insurance (Emergency Provisions) Act, 1971;

(b) "nationalised bank" means a corresponding new bank as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970.'

17 of 1971.

5 of 1970.

25. In section 233B of the principal Act,—

(i) in sub-section (1), for the words beginning with "who shall be either" and ending with "prescribed qualifications", the following shall be substituted, namely:—

"who shall be a cost accountant within the meaning of the Cost and Works Accountants Act, 1959:

Provided that if the Central Government is of opinion that sufficient number of cost accountants within the meaning of the Cost and Works Accountants Act, 1959, are not available for conducting the audit of the cost accounts of companies generally, that Government may, by notification in the Official Gazette, direct

Insertion
of new
section
224A.

Auditor
not to be
appointed
except
with
the appro-
val of the
company
by special
resolution
in certain
cases.

23 of 1959.

23 of 1959.

Amend-
ment of
section
233B.

that, for such period as may be specified in the said notification, such Chartered Accountant within the meaning of the Chartered Accountants Act, 1949, as possesses the prescribed qualifications, may also conduct the audit of the cost accounts of companies, and thereupon a Chartered Accountant possessing the prescribed qualifications may be appointed to audit the cost accounts of the company.”;

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

“(2) The auditor under this section shall be appointed by the Board of directors of the company with the previous approval of the Central Government”;

(iii) in sub-section (4), for the words “Company Law Board”, the words “Central Government” shall be substituted;

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

“(5) (a) A person referred to in sub-section (3) or sub-section (4) of section 226 shall not be appointed or re-appointed for conducting the audit of the cost accounts of a company.

(b) A person appointed, under section 224, as an auditor of a company, shall not be appointed or re-appointed for conducting the audit of the cost accounts of that company.

(c) If a person, appointed for conducting the audit of cost accounts of a company, becomes subject, after his appointment, to any of the disqualifications specified in clause (a) or clause (b) of this sub-section, he shall, on and from the date on which he becomes so subject, cease to conduct the audit of the cost accounts of the company.

(6) Upon receipt of an order under sub-section (1), it shall be the duty of the company to give all facilities and assistance to the person appointed for conducting the audit of the cost accounts of the company.

(7) The company shall, within thirty days from the date of receipt of a copy of the report referred to in sub-section (4), furnish the Central Government with full information and explanations on every reservation or qualification contained in such report.

(8) If, after considering the report referred to in sub-section (4) and the information and explanations furnished by the company under sub-section (7), the Central Government is of opinion that any further information or explanation is necessary, that Government may call for such further information and explanation and thereupon the company shall furnish the same within such time as may be specified by that Government.

(9) On receipt of the report referred to in sub-section (4) and the informations and explanations furnished by the company under sub-section (7) and sub-section (8), the Central Government may take such action on the report, in accordance with the provisions of this Act or any other law for the time being in force, as it may consider necessary.

(10) The Central Government may direct the company whose cost accounts have been audited under this section to circulate to its members, along with the notice of the annual general meeting to be held for the first time after the submission of such report, the whole or such portion of the said report as it may specify in this behalf.

(11) If default is made in complying with the provisions of this section, the company shall be liable to be punished with fine which may extend to five thousand rupees, and every officer of the company who is in default, shall be liable to be punished with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both.”.

26. In section 269 of the principal Act,—

(i) in sub-section (1) (including the proviso thereto), the words “for the first time”, wherever they occur, shall be omitted;

(ii) to sub-section (1), the following *Explanation* shall be added, namely:—

Explanation.—In this sub-section, and in sub-sections (3) and (5), “appointment” includes “re-appointment” and “whole-time director” includes “a director in the whole-time employment of the company”.

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

“(3) The Central Government shall not accord its approval under sub-section (1) in any case, unless it is satisfied that—

(a) it is in the interests of the company to have a managing or whole-time director,

(b) the proposed managing or whole-time director of the company is, in its opinion, a fit and proper person to be appointed as such and that the appointment of such person as managing or whole-time director is not against the public interest, and

(c) the terms and conditions of appointment of the proposed managing or whole-time director of the company are fair and reasonable.

(4) While according its approval under sub-section (1), the Central Government may, if it is of opinion that in the interests of the company it is necessary so to do, accord approval to the appointment for a period lesser than the period for which the person is proposed to be appointed by the company.

(5) If the appointment of a person as a managing or whole-time director is not approved by the Central Government, the person so appointed shall vacate his office as such managing or whole-time director on the date on which the decision of the Central Government is communicated to the company, and if he omits or fails to do so, he shall be punishable with fine which may extend to five hundred rupees for every day during which he omits or fails to vacate such office.”

Amend-
ment of
section
269.

REPEALED

580

Companies (Amendment)**Act 41**

Insertion of new section 294AA. 27. After section 294A of the principal Act, the following section shall be inserted, namely:—

294AA. Insertion of new section 294AA.

Power of Central Government to prohibit the appointment of sole selling agents in certain cases. 294AA. (1) Where the Central Government is of opinion that the demand for goods of any category, to be specified by that Government, is substantially in excess of the production or supply of such goods and that the services of sole selling agents will not be necessary to create a market for such goods, the Central Government may, by notification in the Official Gazette, declare that sole selling agents shall not be appointed by a company for the sale of such goods for such period as may be specified in the declaration.

(2) No company shall appoint any individual, firm or body corporate, who or which has a substantial interest in the company, as sole selling agent of that company unless such appointment has been previously approved by the Central Government.

(3) No company having a paid-up share capital of rupees fifty lakhs or more shall appoint a sole selling agent except with the consent of the company accorded by a special resolution and the approval of the Central Government.

(4) The provisions of sub-sections (5), (6) and (7) of section 294 shall, so far as may be, apply to the sole selling, or the sole purchasing or buying, agents of a company.

(5) A company seeking approval under this section shall furnish such particulars as may be prescribed.

(6) Where any appointment has been made of a sole selling agent by a company before the commencement of the Companies (Amendment) Act, 1974, and the appointment is such that it could not have been made except on the authority of a special resolution passed by the company and the approval of the Central Government, if sub-section (2), sub-section (3) and sub-section (8), were in force at the time of such appointment, the company shall obtain such authority and approval within six months from such commencement; and if such authority and approval are not so obtained, the appointment of the sole selling agent shall stand terminated on the expiry of six months from such commencement.

(7) If the company in general meeting disapproves the appointment referred to in sub-section (3), such appointment shall, notwithstanding anything contained in sub-section (6), cease to have effect from the date of the general meeting.

(8) The provisions of this section except those of sub-section (1), shall apply so far as may be to the appointment by a company of a sole agent for the buying or purchasing of goods on behalf of the company.

Explanation.— In this section,—

(a) "appointment" includes "re-appointment";

(b) "substantial interest";

(i) in relation to an individual, means the beneficial interest held by such individual or any of his relatives, whether singly or taken together, in the shares of the com-

REPEALED

1st OF 1974]

Companies (Amendment)

581

pany, the aggregate amount paid-up on which exceeds five lakhs of rupees or five per cent. of the paid-up share capital of the company, whichever is the lesser;

(ii) in relation to a firm, means the beneficial interest held by one or more partners of the firm or any relative of such partner, whether singly or taken together, in the shares of the company, the aggregate amount paid-up on which exceeds five lakhs of rupees or five per cent. of the paid-up share capital of the company whichever is the lesser;

(iii) in relation to a body corporate, means the beneficial interest held by such body corporate or one or more of its directors or any relative of such director, whether singly or taken together, in the shares of the company, the aggregate amount paid-up on which exceeds five lakhs of rupees or five per cent. of the paid-up share capital of the company, whichever is the lesser.

28. In section 297 of the principal Act, to sub-section (1), the following proviso shall be added, namely:—

"Provided that in the case of a company having a paid-up share capital of not less than rupees one crore, no such contract shall be entered into except with the previous approval of the Central Government".

29. In section 314 of the principal Act,

(i) in clause (b) of sub-section (1), for the portion beginning with "no partner or relative" and ending with "legal or technical adviser", the words "no partner or relative of such director, no firm in which such director, or a relative of such director, is a partner, no private company of which such director is a director or member, and no director or manager of such a private company, shall hold any office or place of profit carrying a total monthly remuneration of five hundred rupees or more, except that of managing director or manager," shall be substituted;

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

(1B). Notwithstanding anything contained in sub-section (1),—

(a) no partner or relative of a director or manager,
(b) no firm in which such director or manager, or relative of either, is a partner,
(c) no private company of which such a director or manager, or relative of either, is a director or member,

shall hold any office or place of profit in the company which carries a total monthly remuneration of not less than three thousand rupees, except with the prior consent of the company by a special resolution and the approval of the Central Government:

Provided that in a case where no office of profit could have been held in the company by a person if this section had been in force at the time when the appointment or re-appointment to such office of profit was made, the company shall, within a period of six months from the commencement of the Companies

Amend-
ment of
section
297.

Amend-
ment of
section
314.

REPEALED

182 582

Companies (Amendment)

[Act 41]

(Amendment) Act, 1974, obtain the approval of the Company in general meeting and of the Central Government for the holding, by such person, of the office of profit.”;

(iii) sub-section (2) shall be re-lettered as clause (a) thereof, and after clause (a), as so re-lettered, the following clause shall be inserted, namely:—

“(b) The company shall not waive the recovery of any sum refundable to it under clause (a) unless permitted to do so by the Central Government.”;

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

“(2B) If, after the commencement of the Companies (Amendment) Act, 1974, any office or place of profit is held, without the prior consent of the company by a special resolution and the approval of the Central Government, the partner, relative, firm or private company appointed to such office or place of profit shall be liable to refund to the company any remuneration received or the monetary equivalent of any perquisite or advantage enjoyed by him on and from the date on which the office was so held by him.

(2C) If any office or place of profit is held in contravention of the provisions of the proviso to sub-section (1B), the director, partner, relative, firm, private company or manager concerned shall be deemed to have vacated his or its office as such on and from the expiry of six months from the commencement of the Companies (Amendment) Act, 1974, or the date next following the date of the general meeting of the company referred to in the said proviso, whichever is earlier, and shall be liable to refund to the company any remuneration received or the monetary equivalent of any perquisite or advantage enjoyed by him or it for the period immediately preceding the date aforesaid in respect of such office or place of profit.

(2D) The company shall not waive the recovery of any sum refundable to it under sub-section (2B) or (2C), as the case may be, unless permitted to do so by the Central Government.”;

(v) in sub-section (3), for the words “within the meaning of sub-section (1)”, the words “within the meaning of this section” shall be substituted;

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

“(4) Nothing in this section shall apply to a person, who being the holder of any office of profit in the company, is appointed by the Central Government, under section 408, as a director of the company.”.

Insertion 30. After section 383 of the principal Act, the following section shall of new be inserted, namely:—
section
383A.

Certain companies to have secretaries. “383A. (1) Every company having a paid-up share capital of rupees twenty-five lakhs or more shall have a whole-time secretary, and where the Board of directors of any such company comprises only two directors, neither of them shall be the secretary of the company.

~~REPEALED~~

or 1974]

Companies (Amendment)

583

(2) Where, at the commencement of the Companies (Amendment) Act, 1974,—

(a) any firm or body corporate is holding office, as the secretary of a company, such firm or body corporate shall, within six months from such commencement, vacate office as secretary of such company;

(b) any individual is holding office as the secretary of more than one company having a paid-up share capital of rupees twenty-five lakhs or more, he shall, within a period of six months from such commencement, exercise his option as to the company of which he intends to continue as the secretary and shall, on and from such date, vacate office as secretary in relation to all other companies.”

31. In section 408 of the principal Act,—

(i) in sub-section (1), for the words “not more than two persons”, the words “such number of persons as the Central Government may, by order in writing, specify as being necessary to effectively safeguard the interests of the company, or its shareholders or the public interest” shall be substituted;

(ii) in sub-section (2), for the words “not more than two persons”, the words “such number of persons as the Central Government may, by order in writing, specify as being necessary to effectively safeguard the interest of the company, or its shareholders or the public interest” shall be substituted;

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

“(6) Notwithstanding anything contained in this Act or in any other law for the time being in force, where any person is appointed by the Central Government to hold office as director or additional director of a company in pursuance of sub-section (1) or sub-section (2), the Central Government may issue such directions to the company as it may consider necessary or appropriate in regard to its affairs.

(7) The Central Government may require the persons appointed as directors or additional directors in pursuance of sub-section (1) or sub-section (2) to report to the Central Government from time to time with regard to the affairs of the company.”.

32. Section 591 of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1), as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) Notwithstanding anything contained in sub-section (1), where not less than fifty per cent. of the paid up share capital (whether equity or preference or partly equity and partly preference) of a company incorporated outside India and having an

Amend-
ment of
section
408.

Amend-
ment of
section
591.

REPEALED

584 88

Companies (Amendment)

[ACT 41 OF 1974]

established place of business in India, is held by one or more citizens of India or by one or more bodies corporate incorporated in India, or by one or more citizens of India and one or more bodies corporate incorporated in India, whether singly or in the aggregate, such company shall comply with such of the provisions of this Act as may be prescribed with regard to the business carried on by it in India, as if it were a company incorporated in India.”.

Amendment of section 600.

33. In section 600 of the principal Act, sub-section (3) shall be re-lettered as clause (a) thereof, and after clause (a), as so re-lettered, the following clause shall be inserted, namely:—

“(b) On and from the commencement of the Companies (Amendment) Act, 1974,—

(i) the provisions of section 159 shall, subject to such modifications or adaptations as may be made therein by the rules made under this Act, apply to a foreign company having an established place of business in India, as they apply to a company incorporated in India;

(ii) the provisions of sections 209, 209A, 233A and 233B and sections 234 to 246 (both inclusive) shall, so far as may be, apply only to the Indian business of a foreign company having an established place of business in India, as they apply to a company incorporated in India.”.

Amendment of section 616.

34. In section 616 of the principal Act, after clause (d), the following clause shall be inserted, namely:—

“(e) to such body corporate, incorporated by any Act for the time being in force, as the Central Government may, by notification in the Official Gazette, specify in this behalf, subject to such exceptions, modifications or adaptations, as may be specified in the notification.”.

Amendment of section 619.

35. In section 619 of the principal Act, to sub-section (2), the following proviso shall be added, namely:—

“Provided that the limits specified in sub-sections (1B) and (1C) of section 224 shall apply in relation to the appointment or re-appointment of an auditor under this sub-section.”.

Insertion of new section 619B.

36. After section 619A of the principal Act, the following section shall be inserted, namely:—

“619B. The provisions of section 619 shall apply to a company in which not less than fifty-one per cent. of the paid-up share capital is held by one or more of the following or any combination thereof, as if it were a Government company, namely:—

(a) the Central Government and one or more Government companies;

(b) any State Government or Governments and one or more Government companies;

(c) the Central Government, one or more State Governments and one or more Government companies,

Provisions of section 619 to apply to certain companies.

~~REPEALED~~

or 1974]

Companies (Amendment)

585

- (d) the Central Government and one or more corporations owned or controlled by the Central Government;
- (e) the Central Government, one or more State Governments and one or more corporations owned or controlled by the Central Government;
- (f) one or more corporations owned or controlled by the Central Government or the State Government;
- (g) more than one Government company.”.

37. In section 637A of the principal Act,—

- (i) in sub-section (1), for the words “Central Government”, wherever they occur, the words “Central Government or Company Law Board” shall be substituted;
- (ii) in sub-section (2),—
 - (a) for the words “Central Government”, the words “Central Government or Company Law Board” shall be substituted;
 - (b) in clauses (a) and (b), after the words “that Government”, the words “or Board” shall be inserted.

38. After section 637A of the principal Act, the following section shall be inserted, namely:—

“637AA. Notwithstanding anything contained in section 198, section 309 or section 637A, the Central Government may, while according its approval under section 269, to any appointment or to any remuneration under section 309, section 310, section 311 or section 387, fix the remuneration of the person so appointed or the remuneration, as the case may be, within the limits specified in this Act, at such amount or percentage of profits of the company, as it may deem fit and while fixing the remuneration, the Central Government shall have regard to—

- (a) the financial position of the company;
- (b) the remuneration or commission drawn by the individual concerned in any other capacity, including his capacity as a sole selling agent;
- (c) the remuneration or commission drawn by him from any other company;
- (d) professional qualifications and experience of the individual concerned;
- (e) public policy relating to the removal of disparities in income.”.

39. In section 641 of the principal Act, in sub-section (3), for the portion beginning with “comprised in one session or” and ending with “session immediately following”, the following shall be substituted, namely:—

“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,”.

Amend-
ment of
section
637A.

Insertion
of new
section
637AA.

Power to
Central
Govern-
ment
to fix
a limit
with
regard
to remu-
neration.

Amend-
ment of
section
641.

Amend-
ment of
section
642.

40. In section 642 of the principal Act, in sub-section (3), for the portion beginning with "comprised in one session or" and ending with "session immediately following", the following shall be substituted, namely:—

"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,".

Insertion
of new
Schedule
XIII.

41. After Schedule XII of the principal Act, the following Schedule shall be inserted, namely:—

"SCHEDULE XIII"

(See section 108B)

PART I

1. Aircraft.
2. Air transport.
3. Arms and ammunition and allied items of defence equipment.
4. Atomic energy.
5. Coal and lignite.
6. Heavy castings and forgings of iron and steel.
7. Heavy electrical plant including large hydraulic and steam turbines.
8. Heavy plant and machinery required for iron and steel production, for mining, for machine tool manufacture and for such other basic industries as may be specified by the Central Government.
9. Iron and steel.
10. Mineral oils.
11. Minerals specified in the Schedule to the Atomic Energy (Control of Production and Use) Order, 1953.
12. Mining and processing of copper, lead, zinc, tin, molybdenum and wolfram.
13. Mining of iron ore, manganese ore, chrome ore, gypsum, sulphur, gold and diamond.
14. Railway transport.
15. Ship-building.
16. Telephones and telephone cables, telegraph and wireless apparatus (excluding radio receiving sets).

PART II

1. Aluminium and other non-ferrous metals not included in Part I.
2. All other minerals except "minor minerals" as defined in rule 3 of the Minerals Concession Rules, 1949.
3. Antibiotics and other essential drugs.

~~REPEALED~~

or 1974]

Companies (Amendment)

587

4. Basic and intermediate products required by chemical industries such as the manufacture of drugs, dyestuffs and plastics.
5. Carbonisation of coal.
6. Chemical pulp.
7. Ferro alloys and tool steels.
8. Fertilizers.
9. Machine tools.
10. Road transport.
11. Sea transport.
12. Synthetic rubber.”.

42. For section 22 of the Securities Contracts (Regulation) Act, 1956, the following section shall be substituted, namely:—

Substitution of new section for section 22 of Act 42 of 1956.

‘22. Where a recognised stock exchange acting in pursuance of any power given to it by its bye-laws, refuses to list the securities of any public company, the company shall be entitled to be furnished with reasons for such refusal, and may,—

Right of appeal against refusal of stock exchanges to list securities of public companies.

(a) within fifteen days from the date on which the reasons for such refusal are furnished to it, or

(b) where the stock exchange has omitted or failed to dispose of, within the time specified in sub-section (1) of section 73 of the Companies Act, 1956 (hereafter in this section referred to as the “specified time”), the application for permission for the shares or debentures to be dealt with on the stock exchange, within fifteen days from the date of expiry of the specified time or within such further period, not exceeding one month, as the Central Government may, on sufficient cause being shown, allow,

1 of 1956.

appeal to the Central Government against such refusal, omission or failure, as the case may be, and thereupon the Central Government may, after giving the stock exchange an opportunity of being heard,—

- (i) vary or set aside the decision of the stock exchange, or
- (ii) where the stock exchange has omitted or failed to dispose of the application within the specified time, grant or refuse the permission,

and where the Central Government sets aside the decision of the recognised stock exchange or grants the permission, the stock exchange shall act in conformity with the orders of the Central Government.’

~~REPEALED~~

588

Companies (Amendment)

Amend-
ment of
Act 54
of 1969.

43. In the Monopolies and Restrictive Trade Practices Act, 1969, in clause (g) of section 2,—

(i) in sub-clause (iii)(c), the words "within the meaning of section 370 of the Companies Act, 1956," shall be omitted;

1 of 1956.

(ii) in sub-clause (v), the words "within the meaning of the said section 370" shall be omitted;

(iii) after sub-clause (vii), but before the *Illustration*, the following *Explanations* shall be inserted, namely:—

"Explanation I.—For the purposes of this Act, two undertakings, owned by bodies corporate, shall be deemed to be under the same management,—

(i) if one such body corporate exercises control over the other or both are under the control of the same group or any of the constituents of the same group; or

(ii) if the managing director or manager of one such body corporate is the managing director or manager of the other; or

(iii) if one such body corporate holds not less than one-third of the equity shares in the other or controls the composition of not less than one-third of the total membership of the Board of directors of the other; or

(iv) if one or more directors of one such body corporate constitute, or at any time within a period of six months immediately preceding the day when the question arises as to whether such bodies corporate are under the same management, constituted (whether independently or together with the relatives of such directors) one-third of the directors of the other; or

(v) if the same individual or individuals belonging to a group, while holding (whether by themselves or together with their relatives) not less than one-third of the equity shares in one such body corporate also hold (whether by themselves or together with their relatives) not less than one-third of the equity shares in the other; or

(vi) if the same body corporate or bodies corporate belonging to a group, holding not less than one-third of the equity shares in one body corporate, also hold not less than one-third of the equity shares in the other; or

(vii) if not less than one-third of the total voting power with respect to any matter relating to each of the two bodies corporate is exercised or controlled by the same individual (whether independently or together with his relatives) or the same body corporate (whether independently or together with its subsidiaries); or

(viii) if not less than one-third of the total voting power with respect to any matter relating to each of the two bodies corporate is exercised or controlled by the same individuals

REPEALED

OF 1974]

Companies (Amendment)

589

belonging to a group or by the same bodies corporate belonging to a group, or jointly by such individual or individuals and one or more of such bodies corporate; or

(ix) if the directors of the one such body corporate are accustomed to act in accordance with the directions or instructions of one or more of the directors of the other, or if the directors of both the bodies corporate are accustomed to act in accordance with the directions or instructions of an individual, whether belonging to a group or not.

Explanation II.—If a group exercises control over a body corporate, that body corporate and every other body corporate, which is a constituent of or controlled by, the group shall be deemed to be under the same management.

Explanation III.—If two or more bodies corporate under the same management hold, in the aggregate, not less than one-third equity share capital in any other body corporate, such other body corporate shall be deemed to be under the same management as the first-mentioned bodies corporate.

Explanation IV.—In determining whether or not two or more bodies corporate are under the same management, the shares held by public financial institutions in such bodies corporate shall not be taken into account".

Rep. by Act...38 of 1978, S. 2 + Sch. I

THE PAYMENT OF BONUS (AMENDMENT) ACT, 1974

NO. 42 OF 1974

[11th September, 1974]

An Act further to amend the Payment of Bonus Act, 1965.

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

Short title.

1. This Act may be called the Payment of Bonus (Amendment) Act, 1974.

Amend-
ment of
section
10.

2. In section 10 of the Payment of Bonus Act, 1965 (hereinafter referred to as the principal Act), after sub-section (3), the following sub-section shall be inserted, namely:—

(4) The provisions of sub-section (2) shall apply also in relation to the payment of minimum bonus by every employer to every employee in respect of the accounting year commencing on any day in the year 1973 as they apply in relation to the payment of minimum bonus in respect of the accounting year commencing on any day in the year 1971 and accordingly for the purposes of such application, the reference to "the accounting year commencing on any day in the year 1971", or any reference to "that accounting year", in that sub-section shall be construed as a reference to "the accounting year commencing on any day in the year 1973".

Amend-
ment of
section
13.

3. In section 13 of the principal Act, in the proviso, for the words and figures "in respect of the accounting year commencing on any day in the year 1971 and in respect of the accounting year commencing on any day in the year 1972", the words and figures "in respect of the accounting year commencing on any day in the year 1971 or 1972 or 1973" shall be substituted.

THE APPROPRIATION (No. 3) ACT, 1974

NO. 43 OF 1974

[12th September, 1974]

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 1974-75.

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

1. This Act may be called the Appropriation (No. 3) Act, 1974.

Short title.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of three hundred and fifty-two crores, sixty-nine lakhs and sixty-three thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1974-75, in respect of the services specified in column 2 of the Schedule.

Issue of Rs. 352,69, 63,000 out of the Consolidated Fund of India for the year 1974-75.

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	Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
8	Department of Food . . Revenue	125,00,00,000	..	125,00,00,000
19	Defence Services—Army . . Revenue	67,10,00,000	..	67,10,00,000
20	Defence Services—Navy . . Revenue	1,60,00,000	..	1,60,00,000
21	Defence Services—Air Force Revenue	6,30,00,000		6,30,00,000
38	Other Expenditure of the Ministry of Finance} . [Revenue	1,000	..	1,000
48	Police Revenue	..	18,000	18,000
53	Andaman and Nicobar Islands Capital	..	3,81,000	3,81,000
55	Dadra and Nagar Haveli . Revenue	..	5,000	5,000
58	Industries . . . Capital	8,55,53,000	..	8,55,53,000
65	Power Schemes . . Capital	7,90,00,000	..	7,90,00,000
70	Ministry of Petroleum and Chemicals . . Capital	58,60,00,000	..	58,60,00,000
76	Ports, Lighthouses and Shipping . . Revenue Capital	1,85,00,000 18,75,00,000	1,85,00,000 18,75,00,000
78	Department of Steel . . Capital	57,00,00,000	..	57,00,00,000
82	Supplies and Disposals . . Revenue	..	5,000	5,000
	TOTAL . .	352,65,54,000	4,09,000	352,69,63,000

NOTIFICATION

(G.O.M.R. No. 102)

THE APPROPRIATION (RAILWAYS) NO. 4 ACT, 1974

No. 44 OF 1974

[20th September, 1974]

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 1974-75 for the purposes of Railways.

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

1. This Act may be called the Appropriation (Railways) No. 4 Act, 1974.

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 rupees fifty-six crores and forty-four lakhs towards defraying the several charges which will come in course of payment during the financial year 1974-75, in respect of the services relating to Railways specified in column 2 of the Schedule.

Issue of
Rs. 56,
44,00,000
out
of the
Consoli-
dated
Fund of
India
for the
financial
year
1974-75.

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.

Approp-
riation.

THE SCHEDULE
(See sections 2 and 3)

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
4	Working Expenses—Administration	Rs. 8,81,62,000	Rs. ..	Rs. 8,81,62,000
5	Working Expenses—Repairs and Maintenance	Rs. 23,20,00,000	Rs. ..	Rs. 23,20,00,000
6	Working Expenses—Operating Staff.	Rs. 20,16,47,000	Rs. ..	Rs. 20,16,47,000
8	Working Expenses—Operation other than Staff and Fuel	Rs. 1,34,25,000	Rs. ..	Rs. 1,34,25,000
10	Working Expenses—Staff Welfare	Rs. 2,91,66,000	Rs. ..	Rs. 2,91,66,000
TOTAL		Rs. 56,44,00,000	Rs. ..	Rs. 56,44,00,000

THE INTEREST-TAX ACT, 1974**ARRANGEMENT OF SECTIONS****SECTIONS**

1. Short title and extent.
2. Definitions.
3. Tax authorities.
4. Charge of tax.
5. Scope of chargeable interest.
6. Computation of chargeable interest.
7. Return of chargeable interest.
8. Assessment.
9. Self-assessment.
10. Interest escaping assessment.
11. Advance payment of interest-tax.
12. Penalty for failure to furnish returns, comply with notices, concealment of interest, etc.
13. Penalty for false estimate of, or failure to pay, interest-tax in advance.
14. Opportunity of being heard.
Commissioner (Appeals)
15. Appeals to the Appellate Assistant Commissioner
- 15A. Transfer of certain pending appeals.
16. Appeals to Appellate Tribunal.
17. Rectification of mistakes.
18. Interest-tax deductible in computing total income under Income-tax Act.
19. Revision of order prejudicial to revenue.
20. Revision of orders by Commissioner.

SECTIONS

21. Application of provisions of Income-tax Act.
22. Income-tax papers to be available for the purposes of this Act.
23. Failure to deliver returns, etc.
24. False statements.
25. Abetment of false returns, etc.
26. Institution of proceedings and composition of offences.
27. Power to make rules.
28. Power to exempt.
29. Power to remove difficulty.
30. Consequential amendments.

Section 30 (A) of the Income-tax Act, 1961, is substituted by section 30 (A) of the Finance Act, 1974.

Section 30 (B) of the Income-tax Act, 1961, is substituted by section 30 (B) of the Finance Act, 1974.

THE INTEREST-TAX ACT, 1974

No. 45 OF 1974

[23rd September, 1974]

An Act to impose a special tax on interest in certain cases.

Whereas it is expedient to impose a special tax on interest in certain cases;

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

1. (1) This Act may be called the Interest-tax Act, 1974.

**Short title
and
extent.**

(2) It extends to the whole of India.

Definitions.

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

(1) "assessee" means a person by whom interest-tax or any other sum of money is payable under this Act and includes—

(a) every person in respect of whom any proceeding under this Act has been taken for the assessment of his chargeable interest or of the amount of refund due to him or of the chargeable interest of any other person in respect of which he is assessable or of the amount of refund due to such other person;

(b) every person who is deemed to be an assessee in default under any provision of this Act;

(2) "assessment" includes re-assessment;

(3) "assessment year" means the period of twelve months commencing on the 1st day of April, every year;

(4) "Board" means the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963;

54 of 1963.

(5) "chargeable interest" means the total amount of interest referred to in section 5, computed in the manner laid down in section 6;

(6) "Income-tax Act" means the Income-tax Act, 1961;

43 of 1961.

(7) "interest" means interest on loans and advances made in India and includes—

(a) commitment charges on unutilised portion of any credit sanctioned for being availed of in India; and

(b) discount on promissory notes and bills of exchange drawn or made in India,

but does not include—

(i) any amount chargeable to income-tax, under the Income-tax Act, under the head "Interest on securities"; and

(ii) discount on treasury bills; [and]

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

(9) "scheduled banks" 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 any other bank, being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934;

23 of 1955

38 of 1959

5 of 1970.

2 of 1934.

(10) all other words and expressions used herein but not defined and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

Tax au-
thorities.

3. (1) Every Director of Inspection, Commissioner of Income-tax, Additional Commissioner of Income-tax, Appellate Assistant Commissioner of Income-tax, Inspecting Assistant Commissioner of Income-tax, Income-tax Officer and Inspector of Income-tax, shall have the like powers and perform the like functions, under this Act as he has and performs under the Income-tax Act, and for the exercise of his powers and the performance of his functions, his jurisdiction under this Act shall be the same as he has under the Income-tax Act.

(2) All officers and persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Board:

1. Omited and ins. by Act 66 of 1976, s. 30 (w.e.f. 1.4.77)

2. Subs. by Act 29 of 1977, s. 39 & Sch. V (w.e.f. 1.4.1977).

Provided that no such orders, instructions or directions shall be issued—

(a) so as to require any tax authority to make a particular assessment or to dispose of a particular case in a particular manner; or

(b) so as to interfere with the discretion of the Appellate Assistant Commissioner in the exercise of his appellate functions.

(3) Every Income-tax Officer employed in the execution of this Act shall observe and follow the orders, instructions and directions issued for his guidance by the Director of Inspection or by the Commissioner or by the Inspecting Assistant Commissioner within whose jurisdiction he performs his functions.

4. Subject to the provisions of this Act, there shall be charged on every scheduled bank for every assessment year commencing on or after the 1st day of April, 1975, a tax (in this Act referred to as interest-tax) in respect of its chargeable interest of the previous year at the rate of seven per cent. of such chargeable interest.

Charge
of tax.

5. Subject to the provisions of this Act, the chargeable interest of any previous year of a scheduled bank shall be the total amount of interest (other than interest on loans and advances made to scheduled banks) accruing or arising to the bank in that previous year.

Scope of
charge-
able
interest.

6. (1) Subject to the provisions of sub-section (2), in computing the chargeable interest of a previous year, there shall be allowed from the total amount of interest (other than interest on loans and advances made to scheduled banks) accruing or arising to the assessee in the previous year, a deduction in respect of the amount of interest which is established to have become a bad debt during the previous year:

Computa-
tion of
charge-
able
interest.

Provided that such interest has been taken into account in computing the chargeable interest of the assessee of an earlier previous year and the amount has been written off as irrecoverable in the accounts of the assessee for the previous year during which it is established to have become a bad debt.

Explanation.—For the removal of doubts, it is hereby declared that in computing the chargeable interest of a previous year, no deduction, other than the deduction specified in this sub-section, shall be allowed from the total amount of interest accruing or arising to the assessee.

(2) In computing the chargeable interest of a previous year, the amount of interest which accrues or arises to the assessee before the 1st day of August, 1974 shall not be taken into account.

Return of chargeable interest.

7. (1) In the case of every scheduled bank, its principal officer, or where in the case of a non-resident scheduled bank any person has been treated as its agent under section 163 of the Income-tax Act, such person, shall furnish a return of the chargeable interest of the scheduled bank of the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, before the 30th day of June of the assessment year:

Provided that on an application made in this behalf, the Income-tax Officer may, in his discretion, extend the date for the furnishing of the return.

(2) Without prejudice to the provisions of sub-section (1), the Income-tax Officer may, before the end of the relevant assessment year, serve a notice upon the principal officer of any scheduled bank, or where in the case of a non-resident scheduled bank any person has been treated as its agent under section 163 of the Income-tax Act, upon such person, requiring him to furnish within thirty days from the date of service of the notice a return of the chargeable interest of the scheduled bank of the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed:

Provided that on an application made in this behalf, the Income-tax Officer may, in his discretion, extend the date for the furnishing of the return.

(3) Any assessee who has not furnished a return within the time allowed under sub-section (1) or sub-section (2), or having furnished a return under sub-section (1) or sub-section (2) discovers any omission or wrong statement therein, may furnish a return or a revised return, as the case may be, at any time before the assessment is made.

**Assess-
ment.**

8. (1) For the purposes of making an assessment under this Act, the Income-tax Officer may serve on any person who has furnished a return under section 7 or upon whom a notice has been served under sub-section (2) of section 7 (whether a return has been furnished or not) a notice requiring him on a date therein to be specified, to produce or cause to be produced such accounts or documents or evidence as the Income-tax Officer may require for the purposes of this Act and may, from time to time, serve further notices requiring the production of such further accounts or documents or other evidence as he may require.

(2) The Income-tax Officer, after considering such accounts, documents or evidence, if any, as he has obtained under sub-section (1) and after taking into account any relevant material which he has gathered, shall, by an order in writing assess the chargeable interest and the amount of the interest-tax payable on the basis of such assessment.

Self-assess-
ment.

9. (1) Where a return has been furnished under section 7 and the interest-tax payable on the basis of that return exceeds any interest-tax already paid under any provision of this Act, the assessee shall pay the interest-tax so payable within thirty days of furnishing the return.

(2) After an assessment under section 8 has been made, any amount paid under sub-section (1) shall be deemed to have been paid towards such assessment.

(3) If any assessee fails to pay the interest-tax or any part thereof in accordance with the provisions of sub-section (1), he shall, unless an assessment under section 8 has been made before the expiry of thirty days referred to in that sub-section, be liable, by way of penalty, to pay such amount as the Income-tax Officer may direct, and in the case of a continuing failure, such further amount or amounts as the Income-tax Officer may, from time to time, direct, so, however, that the total amount of penalty does not exceed fifty per cent. of the amount of such interest-tax or part, as the case may be:

Provided that before levying any such penalty, the assessee shall be given a reasonable opportunity of being heard.

10. If—

(a) the Income-tax Officer has reason to believe that by reason of the omission or failure on the part of the assessee to make a return under section 7 for any assessment year or to disclose fully and truly all material facts necessary for his assessment for any assessment year, chargeable interest for that year has escaped assessment or has been under-assessed or has been made the subject of excessive relief under this Act, or

(b) notwithstanding that there has been no omission or failure as mentioned in clause (a) on the part of the assessee, the Income-tax Officer has, in consequence of information in his possession, reason to believe that chargeable interest assessable for any assessment year has escaped assessment or has been under-assessed or has been the subject of excessive relief under this Act,

he may, in cases falling under clause (a), at any time, and in cases falling under clause (b), at any time within four years of the end of that assessment year, serve on the assessee a notice containing all or any of the requirements which may be included in a notice under section 7, and may proceed to assess or re-assess the amount chargeable to interest-tax, and the provisions of this Act shall, so far as may be, apply, as if the notice were a notice issued under that section.

Interest
escaping
assess-
ment.

11. (1) Interest-tax shall be payable in advance during the financial year in respect of the chargeable interest of the period which would be the previous year for the immediately following assessment year in accordance with the provisions of this section.

Advance
payment
of inter-
est-tax.

(2) Interest-tax shall be payable in advance in two instalments on the following dates during the financial year, namely:—

(i) the 15th day of September in respect of the chargeable interest accruing or arising during the first half of the previous year; and

(ii) the 15th day of March in respect of the chargeable interest accruing or arising during the second half of the previous year.

(3) Every assessee shall, in each financial year, before each of the date on which an instalment of interest-tax is payable in advance, send to the Income-tax Officer an estimate of the chargeable interest accruing or arising in the relevant part of the previous year and the interest-tax payable in advance on such chargeable interest and shall pay such amount of interest-tax as accords with his estimate on or before the relevant date specified in sub-section (2).

(4) Every estimate under this section shall be sent in the prescribed form and verified in the prescribed manner.

(5) If any assessee does not pay on the specified date any instalment of interest-tax payable in advance, he shall be deemed to be an assessee in default in respect of such instalment.

Penalty
for failure
to furnish
returns,
comply
with no-
tices, con-
cealment
of interest,
etc.

12. If, in the course of any proceedings under this Act, the Income-tax Officer or the ~~Appellate Assistant Commissioner~~ is satisfied that any person—

[Commissioner (Appeals)]

(a) has, without reasonable cause, failed to furnish the return of chargeable interest which he was required to furnish under sub-section (1) of section 7 or by notice given under sub-section (2) of section 7 or section 10 or has, without reasonable causes, failed to furnish it within the time allowed and in the manner required by sub-section (1) of section 7 or by such notice, as the case may be, or

(b) has, without reasonable cause, failed to comply with a notice under sub-section (1) of section 8, or

(c) has concealed the particulars of his chargeable interest or furnished inaccurate particulars of such interest,

he may direct that such person shall pay by way of penalty,—

(i) in the cases referred to in clause (a), in addition to the interest-tax payable by him, a sum equal to two per cent. of the assessed tax for every month during which the default continued, but not exceeding in the aggregate fifty per cent. of the assessed tax.

Explanation.—In this clause, “assessed tax” means interest-tax chargeable under the provisions of this Act, as reduced by the sum, if any, paid in advance under section 11;

(ii) in the cases referred to in clause (b), in addition to the interest-tax payable by him, a sum which shall not be less than ten per cent. but which shall not exceed fifty per cent. of the amount of the interest-tax which would have been avoided if the return made by him had been accepted as correct;

(iii) in the cases referred to in clause (c), in addition to the interest-tax payable by him, a sum which shall not be less than, but which shall not exceed twice, the amount of interest-tax which

Subs. by Act 29 of 1977, s. 39 & Sch. V (w.e.f. 1.4.1977)

would have been avoided if the return made by him had been accepted as correct:

Provided that in a case falling under clause (c), the Income-tax Officer shall not impose any penalty without the previous approval of the Inspecting Assistant Commissioner.

13. If, in the course of any proceedings in connection with the assessment under section 8, the Income-tax Officer is satisfied that any assessee—

(a) has furnished under section 11 an estimate of the interest-tax payable in advance by him which he knew or had reason to believe to be untrue, or

(b) has, without reasonable cause, failed to furnish an estimate of the interest-tax payable in advance by him in accordance with the provisions of section 11,

Penalty
for false
estimate
of, or
failure to
pay,
interest-
tax in
advance.

he may direct that the assessee shall, in addition to the interest-tax payable by him, pay by way of penalty a sum—

(i) which, in the case referred to in clause (a), shall not be less than ten per cent. but shall not exceed one and a half times the amount by which the interest-tax paid in advance during the financial year immediately preceding the assessment year, falls short of eighty-five per cent. of the interest-tax chargeable under the provisions of this Act;

(ii) which, in the case referred to in clause (b), shall not be less than ten per cent. but shall not exceed one and a half times of eighty-five per cent. of the interest-tax chargeable under the provisions of this Act.

14. No order imposing a penalty under section 12 or section 13 shall be made unless the assessee has been heard, or has been given a reasonable opportunity of being heard.

Opport-
unity
of being
heard.

15. (1) Any person objecting to the amount of interest-tax for which he is assessed by the Income-tax Officer or denying his liability to be assessed under this Act, or objecting to any penalty or fine imposed by the Income-tax Officer, or to the amount allowed by the Income-tax Officer by way of any relief under any provision of this Act, or to any refusal by the Income-tax Officer to grant relief or to an order of rectification having the effect of enhancing the assessment or reducing the refund, or to an order refusing to allow the claim made by the assessee for a rectification under section 17, may appeal to the Appellate Assistant Commissioner. [Commissioner (Appeals)]

Appeals
to the
Appel-
late
Assistant
Commis-
sioner

Commissioner
(Appeals)

(2) Every appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(3) An appeal shall be presented within thirty days of the following date, that is to say,—

(a) where the appeal relates to assessment or penalty or fine, the date of service of the notice of demand relating to the assessment or penalty or fine, or

(b) in any other case, the date on which the intimation of the order sought to be appealed against is served:

** Sales. by Act 29 of 1977, s. 39 & Sch. V (w.e.f. 1.4.1977).*

Provided that the ~~Appellate Assistant Commissioner~~ may admit an appeal after the expiration of the said period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

(4) The ~~Appellate Assistant Commissioner~~ shall hear and determine the appeal and, subject to the provisions of this Act, pass such orders as he thinks fit and such orders may include an order enhancing the assessment or penalty:

Provided that an order enhancing the assessment or penalty shall not be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(5) The procedure to be adopted in the hearing and determination of the appeals shall, with any necessary modification, be in accordance with the procedure applicable in relation to income-tax.

Appeals
to Appel-
late Tri-
bunal.

16. (1) Any assessee aggrieved by an order passed by a Commissioner under section 19, or an order passed by ~~an Appellate Assistant Commis-~~
~~sioner~~ under any provision of this Act, may appeal to the Appellate Tri-
bunal against such order. [a Commissioner (Appeals)]

[Commissioner
(Appeals)]

(2) The Commissioner may, if he objects to any order passed by the ~~Appellate Assistant Commissioner~~ under any provision of this Act, direct the Income-tax Officer to appeal to the Appellate Tribunal against the order.

(3) Every appeal under sub-section (1) or sub-section (2) shall be filed within sixty days of the date on which the order sought to be appealed against is communicated to the assessee or to the Commissioner, as the case may be.

[Commissioner
(Appeals)]

(4) The Income-tax Officer or the assessee, as the case may be, on receipt of notice that an appeal against the order of the ~~Appellate Assis-~~
~~tant Commissioner~~ has been preferred under sub-section (1) or sub-
section (2) by the other party may, notwithstanding that he may not have appealed against such order or any part thereof, within thirty days of the receipt of the notice, file a memorandum of cross-objections, veri-
fied in the prescribed manner, against any part of the order of the ~~Appel-~~
~~late Assistant Commissioner~~, and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (3).

(5) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (3) or sub-section (4), if it is satisfied that there was sufficient cause for not presenting it within that period.

(6) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and, shall, except in the case of an appeal referred to in sub-section (2) or a memorandum of cross-objections referred to in sub-section (4), be accompanied by a fee of one hundred and twenty-five rupees.

(7) Subject to the provisions of this Act, in hearing and making an order on any appeal under this section, the Appellate Tribunal shall exercise the same powers and follow the same procedure as it exercises and follows in hearing and making an order on any appeal under the Income-tax Act.

17. (1) With a view to rectifying any mistake apparent from the record, the Commissioner, the Income-tax Officer, the Appellate Assistant Commissioner and the Appellate Tribunal may, of his, or its, own motion or on an application by the assessee in this behalf, amend any order passed by him or it in any proceeding under this Act within four years of the date on which such order was passed.

Rectification of mistakes.
[Commissioner (Appeals)]

(2) An amendment which has the effect of enhancing the assessment or reducing a refund or otherwise increasing the liability of the assessee shall not be made under this section unless the authority concerned has given notice to the assessee of its intention so to do and has allowed the assessee a reasonable opportunity of being heard.

(3) Where an amendment is made under this section, the order shall be passed in writing by the authority concerned.

(4) Subject to the other provisions of this Act, where any such amendment has the effect of reducing the assessment, the Income-tax Officer shall make any refund which may be due to such assessee.

(5) Where any such amendment has the effect of enhancing the assessment or reducing the refund already made, the Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable.

18. Notwithstanding anything contained in the Income-tax Act, in computing the income of a scheduled bank chargeable to income-tax under the head "Profits and gains of business or profession", the interest-tax payable by the scheduled bank for any assessment year shall be deductible from the profits and gains of the bank assessable for that assessment year.

Interest-tax deductible in computing total income under Income-tax Act.

19. (1) The Commissioner may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by the Income-tax Officer is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such enquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment.

Revision of order prejudicial to revenue.

(2) No order shall be made under sub-section (1)—

(a) to revise an order of re-assessment made under section 10, or

(b) after the expiry of two years from the date of the order sought to be revised.

(3) Notwithstanding anything contained in sub-section (2), an order in revision under this section may be passed at any time in the case of an order which has been passed in consequence of, or to give effect to, any finding or direction contained in an order of the Appellate Tribunal, the High Court or the Supreme Court.

Explanation.—In computing the period of limitation for the purposes of sub-section (2), any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.

Revision
of orders
by Com-
missioner.

1***

20. (1) The Commissioner may, either of his own motion or on an application by the assessee for revision, call for the record of any proceeding under this Act which has been taken by an Income-tax Officer or Appellate Assistant Commissioner subordinate to him and may make such enquiry or cause such enquiry to be made and, subject to the provisions of this Act, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit.

(2) The Commissioner shall not of his own motion revise any order under this section if the order has been made more than one year previously.

(3) In the case of an application for revision under this section by the assessee, the application shall be made within one year from the date on which the order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier:

Provided that the Commissioner may, if he is satisfied that the assessee was prevented by sufficient cause from making the application within that period, admit an application made after the expiry of that period.

(4) The Commissioner shall not revise any order under this section in the following cases—

(a) where an appeal against the order lies to the Appellate Assistant Commissioner or to the Appellate Tribunal but has not been made and the time within which such appeal may be made has not expired, or, in the case of an appeal to the Appellate Tribunal, the assessee has not waived his right of appeal; or

(b) where the order is pending on an appeal before the Appellate Assistant Commissioner; or

(c) where the order has been made the subject of an appeal to the Appellate Tribunal.

(5) Every application by an assessee for revision under this section shall be accompanied by a fee of twenty-five rupees.

Explanation 1.—An order by the Commissioner declining to interfere shall, for the purposes of this section, be deemed not to be an order prejudicial to the assessee.

1***

Explanation 2.—For the purposes of this section, the Appellate Assistant Commissioner shall be deemed to be an authority subordinate to the Commissioner.

Appli-
cation of
provisions
of In-
come-tax
Act.

21. The provisions of the following sections and Schedules of the Income-tax Act and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, shall apply with necessary modifications as if the said provisions and the rules referred to interest-tax instead of to income-tax:—

2 (43B) and (44), 118, 125, 129, 130, 130A, 131, 132, 132A, 133 to 136 (both inclusive), 138, 140, 156, 160, 161, 162, 163, 166, 167, 170, 173, 175, 176, 178, 179, 220 to 227 (both inclusive), 228A, 229, 231, 232, 237 to 242 (both inclusive), 244, 245, 254 to 262 (both inclusive), 265,

266, 268, 269, 281, 282, 284, 287, 288, 288A, 288B, 289 to 293 (both inclusive), the Second Schedule and the Third Schedule.

Provided that references in the said provisions and the rules to the "assessee" shall be construed as references to an assessee as defined in this Act.

22. (1) Notwithstanding anything contained in the Income-tax Act, all information contained in any statement or return made or furnished under the provisions of that Act or obtained or collected for the purposes of that Act may be used for the purposes of this Act.

(2) All information contained in any statement or return made or furnished under the provisions of this Act or obtained or collected for the purposes of this Act may be used for the purposes of the Income-tax Act.

23. If any person fails without reasonable cause to furnish in due time any return under sub-section (2) of section 7 or to produce, or cause to be produced, any accounts or documents required to be produced under section 8, he shall be punishable with fine which may extend to five hundred rupees and with a further fine which may extend to ten rupees for every day during which the default continues.

24. If a person makes in any return furnished under section 7, any statement which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with simple imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

25. If a person abets or induces in any manner another person to make and deliver any account, statement or declaration relating to chargeable interest liable to interest-tax which is false and which he either knows to be false or does not believe to be true, he shall be punishable with simple imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

45 of 1860.

26. (1) A person shall not be proceeded against for any offence under section 23 or section 24 or section 25 or for any offence under the Indian Penal Code relating to any matter connected with or arising out of this Act, except at the instance of the Commissioner.

(2) The Commissioner may, either before or after the institution of proceedings, compound any offence punishable under section 23 or section 24 or section 25.

27. (1) The Board may, subject to the control of the Central Government, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

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

(a) the form in which returns under section 7 may be furnished and the manner in which they may be verified;

(b) the form in which appeals under section 15 or section 16 may be filed and the manner in which they may be verified;

(c) the procedure to be followed on applications for rectification of mistakes and applications for refunds;

Income-tax papers
to be available
for the purposes
of this Act.

Failure to deliver returns, etc.

False statements.

Allotment of false returns, etc.

Institution of proceedings and composition of offences.

Power to make rules.

(d) any other matter which by this Act is to be, or may be, prescribed.

(3) The power to make rules conferred by this section shall on the first occasion of the exercise thereof include the power to give retrospective effect to the rules or any of them from a date not earlier than the date of commencement of this Act.

(4) The Central Government shall cause every rule made under this section to be laid, as soon as may be, after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two 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 exempt.

28. Where the Central Government is of the opinion that it is necessary or expedient so to do either in the public interest or having regard to the peculiar circumstances of the case, it may, by notification, and subject to conditions, if any, as may be specified in the notification, exempt any scheduled bank or any class of scheduled banks from the levy of interest-tax:

Provided that no such exemption shall be made except on the recommendation of the Reserve Bank of India.

Power to remove difficulty.

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

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

Consequential amendments.

30. (1) In section 2 of the Central Boards of Revenue Act, 1962, in sub-clause (I) of clause (c),—

54 of 19

(a) in item (vi), the word "and" occurring at the end shall be omitted; and

(b) after item (vi) as so amended, the following item shall be inserted, namely:—

"(vii) the Interest-tax Act, 1974; and".

(2) In the Economic Offences (Inapplicability of Limitation) Act, 1974, in the Schedule, after entry 2 relating to the Income-tax Act, 1961, the following entry shall be inserted, namely:—

"2A. The Interest-tax Act, 1974."

12 of 19

43 of 19

1. Repealed by Act 38 of 1978, S. 2 & Sch. I

Rep. by 38 of 28.5.2 + sch. I

THE DELHI SIKH GURDWARAS (AMENDMENT) ACT, 1974

No. 46 OF 1974

[23rd September, 1974]

An Act to amend the Delhi Sikh Gurdwaras Act, 1971.

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

1. This Act may be called the Delhi Sikh Gurdwaras (Amendment) Act, 1974. Short title.

82 of 1971. 2. In section 10 of the Delhi Sikh Gurdwaras Act, 1971 (hereinafter referred to as the principal Act), in sub-section (1), in clause (m),— Amend-
ment of
section 10.

(a) for the words "read or write", the words "read and write" shall be substituted;

(b) in the Explanation, for the words "prescribed by regulations", the words "prescribed by rules" shall be substituted.

3. In section 16 of the principal Act, in sub-section (7), for the words "membership of the Executive Board", the words "office of the President, any other office-bearer or member of the Executive Board" shall be substituted. Amend-
ment of
section
16.

4. After section 16 of the principal Act, the following section shall be inserted, namely:— Insertion
of
new sec-
tion 16A.

"16A. (1) If the Committee at its first meeting is unable to elect a *pro tempore* Chairman or a President or any other office-bearer or member of the Executive Board under sub-section (4) of Power to
convene
another
meeting
for elec-
tion of
office-
bearers.

REPEALED

610

Delhi Sikh Gurdwaras (Amendment)

[ACT 46 OF 1974]

section 15 or sub-section (1) or sub-section (2) of section 16, the Director Gurdwara Elections shall summon another meeting of the Committee, being not later than fifteen days from the date of the first meeting, for the election of the *pro tempore* Chairman, the President or the remaining office-bearers or members of the Executive Board, as the case may be.

(2) The provisions of sections 15 and 16 shall, so far as may be, apply to the conduct of election under sub-section (1).".

Amend-
ment of
section 32.

5. (1) In section 32 of the principal Act, clause (a) and clause (b) shall be, and shall be deemed always to have been, omitted.

(2) The electoral roll prepared and finally published for the conduct of election to the first Committee in pursuance of section 7 of the principal Act read with the Delhi Sikh Gurdwara Management Committee (Registration of Electors) Rules, 1973 made under section 39 of the principal Act shall not be called in question merely on the ground of omission of clause (a) or clause (b) of section 32 of the principal Act and the said electoral roll shall be as valid and effective as if it had been prepared and finally published in pursuance of the provisions of the principal Act as amended by this Act.

Amend-
ment of
section 39.

6. In section 39 of the principal Act,—

(a) in sub-section (2), after clause (a), the following clause shall be inserted, namely—

“(aa) the manner and the criterion for deciding whether a candidate for election as a member of the Committee is able to read and write *Gurmukhi*;”;

(b) in sub-section (4), for the words “two successive sessions, and if before the expiry of the session in which they are so laid or the session immediately following,” the words “two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid,” shall be substituted.

Amend-
ment of
section 40.

7. In section 40 of the principal Act, in sub-section (2), clause (a) shall be omitted.

THE OIL INDUSTRY (DEVELOPMENT) ACT, 1974

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title and extent.
2. Definitions.

CHAPTER II

THE OIL INDUSTRY DEVELOPMENT BOARD

3. Establishment and constitution of the Board.
4. Conditions of service of members.
5. Secretary, officers, consultants and employees of the Board.
6. Functions of the Board.
7. Principles and conditions of assistance.
8. Power to call for repayment before agreed period.
9. Special provisions for enforcement of claims by the Board.
10. Power of Board to appoint Directors of oil industrial concern.
11. Effect of notified order appointing Director.
12. Powers and duties of the Directors.
13. No right to compensation for loss of office.
14. Application of Act 1 of 1956.

CHAPTER III

FINANCE, ACCOUNTS AND AUDIT

15. Duties of excise.
16. Crediting of proceeds of duty to Consolidated Fund of India.
17. Grants and loans by the Central Government.
18. Oil Industry Development Fund.
19. Power to borrow.
20. Accounts and audit.

CHAPTER IV

CONTROL BY THE CENTRAL GOVERNMENT

SECTIONS

21. Power to require persons engaged in oil industry to maintain and produce books, accounts and records relating to business and inspection thereof.
22. Directions by the Central Government.

CHAPTER V

MISCELLANEOUS

- 22A. Exemption from liability to pay income-tax.
23. Penalties.
24. Other penalties.
25. Offences by companies.
26. Jurisdiction of courts.
27. Previous sanction of Central Government.
28. Protection of action taken in good faith.
29. Dissolution of the Board.
30. Act to have overriding effect.
31. Power to make rules.

THE SCHEDULE.

THE OIL INDUSTRY (DEVELOPMENT) ACT, 1974

No. 47 OF 1974

[26th September, 1974]

An Act to provide for the establishment of a Board for the development of oil industry and for that purpose to levy a duty of excise on crude oil and natural gas and for matters connected therewith.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Oil Industry (Development) Act, Short title and extent.
1974.
- (2) It extends to the whole of India.
2. In this Act, unless the context otherwise requires,—
 - (a) "assistance" means assistance rendered under section 6;
 - (b) "Board" means the Oil Industry Development Board established under section 3;
 - (c) "Chairman" means the Chairman of the Board;
 - (d) "court" means the High Court or the Court of Judicial Commissioner within the local limits of whose jurisdiction the defendantDefinitions.

or respondent carries on the whole or a substantial part of his business, and where the Central Government has, by notification in the Official Gazette, and subject to such restrictions, limitations and conditions, as it thinks fit, empowered any court of civil jurisdiction subordinate to the High Court or, as the case may be, the Court of the Judicial Commissioner, to exercise all or any of the powers conferred by this Act, such court;

(e) "crude oil" means petroleum in its natural state before it is refined or otherwise treated but from which water and foreign substances have been extracted;

(f) "fertilisers" means such oil based chemical compounds which when employed in agriculture provide either single or multiple plant nutrients in any one or more of the forms of nitrogen, phosphorus and potash;

(g) "member" means a member of the Board and includes the Chairman;

(h) "mineral oil" includes petroleum and natural gas;

(i) "natural gas" means gas consisting primarily of hydrocarbons obtained from oil wells or gas wells;

(j) "oil industrial concern" means any company, corporation or co-operative society, which is engaged or which is to engage in any activity referred to in clause (k);

(k) "oil industry" includes all activities by way of prospecting or exploring for or production of mineral oil, refining, processing, transportation, storage, handling, and marketing, of mineral oil, production and marketing of all products, down-stream of an oil refinery and the production of fertilisers and petro-chemicals and all activities directly or indirectly connected therewith;

(l) "petro-chemicals" means chemicals, whether organic or inorganic, derived from petroleum including crude oil, natural gas, condensates, refined petroleum fractions and refinery gases;

(m) "petroleum product" means any commodity made from petroleum or natural gas and includes refined crude oil, processed crude petroleum, residuum from crude petroleum cracking stock, uncracked fuel oil, fuel oil, treated crude oil residuum, casing head gasoline, natural gas gasoline, naphtha, distillate gasoline, kerosene, bitumen, asphalt and tar, waste oil, blended gasoline, lubricating oil, blends or mixture of oil with one or more liquid products or by-products derived from oil or gas and blends or mixtures of two or more liquid products or by-products derived from oil condensate and gas or petroleum hydrocarbons not specified hereinbefore;

(n) "prescribed" means prescribed by rules made under this Act.

CHAPTER II

THE OIL INDUSTRY DEVELOPMENT BOARD

3. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established for the purposes of this Act a Board to be called the Oil Industry Development Board.

Establish-
ment and
constitu-
tion of
the Board

(2) The Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The Board shall consist of the following members, namely:—

(a) not more than three members to be appointed by the Central Government to represent the Ministry or Ministries of the Central Government dealing with petroleum and chemicals;

(b) two members to be appointed by the Central Government to represent the Ministry of the Central Government dealing with finance;

(c) not more than five members to be appointed by the Central Government to represent the Corporations, being Corporations owned or controlled by the Central Government, engaged in activities referred to in clause (k) of section 2;

(d) two members of whom one shall be appointed by the Central Government from amongst persons who, in the opinion of that Government, have special knowledge or experience of oil industry and the other shall be appointed by that Government to represent labour employed in the oil industry;

(e) the Secretary to the Board, *ex officio*.

(4) The Central Government shall appoint the Chairman of the Board.

(5) The term of office of the members of the Board (other than the members appointed by virtue of office) and the manner of filling vacancies among, and the procedure to be followed in the discharge of their functions by, the members shall be such as may be prescribed.

(6) Subject to such conditions and restrictions as may be prescribed, the Board may constitute Standing Committees or *ad hoc* Committees for exercising any power or discharging any duty of the Board or for inquiring into, reporting and advising on, any matter which the Board may refer to them:

Provided that a Standing Committee shall consist exclusively of members of the Board.

(7) No act or proceeding of the Board or of any Committee constituted under sub-section (6) shall be invalidated merely by reason of—

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

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

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

**Conditions
of service
of mem-
bers.**

4. Every person appointed as a whole-time member of the Board shall be entitled to such salary and allowances and such conditions of service in respect of leave, pension, provident fund and other matters as may, from time to time, be fixed by the Central Government and the other members of the Board and such of the members of any *ad hoc* Committee constituted under sub-section (6) of section 3 as are not members of the Board shall be entitled to such allowances, if any, and such other conditions of service, as may be prescribed.

**Secretary,
officers,
consultants
and em-
ployees of
the Board.**

5. (1) The Central Government shall appoint a Secretary to the Board.

(2) Subject to rules made in this behalf, the Secretary shall exercise such powers and perform such duties as may be prescribed or as may be delegated to him by the Board.

(3) The Secretary shall be entitled to such salary and allowances and such conditions of service in respect of leave, pension, provident fund and other matters as may, from time to time, be fixed by the Central Government.

(4) Subject to such conditions and restrictions as may be prescribed, the Board may appoint such consultants as may be necessary for the performance of its functions on such terms and conditions as it may determine from time to time.

(5) Subject to such conditions and restrictions as may be prescribed, the Board may appoint such other officers and employees as may be necessary for the performance of its functions and pay them such salaries and allowances as it may determine from time to time.

**Functions
of the
Board.**

6. (1) Subject to the provisions of this Act and the rules made thereunder, the Board shall render, in such manner, to such extent and on such terms and conditions as it may deem fit, financial and other assistance for the promotion of all such measures as are, in its opinion, conducive to the development of oil industry.

(2) Without prejudice to the generality of the provisions of sub-section (1), the Board may render assistance under that sub-section by—

(a) making grants or advancing loans to any oil industrial concern or other person who is engaged or is to engage in any activity referred to in clause (k) of section 2;

(b) guaranteeing on such terms and conditions as may be agreed upon loans raised by any oil industrial concern or other person which are repayable within a period not exceeding twenty-five years

2 of 1934.

and are floated in the market or loans raised by an oil industrial concern or other person from any bank which is a scheduled bank, or a State co-operative bank, as defined in the Reserve Bank of India Act, 1934;

(c) guaranteeing on such terms and conditions as may be agreed upon deferred payments due from any oil industrial concern or other person in connection with import of capital goods from outside India or in connection with purchase of capital goods within India by such concern or other person;

(d) guaranteeing on such terms and conditions as may be agreed upon loans raised from, or credit arrangements made with, any bank or financial institution in any country outside India by any oil industrial concern or other person in foreign currency:

Provided that no such guarantee shall be given without the prior approval of the Central Government;

(e) underwriting the issue of stock, shares, bonds or debentures by any oil industrial concern and retaining as part of its assets any stock, shares, bonds or debentures which it may have to take up in fulfilment of its obligations thereto;

(f) acting as agent for the Central Government or, with its approval, for any overseas financial organisation or credit agency in the transaction of any business with any oil industrial concern in respect of loans or advances granted, or debentures subscribed by the Central Government or such organisation or agency;

(g) subscribing to the stock or shares of any oil industrial concern;

(h) subscribing to the debentures of any oil industrial concern repayable within a period not exceeding twenty-five years from the date on which they are subscribed to:

Provided that nothing contained in this clause shall be deemed to preclude the Board from subscribing to the debentures of any oil industrial concern, the amounts outstanding thereon may be convertible at the option of the Board into stock or shares of that concern within the period the debentures are repayable.

Explanation.—In this clause, the expression "amounts outstanding thereon" used in relation to any loan or advance shall mean the principal, interest and other charges payable on such loan or advance as at the time when the amounts are sought to be converted into stock or shares.

(3) Without prejudice to the generality of the provisions of sub-section (1), the measures for the promotion of which the Board may render assistance under that sub-section may include measures for or by way of—

(a) prospecting for and exploration of mineral oil within India (including the continental shelf thereof) or outside India;

(b) the establishment of facilities for production, handling, storage and transport of crude oil;

(c) refining and marketing of petroleum and petroleum products;

(d) the manufacture and marketing of petro-chemicals and fertilisers;

(e) scientific, technological and economic research which could be, directly or indirectly, useful to oil industry;

(f) experimental or pilot studies in any field of oil industry;

(g) training of personnel, whether in India or outside, engaged or to be engaged in any field of oil industry, and such other measures as may be prescribed.

(4) The Board may charge such fees or receive such commission as it may deem appropriate for any services rendered by it in the exercise of its functions.

(5) The Board may transfer for consideration any instrument relating to loans or advances granted by it to any oil industrial concern or other person.

(6) The Board may do all such things as may be incidental to or consequential upon the discharge of its functions under this Act.

**Principles
and conditions
of assistance.**

7. (1) Before rendering any assistance to any oil industrial concern or other person, the Board shall have regard to such directions as the Central Government may issue in this behalf and shall satisfy itself that—

(a) such assistance is not contrary to such directions; and

(b) such assistance is necessary as a matter of priority in the interests of the development of oil industry.

(2) In rendering any assistance to any oil industrial concern or other person, the Board shall impose such conditions as may be prescribed and may also impose such additional conditions as it may think necessary or expedient for protecting the interests of the Board and for securing that the assistance rendered by it is put to the best use by such concern or other person.

**Power to
call for
repay-
ment
before
agreed
period.**

8. Notwithstanding anything in any agreement to the contrary, the Board may, by notice in writing, require any oil industrial concern or other person to which or to whom it has rendered any assistance to discharge forthwith in full its or his liabilities to the Board—

(a) if it appears to the Board that false or misleading information in any material particulars was given in the application for such assistance; or

(b) if the concern or other person has failed to comply with the terms of its or his contract with the Board in the matter of such assistance; or

(c) if there is a reasonable apprehension that the concern or other person is unable to pay its or his debts or that proceedings for liquidation or in insolvency may be commenced in respect of such concern or person; or

(d) if the property pledged, mortgaged, hypothecated or assigned to the Board as security is not insured and kept insured by the concern or other person to the satisfaction of the Board; or depreciates in value to such an extent that, in the opinion of the Board, further security to the satisfaction of the Board should be given and such security is not given; or

(e) if, without the permission of the Board, any machinery, plant or other equipment (whether or not forming part of the security), is removed from the premises of the concern or other person without being replaced; or

(f) if for any reason it is necessary to protect the interests of the Board.

9. (1) Where an oil industrial concern or other person, in breach of any agreement, makes any default in repayment of any loan or advance or any instalment thereof or in meeting its or his obligations in relation to any other assistance rendered by the Board or otherwise fails to comply with the terms of the agreement with the Board or where the Board requires an oil industrial concern or other person to make immediate repayment of any loan or advance and the concern or other person fails to make such repayment, then, without prejudice to the provisions of section 69 of the Transfer of Property Act, 1882, any officer of the Board generally or specially authorised by the Board in this behalf may apply to the court for one or more of the following reliefs, namely:—

(a) for an order for the sale of the property pledged, mortgaged, hypothecated or assigned to the Board as security for the loan or advance; or

(b) for an *ad interim* injunction where there is apprehension of the machinery or the equipment being removed from the premises of the oil industrial concern or other person without the permission of the Board; or

(c) in the case of an oil industrial concern, for transferring the management of the concern to the Board.

(2) An application under sub-section (1) shall state the nature and extent of the liability of the oil industrial concern or other person to the Board, the ground on which it is made and such other particulars as may be prescribed.

(3) When the application is for the relief mentioned in clause (a) or clause (b) of sub-section (1), the court shall pass an *ad interim* order attaching the property or so much of the property of the oil industrial concern or other person as would on being sold realise in the estimation of the court an amount equivalent in value to the outstanding liability of the concern or other person to the Board together with costs of the proceedings taken under this section with or without an *ad interim* injunction restraining the oil industrial concern or other person from transferring or removing any machinery or equipment.

(4) Where the application is for the relief mentioned in clause (c) of sub-section (1), the court shall grant an *ad interim* injunction restraining the oil industrial concern from transferring or removing its machinery and equipment and issue a notice calling upon the concern to show cause on a date to be specified in the notice why the management of the concern should not be transferred to the Board.

(5) Before passing any order under sub-section (3) or sub-section (4), the court may, if it thinks fit, examine the officer making the application.

(6) At the same time as it passed an order under sub-section (3), the court shall issue to the oil industrial concern or other person a notice

Special provisions for enforcement of claims by the Board.

accompanied by copies of the order, the application and the evidence, if any, recorded by it, calling upon the concern or other person to show cause on a date to be specified in the notice why the *ad interim* order of attachment should not be made absolute or the injunction confirmed.

(7) If no cause is shown before the date specified in the notice under sub-sections (4) and (6), the court shall forthwith make the *ad interim* order absolute and direct the sale of the attached property or transfer the management of the oil industrial concern to the Board or confirm the injunction.

(8) If cause is shown, the court shall proceed to investigate the claim of the Board and the provisions of the Code of Civil Procedure, 1908 shall, so far as may be, apply to such proceedings.

5 of 1908.

(9) On an investigation made under sub-section (8), the court shall pass an order—

(a) confirming the order of attachment and directing the sale of the attached property, or

(b) varying the order of attachment so as to release a portion of the property from attachment and directing the sale of the remainder of the attached property, or

(c) releasing the property from attachment, if it is satisfied that it is not necessary in the interests of the Board, or

(d) confirming or dissolving the injunction, or

(e) transferring the management of the oil industrial concern to the Board or rejecting the claim made in this behalf:

Provided that when making any order under clause (c), the court may make such other orders as it thinks necessary to protect the interests of the Board, and, may apportion the costs of the proceedings in such manner as it thinks fit:

Provided further that unless the Board intimates the court that it will not appeal against any order releasing any property from attachment, such order shall not be given effect to until the expiry of the period fixed under sub-section (12) within which an appeal may be preferred, or if an appeal is preferred, unless the court empowered to hear appeals from the decisions of the said court otherwise directs, until the appeal is disposed of.

(10) An order of attachment or sale of property shall be carried into effect, as far as may be practicable, in the manner provided in the Code of Civil Procedure, 1908 for the attachment or sale of property in execution of a decree, as if the Board were the decree-holder.

5 of 1908.

(11) An order under this section transferring the management of an oil industrial concern to the Board shall be carried into effect, as far as may be practicable, in the manner provided in the Code of Civil Procedure, 1908 for the possession of immovable property or the delivery of movable property in execution of a decree, as if the Board were the decree-holder.

5 of 1908.

(12) Any party aggrieved by an order under sub-section (7) or sub-section (9) may, within thirty days from the date of the order, appeal to the court empowered to hear appeals from the decisions of the court

which passed the order and the appellate court may after hearing the parties pass such orders as it thinks proper.

(13) Nothing in this section shall be construed, where proceedings for liquidation or in insolvency in respect of the oil industrial concern or other person have commenced before an application is made under sub-section (1) as giving to the Board any preference over the other creditors of the concern or other person not conferred on it by any other law.

(14) For the removal of doubts, it is hereby declared that any court competent to grant an *ad interim* injunction under this section shall also have the power to appoint a receiver and to exercise all other powers incidental thereto.

10. When the management of an oil industrial concern is taken over by the Board, the Board may, by order notified in the Official Gazette, appoint as many persons as it thinks fit to be the Directors of that concern and nothing in the Companies Act, 1956 or in any law or instrument relating to the concern, in so far as it makes, in relation to a Director, any provision for the holding of any share qualification, age limit, restrictions on the number of directorships, retirement by rotation or removal from office shall apply to any Director appointed by the Board under this section.

Power of
Board to
appoint
Directors
of oil
industrial
concern.

11. On the issue of a notified order under section 10—

(a) all persons holding office as Directors of the oil industrial concern or in charge of the management of such concern immediately before the issue of the notified order shall be deemed to have vacated their offices as such;

Effect of
notified
order ap-
pointing
Director.

(b) the Directors appointed under section 10 shall take such steps as may be necessary to take into their custody or under their control the property, effects and actionable claims to which the oil industrial concern is, or appears to be, entitled and all the property and effects of the concern shall be deemed to be in the custody of the Directors as from the date of the notified order;

(c) the Directors appointed under section 10 shall for all purposes be the Directors of the oil industrial concern duly constituted under the Companies Act, 1956 and shall alone be entitled to exercise all the powers of the Directors of the concern, whether such powers are derived from the said Act or from the memorandum or articles of association of the concern or from any other source.

1 of 1956.

Powers
and duties
of the
Directors.

12. (1) Subject to the control of the Board, the Directors appointed under section 10 shall take such steps as may be necessary for the purpose of efficiently managing the business of the oil industrial concern and shall exercise such powers and perform such duties as may be prescribed.

(2) Without prejudice to the generality of the powers vested in them under sub-section (1), the Directors appointed under section 10 may, with the previous approval of the Board, make an application to a court for the purpose of cancelling or varying any contract or agreement entered into at any time before the issue of the notified order under section 10, between the oil industrial concern and any other person and the court may, if satisfied after due inquiry that such contract or agreement had been entered into in bad faith and is detrimental to the interests of the concern, make an order cancelling or varying (either unconditionally or

subject to such conditions as it may think fit to impose) that contract or agreement and the contract or agreement shall accordingly stand cancelled or, as the case may be, have effect as so varied.

No right to compensation for loss of office.

13. (1) Notwithstanding anything contained in any law for the time being in force, no Director or other person in charge of the management of an oil industrial concern immediately before the issue of a notified order under section 10 in respect of such concern shall be entitled to any compensation for the loss of office or for the premature termination under this Act of the contract entitling him to be in charge of such management.

(2) Nothing contained in sub-section (1) shall affect the right of any Director or other person referred to therein to recover from the oil industrial concern moneys recoverable otherwise than by way of such compensation.

Appli-
cation of
Act 1 of
1956.

14. (1) Where the management of an oil industrial concern, being a company as defined in the Companies Act, 1956, is taken over by the Board, then, notwithstanding anything contained in the said Act or in the memorandum or articles of association of such concern,—

(a) it shall not be lawful for the shareholders of such concern or any other person to nominate or appoint any person to be a Director of such concern;

(b) no resolution passed at any meeting of the shareholders of such concern shall be given effect to unless approved by the Board;

(c) no proceeding for the winding up of such concern or for the appointment of a receiver in respect thereof shall lie in any court, except with the consent of the Board.

(2) Subject to the provisions contained in sub-section (1) and to the other provisions contained in this Act and subject to such other exceptions, restrictions and limitations, if any, as the Central Government may, by notification in the Official Gazette, specify in this behalf, the Companies Act, 1956 shall continue to apply to such concern in the same manner as it applied thereto before the issue of the notified order under section 10.

CHAPTER III

FINANCE, ACCOUNTS AND AUDIT

Duties of
excise.

15. (1) There shall be levied and collected, as a cess for the purposes of this Act, on every item specified in column 2 of the Schedule, which is produced in India (including the continental shelf thereof) and—

(a) removed to a refinery or factory; or

(b) transferred by the person by whom such item is produced to another person,

a duty of excise at such rate 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 duty of excise in respect of crude oil (being an item specified in the Schedule) the duty of excise on crude oil under this sub-section shall be levied and collected at the rate of rupees sixty per tonne.

(2) Every duty of excise 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 crude oil, the duty of excise shall be collected on the quantity received in a refinery.

(3) The duties of excise 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.

[of 1944.]

(4) The provisions of the Central Excises and Salt Act, 1944, and the rules made thereunder, including those relating to refunds and exemptions from duties shall, as far as may be, apply in relation to the levy and collection of duties of excise leviable under this section and for this purpose the provisions of that Act shall have effect as if that Act provided for the levy of duties of excise on all items specified in the Schedule.

16. The proceeds of the duties of excise levied under section 15 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, pay to the Board from time to time, from out of such proceeds, after deducting the expenses of collection, such sums of money as it may think fit for being utilised exclusively for the purposes of this Act.

Crediting
of pro-
ceeds of
duty to
Con-
solidated
Fund of
India.

17. The Central Government may also, after due appropriation made by Parliament by law in this behalf, pay to the Board by way of grants or loans such sums of money as the Central Government may consider necessary.

Grants
and loans
by the
Central
Govern-
ment.

18. (1) There shall be formed a Fund to be called the Oil Industry Development Fund and there shall be credited thereto—

Oil In-
dustry
Develop-
ment
Fund.

- (a) any sums of money paid under section 16 or section 17;
- (b) any grants that may be made by any person or institution for the purposes of this Act;
- (c) any borrowings by the Board;
- (d) the sums, if any, realised by the Board in carrying out its functions or in the administration of this Act.

(2) The Fund shall be applied—

- (a) for meeting the salaries, allowances, honoraria and other remuneration of the officers and other employees of the Board and of the advisers, consultants or other agencies whose services are availed of by the Board;
- (b) for meeting the other administrative expenses of the Board;
- (c) for rendering assistance under section 6;
- (d) for repayment of any loans taken by the Board or for meeting other liabilities under this Act.

Power to
borrow.

19. Subject to such rules as may be made in this behalf, the Board shall have the power to borrow on the security of the Oil Industry Development Fund or any other asset for carrying out the purposes of this Act.

Accounts
and audit.

20. (1) The Board shall maintain proper accounts and other relevant books 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 the Board shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Board shall have the same rights and 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 of the offices of the Board.

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

CHAPTER IV

CONTROL BY THE CENTRAL GOVERNMENT

Power to require persons engaged in oil industry to maintain and produce books, accounts and records relating to business and inspection thereof.

Directions by the Central Government.

Penalties.

21. The Central Government may, by order notified in the Official Gazette, require all persons engaged in oil industry or any class of such persons—

(a) to maintain such books, accounts and records relating to their business as may be specified in the order;

(b) to produce such books, accounts and records for inspection and to furnish such information relating thereto to such officer or authority and at such times or in such circumstances as may be specified in the order.

22. The Board shall carry out such directions as may be issued to it from time to time by the Central Government for the efficient administration of this Act.

CHAPTER V

MISCELLANEOUS

23. Any person who,—

(a) being required under this Act to produce any books, accounts or records or furnish any information, fails to produce such books, accounts or records or fails to furnish such information or furnishes information which is false, and which he either knows or believes to be false, or does not believe to be true; or

(b) obstructs any member or any officer or other employee of the Board or any person authorized in this behalf by the Central Government or by the Board in the exercise of any power conferred or in the discharge of any duty imposed on him by or under this Act,

Ins. by Act 24 of 1972, s. 37 (retrospectively).

shall be punishable with imprisonment which may extend to one year, or with fine which may extend to five thousand rupees, or with both.

24. Whoever contravenes or attempts to contravene or abets the contravention of any of the provisions of this Act or of any rule made thereunder (other than the provisions for the contravention of which section 23 applies), shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

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

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

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

Explanation.—For the purposes of this section—

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

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

26. No court inferior to that of a Metropolitan Magistrate or a magistrate of the first class shall try any offence punishable under this Act.

27. No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Central Government.

28. No suit, prosecution or other legal proceeding shall lie against the Central Government or the Board or any committee constituted by the Board or any member of the Board or of such committee or any officer or other employee of the Central Government or of the Board or any agent of or any other person authorised by the Central Government or the Board, for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

29. (1) The Central Government may, if satisfied that it is necessary so to do in the public interest, direct by notification in the Official Gazette that the Board shall be dissolved from such date and for such period as may be specified in the notification.

29 Law—80.

Other penalties.

Offences by companies.

Metropolitan Magistrate
Magistrate of the first class

Jurisdiction of courts.

Previous sanction of Central Government.

Protection of action taken in good faith.

Dissolution of the Board.

(2) When the Board is dissolved under the provisions of sub-section (1),—

(a) all members, notwithstanding that their term of office has not expired, shall, from the date of dissolution, vacate their offices as such members;

(b) all powers and duties of the Board shall, during the period of dissolution, be exercised and performed by such person or persons as the Central Government may appoint in this behalf;

(c) all funds and other properties vested in the Board shall, during the period of dissolution, vest in the Central Government.

(3) As soon as the period of dissolution expires, the Board shall be re-constituted in accordance with the provisions of this Act.

Act to have overriding effect.

Power to make rules.

30. The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any enactment other than this Act.

31. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

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

(a) the term of office and other conditions of service of members, the manner of filling vacancies among and the procedure to be followed in the discharge of their functions;

(b) the powers which may be exercised and the duties which shall be performed by the Secretary to the Board;

(c) the circumstances in which and the authority by which a member may be removed;

(d) the holding of a minimum number of meetings of the Board every year;

(e) the convening of meetings of the Board and of its committees, the procedure to be followed at the meetings of the Board and of its committees for the conduct of business and the number of members which shall form quorum at a meeting;

(f) the maintenance by the Board of records of business transacted by the Board and the submission of copies thereof to the Central Government;

(g) the powers of the Board, its Chairman and other members, Secretary and committees of the Board with respect to the incurring of expenditure;

(h) the conditions subject to which the Board may incur expenditure outside India;

(i) the preparation of budget estimates of receipts and expenditure of the Board and the authority by which the estimates are to be sanctioned;

(j) the form and manner in which the accounts should be kept by the Board;

(k) the custody and investment of the funds of the Board;

(l) the conditions to be observed by the Board in borrowing money;

(m) the conditions subject to which and the manner in which contracts may be entered into by or on behalf of the Board;

(n) the delegation to the Chairman, Secretary or members or officers of the Board of any of the powers and duties of the Board under this Act;

(o) the additional measures for the promotion of which the Board may render assistance;

(p) the remuneration and other allowances payable to the person or persons referred to in clause (b) of sub-section (2) of section 29;

(q) the fees which the Board may charge for any assistance or services rendered by it under this Act;

(r) the staff which may be employed by the Board and the pay and allowances and leave and other conditions of service of officers (other than those appointed by the Central Government) and other employees of the Board;

(s) any other matter which is to be or may be prescribed or provided for by rules under this Act.

(3) Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session 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.

[Section 15(1) of the Oil Industry (Development) Act, 1974]

THE SCHEDULE

[Section 15(1) of the Oil Industry (Development) Act, 1974]

Sl. No.	Name of item	The maximum rate at which duty of ex- cise may be col- lected
1	2	3 (a)
1.	Crude oil	Rupees one hundred per tonne.
2.	Natural gas	Rupees fifty per thou- sand cubic metres.

(ii) in sub-section (5), for the words "which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following," the words "which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid," shall be substituted.

Validation.

3. The levy and collection of any charges made during the period commencing from the 1st December, 1969 and ending with the commencement of this Act in respect of any application under rule 414 of the Indian Telegraph Rules, 1885 for providing any telegraph line, appliance or apparatus shall be deemed to have been made in accordance with law and accordingly no such levy or collection shall be called in question in any court and no suit or other proceeding shall be maintained in any court for the refund of such charges or for any other relief in relation to such application.

Rep. by Act..... 38 of 1974, S. 2 + Sch I

THE SMALL COINS (OFFENCES) AMENDMENT ACT, 1974

No. 49 of 1974

(An Act to amend the Small Coins (Offences) Act, 1971.)

[10th December, 1974]

An Act to amend the Small Coins (Offences) Act, 1971.

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

(short title) This Act may be called the Small Coins (Offences) Amendment Act, 1974.

1. This Act may be called the Small Coins (Offences) Amendment Short title.

2. In section 1 of the Small Coins (Offences) Act, 1971, sub-section (2) shall be omitted.

Amendment
to section
1.

3. In section 2 of the Small Coins (Offences) Act, 1971, sub-section (1) shall be omitted.

Amendment
to section
2.

4. In section 3 of the Small Coins (Offences) Act, 1971, sub-section (1) shall be omitted.

Amendment
to section
3.

Top. 11/10/1974. 38. 10/10/78. S. 2 of Sch. I

THE INDIAN WORKS OF DEFENCE (AMENDMENT)
ACT, 1974

No. 50 OF 1974

[12th December, 1974]

An Act further to amend the Indian Works of Defence Act, 1903.

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

Short title. 1. This Act may be called the Indian Works of Defence (Amendment) Act, 1974.

**Amend-
ment of
section 1.** 2. In section 1 of the Indian Works of Defence Act, 1903 (hereinafter referred to as the principal Act), in sub-section (1), the word "Indian" shall be omitted.

**Amend-
ment of
section 37.** 3. In section 37 of the principal Act, for the words and brackets "or (within the towns of Calcutta, Madras and Bombay) to the Commissioner of Police", the words and brackets "or (within any area for which a Commissioner of Police has been appointed) to the Commissioner of Police" shall be substituted.

**Amend-
ment of
section 44.** 4. In section 44 of the principal Act,—

(i) in sub-section (1), for the words "The Central Government may make rules", the words "The Central Government may, by notification in the Official Gazette, make rules" shall be substituted;

REPEALED

[ACT 50 OF 1974] Indian Works of Defence (Amendment)

633

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

"(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

38. S. 2 & Sch. I

38. S. 2 & Sch. I

THE RESERVE BANK OF INDIA (AMENDMENT) ACT, 1974

No. 51 of 1974

[13th December, 1974]

An Act further to amend the Reserve Bank of India Act, 1934.

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

Short title.

1. This Act may be called the Reserve Bank of India (Amendment) Act, 1974.

**Amend-
ment of
section 2.**

2. In section 2 of the Reserve Bank of India Act, 1934 (hereafter in 2 of 1934, this Act referred to as the principal Act),—

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

‘(a) “agricultural operations” includes animal husbandry, diary and poultry farming, pisciculture and other allied activities, whether or not undertaken jointly with agricultural operations;’;

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

“(aiii) “Bank for International Settlements” means the body corporate established with the said name under the law of

REPEALED

ACT 51 OF 1974

Reserve Bank of India (Amendment)

635

Switzerland in pursuance of an agreement dated the 20th January, 1930, signed at The Hague;'

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

(ca) "International Development Association" means the "Association" referred to in the International Development Association (Status, Immunities and Privileges) Act, 1960;

(cb) "International Finance Corporation" means the "Corporation" referred to in the International Finance Corporation (Status, Immunities and Privileges) Act, 1958;

(cc) "International Monetary Fund" and "International Bank for Reconstruction and Development" mean respectively the "International Fund" and the "International Bank", referred to in the International Monetary Fund and Bank Act, 1945;'

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

(cia) "pisciculture" includes the development of fisheries, both inland and marine, catching of fish and all other activities connected therewith or incidental thereto;'

3. In the principal Act, for the words and figures "Banking Companies Act, 1949", wherever they occur, the words and figures "Banking Regulation Act, 1949" shall be substituted.

Substitution of Banking Regulation Act, 1949, in place of Banking Companies Act, 1949.

4. In section 8 of the principal Act, in sub-section (4), after the words "for a period of four years", the words "and thereafter until his successor shall have been nominated" shall be inserted.

Amendment of section 8.

5. In section 9 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:

Amendment of section 9

"(3) Every member of a Local Board shall hold office for a term of four years and thereafter until his successor shall have been appointed and shall be eligible for re-appointment."

6. In section 17 of the principal Act,—

Amendment of section 17.

(i) in clause (2),—

(A) in sub-clause (a), after the words "or a State co-operative bank", the words "or any financial institution, which is predominantly engaged in the acceptance or discounting of bills of exchange and promissory notes and which is approved by the Bank in this behalf" shall be inserted;

REPEAL

636

Reserve Bank of India (Amendment)

[AGT 51]

(B) in sub-clause (b),—

(a) after the words "or a State co-operative bank", the words "or any financial institution, which is predominantly engaged in the acceptance or discounting of bills of exchange and promissory notes and which is approved by the Bank in this behalf" shall be inserted;

(b) for the words "financing seasonal agricultural operations", the words "financing agricultural operations" shall be substituted;

(C) in sub-clause (bb), after the words "or a State Financial Corporation", the words "or any financial institution, which is predominantly engaged in the acceptance or discounting of bills of exchange and promissory notes and which is approved by the Bank in this behalf" shall be inserted;

(ii) after clause (3A), the following clause shall be inserted, namely:—

"(3B) the making to any scheduled bank or State co-operative bank of loans and advances repayable on demand or on the expiry of fixed periods not exceeding one hundred and eighty days against promissory notes of such bank:

Provided that the borrowing bank furnishes a declaration in writing to the effect that it has made loans and advances for bona fide commercial or trade transactions or for financing agricultural operations or the marketing of crops or for other agricultural purposes as set out in the declaration and the said declaration includes such other particulars as may be required by the Bank;,"

(iii) in sub-clause (d) of clause (4), for the words "financing seasonal agricultural operations", the words "financing agricultural operations" shall be substituted;

(iv) for the proviso to clause (4A), the following proviso shall be substituted, namely:—

"Provided that the previous approval of the State Government shall be obtained for the borrowing by the State Financial Corporation and the amount of loans and advances granted to that Corporation under this clause shall not, at any time, exceed in the aggregate ninety per cent. of the paid-up share capital thereof.";

(v) in clause (11),—

(a) after the words and figures "the Industrial Finance Corporation Act, 1948", the words "or any other body corporate which is established or constituted by or under any other law" shall be inserted, and, for the words "any such person", the words "any such person or authority" shall be substituted;

(b) in sub-clause (f), the words "in respect of the aforesaid Corporation," and the word "its" shall be omitted.

7. In section 18 of the principal Act,—

(a) in sub-section (1),—

(i) in the opening paragraph, the brackets and figure "(1)" shall be omitted;

Amend-
ment of
section
18.

OF 1974]

Reserve Bank of India (Amendment)

637

and in clause (ii) for the words "under this sub-section", the words "under this section" shall be substituted;

(iii) the words, brackets, letters, and figures "sub-clauses (a) and (b) of clause (2) or sub-clause (a) or (b) of clause (3) or clause (4) of" shall be omitted;

(b) for clause (1), the following clause shall be substituted, namely:—

"(1) purchase, sell or discount any bill of exchange or promissory note though such bill or promissory note is not eligible for purchase or discount by the Bank under that section; or";

(c) for clause (3), the following clause shall be substituted, namely:—

"(3) make loans or advances to—

(a) a State co-operative bank, or

(b) on the recommendation of a State co-operative bank, to a co-operative society registered within the area in which the State co-operative bank operates, or

(c) any other person,

repayable on demand or on the expiry of fixed periods, not exceeding ninety days, on such terms and conditions as the Bank may consider to be sufficient.";

(d) sub-section (2) shall be omitted.

8. After section 18 of the principal Act, the following section shall be inserted namely:—

Inser-
tion of
new
section
18A.

"18A. Notwithstanding anything to the contrary contained in any other law for the time being in force, (a) the validity of any loan or advance granted by the Bank in pursuance of the provisions of this Act shall not be called in question merely on the ground of non-compliance with the requirements of such other law as aforesaid or of any resolution, contract, memorandum, articles of association or other instrument:

Provided that nothing in this clause shall render valid any loan or advance obtained by any company or co-operative society where such company or co-operative society is not empowered by its memorandum to obtain loans or advances;

(b) where a loan or advance has been granted under clause (3A) or under clause (3B) of section 17 or a loan or advance granted under clause (3) of section 18 by the Bank to any person has been applied by such person, wholly or in part, in making a loan or advance to any borrower, any sum received—

(i) by the borrowing bank on account of bills of exchange in respect of which the declaration under clause (i)

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REPEALED

638

Reserve Bank of India (Amendment)

[ACT 51]

of the proviso to clause (3A) of section 17 has been furnished or in repayment or realisation of the outstanding loans and advances referred to in clause (ii) of the said proviso or in the proviso to clause (3B) of the said section, or

(ii) by the borrowing bank or any other person in repayment or realisation of loans and advances granted to a borrower out of funds obtained by it or by him from the Bank under section 18,

shall be utilised only for the repayment by the borrowing bank or other person, as the case may be, of the amounts due to be repaid by it or by him to the Bank, and shall be held by it or by him in trust for the Bank, until such time as the amounts are so repaid."

Omission
of
section 32.

Amend-
ment of
section 33.

9. Section 32 of the principal Act shall be omitted.

10. In section 33 of the principal Act,—

(i) in sub-section (3),—

(a) for the word, brackets and letter "sub-clause (b)", the words, brackets and letters "sub-clause (b)" or sub-clause (bb)" shall be substituted;

(b) the words, brackets and figure "of sub-section (1)" shall be omitted;

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

"(6) For the purposes of this section, the foreign securities which may be held as part of the assets shall be—

(i) securities of the following kinds payable in the currency of any foreign country which is a member of the International Monetary Fund, namely:—

(a) balances with the bank which is the principal currency authority of that foreign country and any other balances or securities in foreign currency maintained with or issued by the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association or the International Finance Corporation or the Bank for International Settlements or any commercial bank notified by the Central Government in this behalf, provided that they are repayable within a period of five years;

(b) bills of exchange bearing two or more good signatures and drawn on and payable at any place in that foreign country and having a maturity not exceeding ninety days; and

(c) Government securities of that foreign country maturing within five years;

(ii) any drawing rights representing a liability of the International Monetary Fund."

Amend-
ment of
section 42.

11. In section 42 of the principal Act,—

(A) In the Explanation below sub-section (1), in clause (c),—

~~REPEALED~~

[OF 1974]

Reserve Bank of India (Amendment)

639

(a) in sub-clause (ii), the words "or from the State Bank or from any other bank notified by the Central Government in this behalf, and" shall be omitted;

(b) in sub-clause (iii), the words "required to be" shall be omitted;

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

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

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

"(d) the aggregate of the "liabilities" of a scheduled bank which is not a State co-operative bank, to,—

(i) the State Bank;
(ii) a subsidiary bank as defined in section 2 of the State Bank of India (Subsidiary Banks) Act, 1959;

38 of 1959. (iii) a corresponding new bank constituted by section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970;

5 of 1970. (iv) a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949;

10 of 1949. (v) a co-operative bank; or
38 of 1959. (vi) any other financial institution notified by the Central Government in this behalf,

5 of 1970. shall be reduced by the aggregate of the liabilities of all such banks and institutions to the scheduled bank;

(e) the aggregate of the "liabilities" of a scheduled bank which is a State co-operative bank, to,—

(i) the State Bank;

38 of 1959. (ii) a subsidiary bank as defined in section 2 of the State Bank of India (Subsidiary Banks) Act, 1959;

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

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

(v) any other financial institution notified by the Central Government in this behalf;

shall be reduced by the aggregate of the liabilities of all such banks and institutions to the State co-operative bank;

(B) in sub-section (2),—

(a) in clause (a), for the words "other than the State Bank and any other bank notified by the Central Government in this behalf", the words "classifying them into demand and time liabilities" shall be substituted;

~~REPEALED~~

640

Reserve Bank of India (Amendment)

[ACT 51]

- (b) clause (aa) shall be omitted;
- (c) in the first proviso, for the words "Provided that", the following shall be substituted, namely:—

"Provided that the Bank may, by notification in the Gazette of India, delete or modify or add to any of the particulars specified in the foregoing clauses:

Provided further that";

- (d) in the second proviso, for the words "provided further that where the Bank is satisfied", the words "Provided also that where the Bank is satisfied" shall be substituted.

Substitution of section 43.

12. For section 43 of the principal Act, the following section shall be substituted, namely:—

Publication of consolidated statement by the Bank.

"43. The Bank shall cause to be published each week a consolidated statement showing the aggregate liabilities and assets of all the scheduled banks together, based on the returns and information received under this Act or any other law for the time being in force."

Amendment of section 45A.

13. In section 45A of the principal Act,—

(A) in clause (a), for the words "or any other banking or financial institution notified by the Central Government in this behalf", the words, brackets and figures "any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, any corresponding new bank constituted by section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, and any other financial institution notified by the Central Government in this behalf" shall be substituted;

(B) in clause (c),—

(i) in sub-clause (ii), after the words "taken from any borrower", the words "or class of borrowers" shall be inserted, and, for the words "granted to him; and", the words "granted to him or to such class," shall be substituted;

(ii) in sub-clause (iii), after the words "any of its customers", the words "or any class of its customers;" shall be inserted;

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

"(iv) the means, antecedents, history of financial transactions and the creditworthiness of any borrower or class of borrowers;

(v) any other information which the Bank may consider to be relevant for the more orderly regulation of credit or credit policy."

38 of 1959.

5 of 1970.

[OF 1974]

Reserve Bank of India (Amendment)

641

14. In section 45E of the principal Act, in sub-section (2), after clause (b), the following clause shall be inserted, namely:—

“(c) the disclosure or publication by the banking company or by the bank of any credit information to any other banking company or in accordance with the practice and usage customary among bankers or as permitted or required under any other law:

Provided that any credit information received by a banking company under this clause shall not be published except in accordance with the practice and usage customary among bankers or as permitted or required under any other law.”.

15. Section 45G of the principal Act shall be omitted.

Amend-
ment of
section
45E.

Omission
of
section
45G.

16. In section 45H of the principal Act, in the proviso, for the words “Madras Industrial Investment Corporation Limited”, the words “Tamil Nadu Industrial Investment Corporation Limited” shall be substituted.

17. In section 45I of the principal Act,—

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

“(bb) “deposit” shall include, and shall be deemed always to have included, any money received by a non-banking institution by way of deposit, or loan or in any other form, but shall not include amounts raised, by way of share capital, or contributed as capital by partners of a firm;”

(ii) for clause (c) including the *Explanation*, the following shall be substituted, namely:—

“(c) “financial institution” means any non-banking institution which carries on as its business or part of its business any of the following activities, namely:—

(i) the financing, whether by way of making loans or advances or otherwise, of any activity other than its own;

(ii) the acquisition of shares, stock, bonds, debentures or securities issued by a Government or local authority or other marketable securities of a like nature;

(iii) letting or delivering of any goods to a hirer under a hire-purchase agreement as defined in clause (c) of section 2 of the Hire-Purchase Act, 1972;

(iv) the carrying on of any class of insurance business;

(v) managing, conducting or supervising, as foreman, agent or in any other capacity, of chits or kuries as defined in any law which is for the time being in force in any State, or any business, which is similar thereto;

(vi) collecting, for any purpose or under any scheme or arrangement by whatever name called, monies in lumpsum or otherwise, by way of subscriptions or by sale of units, or

Amend-
ment of
section
45H.

Amend-
ment of
section
45I.

REPEALED

642

Reserve Bank of India (Amendment)

[ACT 51]

other instruments or in any other manner and awarding prizes or gifts, whether in cash or kind, or disbursing monies in any other way, to persons from whom monies are collected or to any other person,

but does not include any institution, which,—

(i) is an industrial concern as defined in clause (c) of section 2 of the Industrial Development Bank of India Act, 1964, or

(ii) carries on as its principal business,—

(a) agricultural operations; or

(b) the purchase or sale of any goods (other than securities) or the providing of any services; or

(c) the purchase, construction or sale of immovable property, so however, that no portion of the income of the institution is derived from the financing of purchases, constructions or sales of immovable property by other persons;.

18. In section 45K of the principal Act, sub-section (5) shall be omitted.

19. After section 45M of the principal Act, the following section shall be inserted, namely:—

“45MA. (1) It shall be the duty of an auditor of a non-banking institution to inquire whether or not the non-banking institution has furnished to the Bank such statements, information or particulars relating to or connected with deposits received by it, as are required to be furnished under this Chapter, and the auditor shall, except where he is satisfied on such inquiry that the non-banking institution has furnished such statements, information or particulars, make a report to the Bank giving the aggregate amount of such deposits held by the non-banking institution.

(2) Where, in the case of a non-banking institution, being a company, the auditor has made, or intends to make, a report to the Bank under sub-section (1), he shall include in his report under sub-section (2) of section 227 of the Companies Act, 1956, the contents of the report which he has made, or intends to make, to the Bank.”

1 of 19

20. In section 45N of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The Bank may, at any time, cause an inspection to be made by one or more of its officers or employees or other persons (hereafter in this section referred to as the inspecting authority)—

(i) of any non-banking institution, including a financial institution, for the purposes of verifying the correctness or completeness of any statement, information or particulars furnished to the Bank or for the purpose of obtaining any information or particulars which the non-banking institution has failed to furnish on being called upon to do so; or

Amendment of
section
45K.

Insertion of
new
section
45MA.

Powers
and
duties of
auditors.

Amend-
ment of
section
45N.

REPEALED

OF 1974]

Reserve Bank of India (Amendment)

643

(ii) of any non-banking institution being a financial institution, if the Bank considers it necessary or expedient to inspect that institution.”.

21. After section 45N of the principal Act, the following section shall be inserted, namely:—

Inser-
tion of
new
section
45NA.

“45NA. No person shall solicit on behalf of any non-banking institution either by publishing or causing to be published any prospectus or advertisement or in any other manner deposits of money from the public unless—

Deposits
not to be
solicited
by un-
authorised
persons.

(a) he has been authorised in writing by the said non-banking institution to do so and specifies the name of the institution which has so authorised him, and

(b) the prospectus or advertisement complies with any order made by the Bank under section 45J and with any other provision of law for the time being in force, applicable to the publication of such prospectus or advertisement.”.

22. Sections 45O and 45P of the principal Act shall be omitted.

Omission
of
sections
45O and
45P.

23. In section 46A of the principal Act, in sub-section (2),—

Amend-
ment of
section
46A.

(i) in clause (b), for the words “agricultural purposes or for such other purposes connected with the agricultural activities as the Central Board may, from time to time, by regulation or otherwise, determine”, the words “agricultural and allied purposes including purposes of animal husbandry or pisciculture or such other purposes connected with agricultural operations as the Bank may, from time to time, determine” shall be substituted;

(ii) after each of the provisos to clause (b) and clause (c), the following further proviso shall be added to each of the said clauses, namely:—

“Provided further that such guarantee may be waived by the Bank if other security to the satisfaction of the Bank is available, or if, for reasons to be recorded by it in writing, the Bank is satisfied that a guarantee or other security is not necessary.”.

24. In section 58 of the principal Act, sub-section (3) shall be re-numbered as sub-section (5) thereof and before sub-section (5), as so re-numbered, the following sub-sections shall be inserted, namely:—

Amend-
ment of
section
58.

“(3) Any regulation made under this section shall have effect from such earlier or later date as may be specified in the regulation.

(4) Every regulation shall, as soon as may be after it is made by the Central Board, be forwarded to the Central Government and that Government shall cause a copy of the same to be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regula-

REPEALED

644

Reserve Bank of India (Amendment)

[ACT 51]

tion, 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.”.

Inset-
tion of
new
section
58A.

Protec-
tion of
action
taken in
good
faith.

Inset-
tion of
new
sections
58B, 58C,
58D, 58E
and
58F.

Penalties

25. After section 58 of the principal Act, the following section shall be inserted, namely:—

“58A. (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or the Bank or any other person in respect of anything which is in good faith done or intended to be done under this Act or in pursuance of any order, regulation or direction made or given thereunder,

(2) No suit or other legal proceeding shall lie against the Central Government or the Bank for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act or in pursuance of any order, regulation or direction made or given thereunder.”.

26. After section 58A of the principal Act, the following Chapter and sections shall be inserted, namely:—

'CHAPTER V'

PENALTIES

58B. (1) Whoever in any application, declaration, return, statement, information or particulars made, required or furnished by or under or for the purposes of any provisions of this Act, or any order, regulation or direction made or given thereunder or in any prospectus or advertisement issued for or in connection with the invitation by any person, of deposits of money from the public wilfully makes a statement which is false in any material particular knowing it to be false or wilfully omits to make a material statement shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

(2) If any person fails to produce any book, account or other document or to furnish any statement, information or particulars which, under this Act or any order, regulation or direction made or given thereunder, it is his duty to produce or furnish or to answer any question put to him in pursuance of the provisions of this Act or of any order, regulation or direction made or given thereunder, he shall be punishable with fine which may extend to two thousand rupees in respect of each offence and if he persists in such failure or refusal, with further fine which may extend to one hundred rupees for every day, after the first during which the offence continues.

(3) If any person contravenes the provisions of section 31, he shall be punishable with fine which may extend to the amount of the bill of exchange, hundi, promissory note or engagement for payment of money in respect whereof the offence is committed.

(4) If any person discloses any credit information, the disclosure of which is prohibited under section 45E, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(5) If any person—

(a) receives any deposit in contravention of any direction given or order made under Chapter IIIB; or

(b) issues any prospectus or advertisement otherwise than in accordance with section 45NA or any order made under section 45J, as the case may be,

he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine which may extend,—

(i) in the case of a contravention falling under clause (a), to twice the amount of the deposit received; and

(ii) in the case of a contravention falling under clause (b), to twice the amount of the deposit called for by the prospectus or advertisement.

(6) If any other provision of this Act is contravened or if any default is made in complying with any other requirement of this Act or of any order, regulation or direction made or given or condition imposed thereunder, any person guilty of such contravention or default shall be punishable with fine which may extend to two thousand rupees and where a contravention or default is a continuing one, with further fine which may extend to one hundred rupees for every day, after the first, during which the contravention or default continues.

58C. (1) Where a person committing a contravention or default referred to in section 58B is a company, every person who, at the time the contravention or default was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention or default and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention or default was committed without his knowledge or that he had exercised all due diligence to prevent the contravention or default.

(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 same was committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary, or other officer or employee of the company, such director, manager, secretary, other officer or employee shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation 1.—Any offence punishable under this Act shall be deemed to have been committed at the place where the registered office or the principal place of business, as the case may be, in India, of the company is situated.

Offences
by com-
panies.

REPEALED

646

Reserve Bank of India (Amendment)

ACT 51 OF 1974]

Explanation 2.—For the purpose of this section,—

(a) "a company" means any body corporate and includes a corporation, a non-banking institution, a firm, a co-operative society or other association of individuals;

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

Application of section 58B barred.

58D. Nothing contained in section 58B shall apply to, or in respect of, any matter dealt with in section 42.

Cognizance of offences.

58E (1) No court shall take cognizance of any offence punishable under this Act except upon a complaint in writing made by an officer of the Bank, generally or specially authorised in writing in this behalf by the Bank, and no court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class or a court superior thereto shall try any such offence.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, a Magistrate may, if he sees reason so to do, dispense with the personal attendance of the officer of the Bank filing the complaint, but the Magistrate may in his discretion, at any stage of the proceedings, direct the personal attendance of the complainant.

Application or fine.

58F. A court imposing any fine under this Act may direct that the whole or any part thereof shall be applied in, or towards payment of, the costs of the proceedings.'

2 of 1974.

THE CONSERVATION OF FOREIGN EXCHANGE AND
PREVENTION OF SMUGGLING ACTIVITIES
ACT, 1974

NO. 52 OF 1974

[13th December, 1974]

An Act to provide for preventive detention in certain cases for the purposes of conservation and augmentation of Foreign Exchange and prevention of smuggling activities and for matters connected therewith.

WHEREAS violations of foreign exchange regulations and smuggling activities are having an increasingly deleterious effect on the national economy and thereby a serious adverse effect on the security of the State;

AND WHEREAS having regard to the persons by whom and the manner in which such activities or violations are organised and carried on, and having regard to the fact that in certain areas which are highly vulnerable to smuggling, smuggling activities of a considerable magnitude are clandestinely organised and carried on, it is necessary for the effective prevention of such activities and violations to provide for detention of persons concerned in any manner therewith;

648 *Conservation of Foreign Exchange and Prevention of Smuggling Activities* [ACT 52]

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

Short title,
extent
and Com-
mencement.

Defini-
tions.

Power to
make
orders
detaining
certain
persons.

1. (1) This Act may be called the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974.

(2) It extends to the whole of India.

(3) It shall come into force on such date¹ (being a date not later than the twentieth day of December, 1974), as the Central Government may, by notification in the Official Gazette, appoint.

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

(a) "appropriate Government" means, as respects a detention order made by the Central Government or by an officer of the Central Government or a person detained under such order, the Central Government, and as respects a detention order made by a State Government or by an officer of a State Government or a person detained under such order, the State Government;

(b) "detention order" means an order made under section 3;

(c) "foreigner" has the same meaning as in the Foreigners Act, 1946;

(d) "Indian customs waters" has the same meaning as in clause (28) of section 2 of the Customs Act, 1962;

(e) "smuggling" has the same meaning as in clause (39) of section 2 of the Customs Act, 1962, and all its grammatical variations and cognate expressions shall be construed accordingly;

(f) "State Government", in relation to a Union territory, means the administrator thereof;

(g) any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.

3. (1) The Central Government or the State Government, or any officer of the Central Government, not below the rank of a Joint Secretary to that Government, specially empowered for the purposes of this section by that Government, or any officer of a State Government, not below the rank of a Secretary to that Government, specially empowered for the purposes of this section by that Government, may, if satisfied, with respect to any person (including a foreigner), that, with a view to preventing him from acting in any manner prejudicial to the conservation or augmentation of foreign exchange or with a view to preventing him from—

(i) smuggling goods, or

(ii) abetting the smuggling of goods, or

(iii) engaging in transporting or concealing or keeping smuggled goods, or

(iv) dealing in smuggled goods otherwise than by engaging in transporting or concealing or keeping smuggled goods, or

(v) harbouring persons engaged in smuggling goods or in abetting the smuggling of goods,

it is necessary so to do, make an order directing that such person be detained.

¹19-12-1974 vide Notification G S R 690 (E) dated 16-12-1974.

(2) When any order of detention is made by a State Government or by an officer empowered by a State Government, the State Government shall, within ten days, forward to the Central Government a report in respect of the order.

(3) For the purposes of clause (5) of article 22 of the Constitution, the communication to a person detained in pursuance of a detention order of the grounds on which the order has been made shall be made as soon as may be after the detention, but ordinarily not later than five days, and in exceptional circumstances and for reasons to be recorded in writing, not later than fifteen days, from the date of detention.

4. A detention order may be executed at any place in India in the manner provided for the execution of warrants of arrest under the Code of Criminal Procedure, 1973.

Execution of detention orders.

5. Every person in respect of whom a detention order has been made shall be liable—

Power to regulate place and conditions of detention.

(a) to be detained in such place and under such conditions including conditions as to maintenance, interviews or communication with others, discipline and punishment for breaches of discipline, as the appropriate Government may, by general or special order, specify; and

(b) to be removed from one place of detention to another place of detention, whether within the same State or in another State by order of the appropriate Government:

Provided that no order shall be made by a State Government under clause (b) for the removal of a person from one State to another State except with the consent of the Government of that other State.

6. No detention order shall be invalid or inoperative merely by reason—

Detention orders not to be invalid or inoperative on certain grounds.

(a) that the person to be detained thereunder is outside the limits of the territorial jurisdiction of the Government or the officer making the order of detention, or

(b) that the place of detention of such person is outside the said limits.

7. (1) If the appropriate Government has reason to believe that a person in respect of whom a detention order has been made has absconded or is concealing himself so that the order cannot be executed, that Government may—

Powers in relation to absconding persons.

(a) make a report in writing of the fact to a Metropolitan Magistrate or a Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides; and thereupon the provisions of sections 82, 83, 84 and 85 of the Code of Criminal Procedure, 1973, shall apply in respect of the said person and his property as if the order directing that he be detained were a warrant issued by the Magistrate;

(b) by order notified in the Official Gazette direct the said person to appear before such officer, at such place and within such

2 of 1974.

period as may be specified in the order; and if the said person fails to comply with such direction, he shall, unless he proves that it was not possible for him to comply therewith and that he had, within the period specified in the order, informed the officer mentioned in the order of the reason which rendered compliance therewith impossible and of his whereabouts, be punishable with imprisonment for a term which may extend to one year or with fine or with both.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under clause (b) of sub-section (1) shall be cognisable.

Advisory Boards.

8. For the purposes of sub-clause (a) of clause (4), and sub-clause (c) of clause (7), of article 22 of the Constitution,—

(a) the Central Government and each State Government shall, whenever necessary, constitute one or more Advisory Boards each of which shall consist of a Chairman and two other persons possessing the qualifications specified in sub-clause (a) of clause (4) of article 22 of the Constitution;

(b) save as otherwise provided in section 9, the appropriate Government shall, within five weeks from the date of detention of a person under a detention order make a reference in respect thereof to the Advisory Board constituted under clause (a) to enable the Advisory Board to make the report under sub-clause (a) of clause (4) of article 22 of the Constitution;

(c) the Advisory Board to which a reference is made under clause (b) shall after considering the reference and the materials placed before it and after calling for such further information as it may deem necessary from the appropriate Government or from any person called for the purpose through the appropriate Government or from the person concerned, and if, in any particular case, it considers it essential so to do or if the person concerned desires to be heard in person, after hearing him in person, prepare its report specifying in a separate paragraph thereof its opinion as to whether or not there is sufficient cause for the detention of the person concerned and submit the same within eleven weeks from the date of detention of the person concerned;

(d) when there is a difference of opinion among the members forming the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board;

(e) a person against whom an order of detention has been made under this Act shall not be entitled to appear by any legal practitioner in any matter connected with the reference to the Advisory Board, and the proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential;

(f) in every case where the Advisory Board has reported that there is in its opinion sufficient cause for the detention of a person,

the appropriate Government may confirm the detention order and continue the detention of the person concerned for such period as it thinks fit and in every case where the Advisory Board has reported that there is in its opinion no sufficient cause for the detention of the person concerned, the appropriate Government shall revoke the detention order and cause the person to be released forthwith.

9. (1) Notwithstanding anything contained in this Act, any person (including a foreigner) in respect of whom an order of detention is made under this Act at any time before the 31st day of December, 1976 may be detained without obtaining, in accordance with the provisions of sub-clause (a) of clause (4) of article 22 of the Constitution, the opinion of an Advisory Board for a period longer than three months but not exceeding one year from the date of his detention, where the order of detention has been made against such person with a view to preventing him from smuggling goods or abetting the smuggling of goods or engaging in transporting or concealing or keeping smuggled goods and the Central Government or any officer of the Central Government, not below the rank of an Additional Secretary to that Government, specially empowered for the purposes of this section by that Government, is satisfied that such person—

Cases in which and under which persons may be detained for longer than three months without obtaining opinion of Advisory Board.

- (i) smuggles or is likely to smuggle goods into, out of or through any area highly vulnerable to smuggling; or
- (ii) abets or is likely to abet the smuggling of goods into, out of or through any area highly vulnerable to smuggling; or
- (iii) engages or is likely to engage in transporting or concealing or keeping smuggled goods in any area highly vulnerable to smuggling, and makes a declaration to that effect within five weeks of the detention of such person.

Explanation.—In this sub-section, “area highly vulnerable to smuggling” means—

- (i) the Indian customs waters;
 - (ii) the inland area fifty kilometres in width from the coast of India falling within the territories of the States of Gujarat, Karnataka, Kerala, Maharashtra, Tamil Nadu and the Union territories of Goa, Daman and Diu and Pondicherry; and
 - (iii) such further or other inland area not exceeding one hundred kilometres in width from any coast or other border of India, as the Central Government may, having regard to the vulnerability of that area to smuggling, by notification in the Official Gazette, specify in this behalf.
- (2) In the case of any person detained under a detention order to which the provisions of sub-section (1) apply, section 8 shall have effect subject to the following modifications, namely:—

- (i) in clause (b), for the words “shall, within five weeks”, the words “may, at any time prior to but in no case later than three months before the expiration of one year” shall be substituted;
- (ii) in clause (c), for the words “from the date of detention of the person concerned”, the words “from the date on which the reference is made to ‘it’” shall be substituted.

(3) The case of every person detained under a detention order to which the provisions of sub-section (1) apply shall, within a period of six months from the date of detention, be reviewed [unless in the meantime a reference has been made in respect thereof to an Advisory Board constituted under clause (a) of section 8 read with sub-section (2) or such order has been revoked] by the appropriate Government in consultation with a person who is, or has been, or is qualified to be appointed, as a Judge of a High Court nominated in that behalf by that Government:

Provided that where the appropriate Government is a State Government, that Government shall also consult the Central Government in the matter.

~~Maximum period of detention.~~ 10. The maximum period for which any person may be detained in pursuance of any detention order to which the provisions of section 9 do not apply and which has been confirmed under clause (f) of section 8 shall be one year from the date of detention and the maximum period for which any person may be detained in pursuance of any detention order to which the provisions of section 9 apply and which has been confirmed under clause (f) of section 8 read with sub-section (2) of section 9 shall be two years from the date of detention:

Provided that nothing contained in this section shall affect the power of the appropriate Government in either case to revoke or modify the detention order at any earlier time.

Revocation of detention orders.

11. (1) Without prejudice to the provisions of section 21 of the General Clauses Act, 1897, a detention order may, at any time, be revoked or modified—

10 of 1897.

(a) notwithstanding that the order has been made by an officer of a State Government, by that State Government or by the Central Government;

(b) notwithstanding that the order has been made by an officer of the Central Government or by a State Government, by the Central Government.

(2) The revocation of a detention order shall not bar the making of another detention order under section 3 against the same person.

Temporary release of persons detained.

12. (1) The appropriate Government may, at any time, direct that any person detained in pursuance of a detention order may be released for any specified period either without conditions or upon such conditions specified in the direction as that person accepts, and may, at any time, cancel his release.

(2) In directing the release of any person under sub-section (1), the appropriate Government may require him to enter into a bond with sureties for the due observance of the conditions specified in the direction.

² [under Sub-Section (1) or Sub-Section (10)]

(3) Any person released under sub-section (1) shall surrender himself at the time and place, and to the authority, specified in the order directing his release or cancelling his release, as the case may be.

¹ Subs. and ins. by Act 20 of 1976, s. 3 (w.e.f. 12.12.75).

² Subs. by S.Y. Ord.

(4) If any person fails without sufficient cause to surrender himself in the manner specified in sub-section (3), he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(5) If any person released under sub-section (1) fails to fulfil any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to pay the penalty thereof.

13. No suit or other legal proceeding shall lie against the Central Government or a State Government, and no suit, prosecution or other legal proceedings shall lie against any person, for anything in good faith done or intended to be done in pursuance of this Act.

Protection of action taken in good faith.

14. The Maintenance of Internal Security (Amendment) Ordinance, Repeal. 11 of 1974, shall, on the commencement of this Act, stand repealed and accordingly the amendments made in the Maintenance of Internal Security Act, 1971, by the said Ordinance shall, on such commencement, cease to have effect.

20 of 1971.

15. Subs. by Act 35 of 1975, s. 3 (w.e.f. 1.7.75).

16. Subs. by Act 35 of 1975, s. 4 (w.e.f. 1.7.75).

17. Subs. by Act 20 of 1976, s. 4, (w.e.f. 12.12.75).

18. Subs. by Act 90 of 1976, s. 2 (w.e.f. 16.6.76).

19. Subs. by Act 35 of 1975, s. 3 (w.e.f. 1.7.75).

20. Subs. by Act 20 of 1976, s. 4, (w.e.f. 12.12.75).

21. Subs. by Act 90 of 1976, s. 2 (w.e.f. 16.6.76).

Ministry of Defence
Government of India
Central Government of India

Ministry of Defence
Government of India
Central Government of India
Ref. by Law No. 38 of 1978 S. 245(1)

Ministry of Defence
Government of India
Central Government of India
Ref. by Law No. 38 of 1978 S. 245(1)

THE NAVY (AMENDMENT) ACT, 1974

No. 53 of 1974

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

[16th December, 1974]

An Act further to amend the Navy Act, 1957.

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

Short title.

1. This Act may be called the Navy (Amendment) Act, 1974.

Substitution of "seaman" by "sailor".

2. Throughout the Navy Act, 1957 (hereinafter referred to as the principal Act), for the word "seaman", wherever it occurs, the word "sailor" shall be substituted, and such other consequential amendments as the rules of grammar may require shall also be made. **62 of 1957.**

**Amend-
ment of
section 3.**

3. In section 3 of the principal Act,—

(a) after clause (12), the following clause shall be inserted, namely:—

'(12A) "naval establishment" means an establishment belonging to, or under the control of, the Indian Navy whether within or without India;';

(b) for clause (17), the following clause shall be substituted, namely:—

'(17) "petty officer" means a sailor rated as such and includes a chief petty officer and a master chief petty officer.' **62 of 1957.**

REPEALED

27-10-1974]

Navy (Amendment)

655

4. In sub-section (2) of section 7 of the principal Act, after the words, brackets and figures "sub-section (3) of section 93", the words "or in such cases and subject to such conditions as may be prescribed" shall be inserted.

Amend-
ment of
section 7.

5. In sub-section (2) of section 15 of the principal Act, before the word "discharge" in both the places where it occurs, the words "dismiss or" shall be inserted.

Amend-
ment of
section 15.

6. In Chapter V of the principal Act, after section 19, the following sections shall be inserted, namely:—

Insertion
of new
sections
19A and
19B.

"19A. (1) If a person belonging to the Indian Naval Reserve Forces is, during the period of his employment under an employer called up for training or called up into actual service with the Indian Navy in pursuance of his liability under any regulations made under this Act, it shall be the duty of every such employer to reinstate the person in his employment on the termination of the period of his training or service with the Indian Navy in an occupation and under conditions not less favourable to him than those which would have been applicable to him had his employment not been so interrupted:

Reinstate-
ment of
Persons
belonging
to the
Indian
Naval
Reserve
Forces on
termina-
tion of
period of
training
or actual
service
with the
Indian
Navy.

Provided that if the employer refuses to reinstate such person or denies his liability to reinstate such person, or if for any reason reinstatement of such person is represented by the employer to be impracticable, either party may refer the matter to the authority prescribed in this behalf and that authority shall, after considering all matters which may be put before it and after making such further inquiry into the matter as may be prescribed, pass an order—

(a) exempting the employer from the provisions of this section, or

(b) requiring the employer to re-employ such person on such terms as the authority thinks suitable, or

(c) requiring the employer to pay to such person by way of compensation for failure or inability to re-employ, a sum not exceeding an amount equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer.

(2) If any employer fails to obey the order of any such authority as is referred to in the proviso to sub-section (1), he shall be punishable with fine which may extend to one thousand rupees, and the court by which an employer is convicted under this sub-section shall order him (if he has not already been so required by the said authority) to pay to the person whom he has failed to re-employ a sum equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer, and any amount so required to be paid either by the said authority or by the court shall be recoverable as if it were a fine imposed by such court.

(3) In any proceeding under this section it shall be a defence for an employer to prove that the person formerly employed did not apply to the employer for reinstatement within a period of two months from the termination of the period of his training or service with the Indian Navy.

REPEALED

656

Navy (Amendment)

[ACT 53]

(4) The duty imposed by sub-section (1) upon an employer to reinstate in his employment a person such as is described in that sub-section shall attach to an employer who, before such person is actually called up for training, or called up into actual service with the Indian Navy, terminates his employment in circumstances such as to indicate an intention to evade the duty imposed by that sub-section, and such intention shall be presumed until the contrary is proved, if the termination takes place after the issue of orders calling him up for training or service with the Indian Navy under this Act.

Preservation of service rights belonging to the Indian Naval Reserve Forces when called up for training or actual service with the Indian Navy.

19B. When any person belonging to the Indian Naval Reserve Forces and called up for training or called up into actual service with the Indian Navy in pursuance of his liability under any regulations made under this Act, has any rights under any provident fund or superannuation fund or other scheme for the benefit of employees maintained in connection with the employment he relinquishes, he shall continue, so long as he is engaged in training, or service with the Indian Navy and if he is reinstated, until such reinstatement under the provisions of this Act, to have in respect of such fund or scheme such rights as may be prescribed.”

Substitution of new sections for sections 34 to 37.

7. For sections 34 to 37 of the principal Act, the following sections shall be substituted, namely:—

Misconduct by officers or persons in command.

“34. Every flag officer, captain or other person subject to naval law who, being in command of any ship, vessel or aircraft of the Indian Navy, or any naval establishment—

(a) fails to use his utmost exertions to bring into action any such ship, vessel or aircraft which it is his duty to bring into action; or

(b) surrenders any such ship, vessel or aircraft to the enemy when it is capable of being successfully defended or destroyed; or

(c) fails to pursue the enemy whom it is his duty to pursue or to assist to the utmost of his ability any friend whom it is his duty to assist; or

(d) in the course of any action by or against the enemy improperly withdraws from the action or from his station or fails in his own person and according to his rank to encourage the persons under his command to fight courageously; or

(e) surrenders any such naval establishment or any part of such an establishment to the enemy when it is capable of being successfully defended or when it is his duty to cause it to be destroyed,

shall,—

(a) if such act is committed with intent to assist the enemy or from cowardice, be punished with death or such other punishment as is hereinafter mentioned; and

(b) in any other case, be punished with imprisonment for a term which may extend to seven years or such other punishment as is hereinafter mentioned.

35. Every person subject to naval law who, not being in command of any naval establishment or any ship, vessel or aircraft of the Indian Navy, fails when ordered to prepare for action by or against the enemy, or during any such action, to use his utmost exertions to carry the lawful orders of his superior officers into execution shall,—

(a) if such act is committed with intent to assist the enemy, be punished with death or such other punishment as is hereinafter mentioned; and

(b) in any other case, be punished with imprisonment for a term which may extend to seven years or such other punishment as is hereinafter mentioned.

36. Every person subject to naval law who wilfully delays or discourages upon any pretext whatsoever, any action or service which has been commanded on the part of the Navy, regular Army, or Air Force or of any forces co-operating therewith shall,—

(a) if such act is committed with intent to assist the enemy, be punished with death or such other punishment as is hereinafter mentioned; and

(b) in any other case, be punished with imprisonment which may extend to seven years or such other punishment as is hereinafter mentioned.

37. Every person subject to naval law who, being in the presence or vicinity of the enemy or having been ordered to be prepared for action by or against the enemy—

(a) deserts his post; or

(b) sleeps upon his watch,

shall be punished with death or such other punishment as is hereinafter mentioned.”.

8. In section 41 of the principal Act, for clause (c), the following clause shall be substituted, namely:—

“(c) fails to perform or negligently performs the duty imposed on him; or”.

9. For section 42 of the principal Act, the following section shall be substituted, namely:—

“42. Mutiny means any assembly or combination of two or more persons subject to naval law, the Army Act, 1950, or the Air Force Act, 1950, or between persons two at least of whom are subject to naval law or any such Act,—

(a) to overthrow, or resist lawful authority in the Navy, regular Army or Air Force, or any part of any one or more of

Misconduct by persons other than those in command.

Delaying or discouraging action or service commanded.

Penalty for disobedience in action.

Amendment of section 41.

Substitution of new section for section 42.
Mutiny defined.

them or any forces co-operating therewith or any part thereof; or

(b) to disobey such authority in such circumstances as to make the disobedience subversive of discipline or with the object of avoiding any duty or service against, or in connection with operations against, the enemy; or

(c) to show contempt to such authority in such circumstances as to make such conduct subversive of discipline; or

(d) to impede the performance of any duty or service in the Navy, regular Army or Air Force or any part of any one or more of them or any forces co-operating therewith or any part thereof.".

Amend-
ment of
section 43.

Amend-
ment of
section 51.

Amend-
ment of
section 52.

Amend-
ment of
section 55.

Insertion
of new
sections

55A, 55B,
55C and
55D.

Dangerous
unautho-
rised
flying.

Inaccu-
rate certi-
ficate.

10. In section 43 of the principal Act, in clause (e), after the words "to suppress", the words "or prevent" shall be inserted.

11. In section 51 of the principal Act, after the words "place of duty", the words "or any place where he is required to be" shall be inserted.

12. Section 52 of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) For the purpose of sub-section (1), a person shall be deemed to be guilty of drunkenness if, owing to the influence of alcohol or any drug whether alone or in combination with any other circumstances, he is unfit to be entrusted with his duty or with any duty which he may be called upon to perform or behaves in a disorderly manner or in a manner likely to bring discredit to the naval service."

13. In sub-section (1) of section 55 of the principal Act, for the word "designedly", the word "wilfully" shall be substituted.

14. After section 55 of the principal Act, the following sections shall be inserted, namely:—

"55A. Every person subject to naval law, who is guilty of any act or neglect in flying or in the use of any aircraft of the Indian Navy or in relation to any such aircraft or aircraft material, which causes or is likely to cause loss of life or bodily injury to any person shall,—

(a) if he acts wilfully or with wilful neglect, be punished with imprisonment for a term which may extend to fourteen years; and

(b) in any other case, be punished with imprisonment for a term which may extend to five years or such other punishment as is hereinafter mentioned.

"55B. Every person subject to naval law who signs any certificate in relation to an aircraft or aircraft material belonging to or in the service of the Government without ensuring the accuracy thereof, shall be punished with imprisonment for a term which may extend to two years or such other punishment as is hereinafter mentioned.

APPEAL

[O.F. 1974]

Navy (Amendment)

659

55C. Every person subject to naval law being the pilot of an aircraft of the Indian Navy, who—

(a) flies it at a height less than the minimum height authorised by his commanding officer or appropriate service authority except while taking off or landing; or

(b) flies it so as to cause or likely to cause unnecessary annoyance to any person,

shall be punished with imprisonment for a term which may extend to two years or such other punishment as is hereinafter mentioned.

55D. Every person subject to naval law, who, while he is in an aircraft belonging to or in the use of the Government, disobeys any lawful command given by the captain of the aircraft, whether such captain is subject to naval law or not, in relation to all matters relating to flying or handling of the aircraft or affecting the safety thereof, shall be punished with imprisonment for a term which may extend to fourteen years or such other punishment as is hereinafter mentioned.”.

Low flying and annoyance by flying.

15. In section 73 of the principal Act, after the words “Indian Naval Reserve Forces”, the words “and every person belonging to any auxiliary forces raised under this Act” shall be inserted

Disobedience of lawful command of captain of an aircraft.

Amendment of section 73.

16. In section 94 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—

Amendment of section 94.

“(5) The commanding officer of a training ship or the officer-in-charge of a naval academy may impose on any subordinate officer whilst under training such minor punishments, not higher than the punishment of severe reprimand or reprimand, as may, from time to time, be prescribed.”.

17. In section 168 of the principal Act,—

Amendment of section 168.

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

“Provided that the Central Government may, if it is of opinion that it is necessary or expedient so to do in the exigencies of service, relax, for reasons to be recorded in writing, the qualification specified in clause (b) or clause (c) in respect of any person.”;

(ii) to sub-section (4), the following proviso shall be added, namely:—

“Provided that the Central Government may, if it is of opinion that it is necessary or expedient so to do in the exigencies of service, relax, for reasons to be recorded in writing, the qualification specified in clause (b) or clause (c) in respect of any person.”.

18. In sub-section (2) of section 184 of the principal Act, for clause (c), the following clauses shall be substituted, namely:—

Amendment of section 184.

“(c) the cases in which, and the conditions subject to which, powers of punishment may be exercised under sub-section (2) of section 7;

~~REPEALED~~

660

Navy (Amendment)

[Act 53 of 1974]

(ca) the retirement, discharge and dismissal of persons in the naval service;

(cb) the authority to which any matter referred to in section 19A may be referred and the manner in which an enquiry may be made by that authority.”.

Substitution of new section for section 185.

Regulations to be laid before Parliament.

19. For section 185 of the principal Act, the following section shall be substituted, namely:—

“185. 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.”.

THE EAST PUNJAB URBAN RENT RESTRICTION ACT
(EXTENSION TO CHANDIGARH) ACT, 1974

No. 54 OF 1974

[20th December, 1974]

An Act to extend the East Punjab Urban Rent Restriction Act, 1949,
to the Union territory of Chandigarh.

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

1. This Act may be called the East Punjab Urban Rent Restriction Act (Extension to Chandigarh) Act, 1974. Short title.

2. In this Act, "the Act" means the East Punjab Urban Rent Restriction Act, 1949 as it extended to, and was in force in, certain areas in the pre-reorganisation State of Punjab (being areas which were administered by municipal committees, cantonment boards, town committees or notified area committees or areas notified as urban areas for the purposes of that Act) immediately before the 1st day of November, 1966. Definition.

662 *East Punjab Urban Rent Restriction Act (Extension to Chandigarh)* [ACT 54

Extension of
East
Punjab
Act
III of
1949 to
Chandigarh.

Validation
and
saving.

3. Notwithstanding anything contained in any judgment, decree or order of any court, the Act shall, subject to the modifications specified in the Schedule, be in force in, and be deemed to have been in force with effect from the 4th day of November, 1972 in, the Union territory of Chandigarh as if the provisions of the Act as so modified had been included in and formed part of this section and as if this section had been in force at all material times.

4. (1) Notwithstanding anything contained in any judgment, decree or order of any court, anything done or any action taken (including any notification or direction issued or rents fixed or permission granted or order made) or purported to have been done or taken under the Act shall be deemed to be as valid and effective as if the provisions of this Act had been in force at all material times when such thing was done or such action was taken.

(2) Nothing in this Act shall render any person guilty of any offence for any contravention of the provisions of the Act which occurred before the commencement of this Act.

THE SCHEDULE

(See section 3)

MODIFICATIONS IN THE ACT

1. Throughout the Act, for "State Government", substitute "Central Government".

2. Section 1, for sub-sections (2) and (3), substitute—

"(2) It extends to all the urban areas in the Union territory of Chandigarh."

3. Section 2,—

(i) after clause (d), insert—

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

(ii) for clause (j), substitute—

"(j) "urban area" means the area comprised in Chandigarh as defined in clause (d) of section 2 of the Capital of Punjab (Development and Regulation) Act, 1952 and includes such other area comprised in the Union territory of Chandigarh as the Central Government may, having regard to the density of the population and the nature and extent of the accommodation available therein and other relevant factors, declare by notification to be urban for the purposes of this Act.'

4. For section 20, substitute—

"20. (1) The Central Government may, by notification, make rules for the purpose of carrying out all or any of the provisions of this Act.

Power
to make
rules.

Punjab
Act
XXVII of
1952.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two 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.”.

38 78, S. 2 + Sch. I

THE DELHI MUNICIPAL CORPORATION (AMENDMENT) ACT, 1974

No. 55 OF 1974

[20th December, 1974]

An Act further to amend the Delhi Municipal Corporation Act, 1957.

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

Short title and commencement.

1. (1) This Act may be called the Delhi Municipal Corporation (Amendment) Act, 1974.

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

Amend-
ment of
section
2.

2. In section 2 of the Delhi Municipal Corporation Act, 1967 (hereinafter referred to as the principal Act), after clause (14), the following clause shall be inserted, namely:—

66 of 1957.

(14A) "Director of Municipal Elections" means an officer authorised by the Central Government to exercise the powers and perform the duties of the Director of Municipal Elections under this Act;.

Amend-
ment of
section
3.

3. In section 3 of the principal Act, in sub-section (6), in the opening paragraph, the words "on a scale of one councillor for not more than twenty thousand of the population" shall be omitted.

/ 10-1-75: Vide Notification No. S.O. 20 (E), dated 8-1-1975.

4. In section 5 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) For the purposes of election of councillors, Delhi shall be divided into single-member wards in such manner that the population of each of the wards shall, so far as practicable, be the same throughout Delhi.”.

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

Amend-
ment
of sec-
tion 5.

Substi-
tution
of new
sec-
tions
for sec-
tion 7.

7. Subject to the superintendence, direction and control of the Central Government, the Director of Municipal Elections shall supervise the preparation, revision and correction of all electoral rolls and the conduct of elections, in the wards.

General
duties of
Director
of Munici-
pal
Elec-
tions.

7A. For every ward there shall be an electoral roll which shall be prepared in accordance with the provisions of this Act and the rules made thereunder.

Elec-
toral
roll for
every
ward.

7B. (1) The electoral roll for each ward shall be prepared and revised by an electoral registration officer who shall be such officer of Government or the Corporation as the Central Government may designate or nominate in this behalf.

Electoral
regis-
tration
officers.

(2) To assist the electoral registration officer in the discharge of his functions under sub-section (1) the Director of Municipal Elections may employ such persons as he thinks fit.

7C. (1) The Central Government may appoint one or more persons as assistant electoral registration officers to assist any electoral registration officer in the performance of his functions.

Assistant
electoral
regis-
tration
officers.

(2) Every assistant electoral registration officer shall, subject to the control of the electoral registration officer, be competent to perform all or any of the functions of the electoral registration officer.

7D. The persons entitled to be registered as electors in the electoral roll of a parliamentary constituency in Delhi as relates to the area comprised within a ward shall be entitled to be so registered in the electoral roll of that ward and the provisions in this behalf in the Representation of the People Act, 1950 shall apply to the registration of electors in the electoral roll of a ward as they apply to the registration of electors in the electoral roll of a parliamentary constituency.

Registra-
tion of
electors.

Explanation.—In this section, in sub-section (1) of section 7E and in clause (ag) of sub-section (1) of section 31, the expression “parliamentary constituency” has the meaning assigned to it under the Representation of the People Act, 1950.

Preparation and revision of electoral rolls.

Preparation and revision of electoral rolls for the general election.

Issuance of letters for filling casual vacancies.

Formation of new wards.

Correction of entries in electoral roll.

666

7E. (1) The electoral roll for each ward shall be prepared before each general election in such manner as may be prescribed by rules by reference to the qualifying date and shall come into force immediately upon its final publication in accordance with the rules made for the purpose:

(2) Provided that if the Central Government is satisfied that, instead of preparing a fresh electoral roll of a ward before a general election, it would be sufficient to adopt the electoral roll of the parliamentary constituency for the time being in force as relates to the ward, it may, by order, for reasons to be specified therein, direct that the electoral roll of the parliamentary constituency for the time being in force as relates to the ward shall, subject to any rules made for the purpose, be the electoral roll of the ward for the general election.

(2) The electoral roll prepared or adopted, as the case may be, under sub-section (1) shall—

(a) unless otherwise directed by the Central Government, for reasons to be recorded in writing, be revised in the manner prescribed by rules by reference to the qualifying date before each bye-election to fill a casual vacancy in a seat allotted to the ward; and

(b) be revised in any year in the manner prescribed by rules by reference to the qualifying date if such revision has been directed by the Central Government:

(3) Provided that if the electoral roll is not revised as aforesaid, the validity or continued operation of the said electoral roll shall not thereby be affected.

(3) Notwithstanding anything contained in sub-section (2), the Central Government may, at any time, for reasons to be recorded in writing, direct a special revision of the electoral roll for any ward or part of a ward in such manner as it may think fit:

(4) Provided that the electoral roll for the ward as in force at the time of the issue of any such direction shall continue to be in force until the completion of the special revision so directed.

Explanation.—In this section, the expression "qualifying date" means such date as the Central Government may, by order, specify in this behalf.

7F. If the electoral registration officer, on an application made to him or on his own motion, is satisfied after such inquiry as he thinks fit, that any entry in the electoral roll for any ward—

(a) is erroneous or defective in any particular; or

(b) should be transposed to another place in the roll on the ground that the person concerned has changed his place of ordinary residence within such ward; or

(c) should be deleted on the ground that the person concerned is dead or has ceased to be ordinarily resident within such ward or is otherwise not entitled to be registered in that roll,

the electoral registration officer shall, subject to such general or special directions, if any, as may be given by the Director of Municipal Elections in this behalf, amend, transpose or delete the entry:

Provided that before taking any action on the ground specified in clause (a) or clause (b) or any action under clause (c) on the ground that the person concerned has ceased to be ordinarily resident within such ward or that he is otherwise not entitled to be registered in the electoral roll of such ward, the electoral registration officer shall give the person concerned a reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him.

7G. (1) Any person whose name is not included in the electoral roll of a ward may apply to the electoral registration officer for the inclusion of his name in that roll.

(2) The electoral registration officer shall, if satisfied that the applicant is entitled to be registered in the electoral roll, direct his name to be included therein:

Provided that if the applicant is registered in the electoral roll of any other ward, the electoral registration officer shall inform the electoral registration officer of that other ward and that officer shall, on receipt of the information, strike off the applicant's name from that roll.

(3) No amendment, transposition or deletion of any entry shall be made under section 7F and no direction for the inclusion of a name in the electoral roll of a ward shall be given under this section after the last date for making nominations for an election in that ward and before the completion of that election.

7H. An appeal shall lie within such time and in such manner as may be prescribed by rules to the Director of Municipal Elections, from any order of the electoral registration officer under section 7F or section 7G.

Inclusion
of names
in
electoral
roll.

Appeal.

7I. No civil court shall have jurisdiction—

(a) to entertain or adjudicate upon any question whether any person is or is not entitled to be registered in an electoral roll for a ward; or

(b) to question the legality of any action taken by or under the authority of an electoral registration officer or of any decision given by the Director of Municipal Elections.'

Jurisdi-
ction of
civil
courts
barred.

6. In sub-section (3) of section 11, sub-section (1) of section 12, section 14, sub-section (5) of section 30 and sub-section (3) of section 33 of the principal Act, for the word "Commissioner", the words "Director of Municipal Elections" shall be substituted.

Amend-
ment of
sections
11, 12, 14,
30 and
33.

7. In section 31 of the principal Act, in sub-section (1),—

(i) in the opening paragraph, for the words "for the purpose of holding elections", the words "for the purpose of preparation, revision, and maintenance of electoral rolls of wards and holding elections" shall be substituted;

Amend-
ment of
section
31.

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

“(a) the particulars to be entered in the electoral rolls;

“(aa) the preliminary publication of electoral rolls;

“(ab) the manner in which and the time within which claims and objections as to entries in electoral rolls may be preferred;

“(ac) the manner in which notices of claims or objections shall be published;

“(ad) the place, date and time at which claims or objections shall be heard and the manner in which claims or objections shall be heard and disposed of;

“(ae) the final publication of electoral rolls;

“(af) the revision and correction of electoral rolls and inclusion of names therein;

“(ag) the manner in which and the purpose for which the electoral roll of a parliamentary constituency may be used;

“(ah) the correction of electoral rolls on change of extent or boundaries of wards.”;

(iii) in clause (k), for the words “relating to elections”, the words “relating to electoral rolls or elections” shall be substituted.

**Amend-
ment of
section
90.**

8. In section 90 of the principal Act,—

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

“(2) Of the two schedules referred to in sub-section (1), the first schedule shall deal with category A posts and the second schedule with category B and category C posts.”;

(b) for sub-sections (5) and (6), the following sub-sections shall be substituted, namely:—

“(5) The appropriate authority may create for a period not exceeding six months any category C post:

Provided that no such post shall be continued beyond the said period without the previous approval of the Committee concerned.

(6) The Committee concerned may, on the recommendation of the appropriate authority, create for a period not exceeding six months any category A or category B post:

Provided that no such post shall be continued beyond the said period without the previous approval of the Corporation.”;

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

“(8) In this section and in section 92—

(i) “category A post” means any post with a minimum monthly salary (exclusive of allowances) of not less than

seven hundred rupees and includes any other post which the Central Government may, having regard to the nature of the duties attached thereto, by order, declare to be a category A post:

Provided that no such declaration shall be made except after consultation with the Union Public Service Commission (hereafter in this Chapter referred to as "the Commission");

(ii) "category B post" means any post, not being a category A post, the monthly minimum salary of which (exclusive of allowances) is five hundred and fifty rupees or more and includes any other post which the Central Government may, having regard to the nature of the duties attached thereto, by order, declare to be a category B post;

(iii) "category C post" means any post, other than a category A or category B post.

9. In section 92 of the principal Act, in sub-section (1),—

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

"to category A posts, shall vest—";

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

"(b) to category B and category C posts, shall vest in the General Manager (Electricity) or the Commissioner, as the case may be:

Provided that the power of appointing officers and other employees immediately subordinate to the Municipal Secretary or the Municipal Chief Auditor to category B posts or category C posts shall vest in the Standing Committee:

Provided further that the Standing Committee may delegate to the Municipal Secretary or the Municipal Chief Auditor the power of appointing officers and other employees immediately subordinate to the said Secretary or Auditor, to category C posts."

10. In section 96 of the principal Act,—

(a) in the opening paragraph, for the words and brackets 'or to any post carrying a minimum monthly salary of three hundred and fifty rupees or more (exclusive of allowance) shall be made except after consultation with the Union Public Service Commission (hereafter in this Chapter referred to as "the Commission")', the words, letter, brackets and figures "or to any category A post within

Amend-
ment of
section
92.

Amend-
ment of
section
96.

REPEALED

670

Delhi Municipal Corporation (Amendment) [ACT 55 OF 1974]

the meaning of clause (i) of sub-section (8) of section 90, shall be made except after consultation with the Commission" shall be substituted; or

(b) in the proviso, in clause (d), the word "or" shall be inserted at the end and after that clause, the following clause shall be inserted, namely:

"(e) to such other posts, as may, from time to time, be specified by the Central Government in consultation with the Commission."

Amend-
ment of
section
479.

11. In section 479 of the principal Act, in sub-section (2), for the words "or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following", the words "or in two or more successive sessions and if before the expiry of the session immediately following the session or the successive sessions aforesaid" shall be substituted.

enacted to make application within the territories of India and which
will give power to Parliament to amend Schedule I, by making
laws to regulate the same. **Rep. by Act.....38 of 1978, S. 2 + Sch. I**
and to amend the Constitution in accordance with the said laws.
In this Act, unless the context otherwise requires, "Schedule I" means
Schedule I to the Constitution of India, 1950.

beholden to the welfare of the subjects of the Indian State and their
well-being as presiding over the welfare of the people and the welfare
of the nation, do hereby make and declare this Act, to be enacted for
the better regulation of the affairs of the Indian State and for amending
the Constitution of India, 1950, in accordance with the powers so
vested in me.

THE REPEALING AND AMENDING ACT, 1974

Enacted by Parliament in the Twenty-fifth Year of the Republic
of India as follows:— **No. 56 OF 1974**

[20th December, 1974]

An Act to repeal certain enactments and to amend certain other enactments.

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

1. This Act may be called the Repealing and Amending Act, 1974. Short title.
2. The enactments specified in the First Schedule are hereby repealed to the extent mentioned in the fourth column thereof. Repeal of certain enactments.
3. The enactments specified in the Second Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof. Amendment of certain enactments.
4. In the Sixth Schedule to the Constitution, in paragraph 6, in subparagraph (1), for the words "cattle ponds", the words "cattle pounds" shall be substituted. Amendment of the Sixth Schedule to the Constitution.
5. The repeal by this Act of any enactment shall not affect any other enactment in which the repealed enactment has been applied, incorporated or referred to; Savings.

~~REPEALED~~

672

Repealing and Amending

[ACT 56]

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed or recognised or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE

(See section 2)

REPEALS

Year 1	No. 2	Short title 3	Extent of repeal 4
1854	24	The Malabar War-knives Act, 1854.	The whole.
1867	19	The Darjeeling (High Court's Jurisdiction) Act, 1867.	The whole.
1960	58	The Repealing and Amending Act, 1960.	The whole.
1962	3	The Union Duties of Excise (Distribution) Act, 1962.	Section 6.
1962	6	The State Financial Corporations (Amendment) Act, 1962.	The whole.
1962	7	The Indian Railways (Amendment) Act, 1962.	The whole.
1962	8	The Dock Workers (Regulation of Employment) Amendment Act, 1962.	The whole.
1962	9	The Estate Duty (Distribution) Act, 1962.	Section 5.
1962	10	The Additional Duties of Excise (Goods of Special Importance) Amendment Act, 1962.	The whole.
1962	14	The Advocates (Amendment) Act, 1962.	The whole.
1962	15	The Telegraph Wires (Unlawful Possession) Amendment Act, 1962.	The whole.
1962	16	The Indian Succession (Amendment) Act, 1962.	The whole.
1962	17	The Air Corporations (Amendment) Act, 1962.	Sections 2 to 6.
1962	21	The Drugs (Amendment) Act, 1962.	The whole.
1962	24	The President's Pension (Amendment) Act, 1962.	The whole.
1962	25	The Advocates (Second Amendment) Act, 1962.	The whole.
1962	27	The State of Nagaland Act, 1962.	Section 33.
1962	30	The Assam Rifles (Amendment) Act, 1962.	The whole.

REPEALED

674

Repealing and Amending

[ACT 5]

Year	No.	Short title	Extent of repeal
1	2	3	4
1962	31	The Land Acquisition (Amendment) Act, 1962.	Sections 2 to 6.
1962	32	The Advocates (Third Amendment) Act, 1962.	The whole.
1962	33	The Atomic Energy Act, 1962.	Section 32.
1962	35	The Reserve Bank of India (Amendment) Act, 1962.	The whole.
1962	36	The Banking Companies (Amendment) Act, 1962.	The whole.
1962	37	The Industries (Development and Regulation) Amendment Act, 1962.	The whole.
1962	38	The Oil and Natural Gas Commission (Amendment) Act, 1962.	The whole.
1962	42	The Foreigners Law (Application and Amendment) Act, 1962.	Section 3.
1962	44	The Electricity (Supply) Amendment Act, 1962.	The whole.
1962	45	The Hindu Adoptions and Maintenance (Amendment) Act, 1962.	The whole.
1962	46	The Metal Tokens (Amendment) Act, 1962.	The whole.
1962	47	The Indian Tariff (Amendment) Act, 1962.	The whole.
1962	48	The Employees' Provident Funds (Amendment) Act, 1962.	The whole.
1962	53	The Gift-tax (Amendment) Act, 1962.	The whole.
1962	54	The Taxation Laws (Amendment) Act, 1962.	The whole.
1962	56	The State-Associated Banks (Miscellaneous Provisions) Act, 1962.	Sections 2, 3, 4 and 6.
1962	60	The Multi-unit Co-operative Societies (Amendment) Act, 1962.	The whole.
1962	61	The Delimitation Commission Act, 1962.	The whole.
1962	64	The Workmen's Compensation (Amendment) Act, 1962.	The whole.
1962	65	The Working Journalists (Amendment) Act, 1962.	The whole.
1963	2	The Representation of the People (Amendment) Act, 1963.	The whole.
1963	3	The Indian Tariff (Amendment) Act, 1963.	The whole.

Year I	No. 2	Short title 3	Extent of repeal 4
1963	4	The Delhi Rent Control (Amendment) Act, 1963.	The whole.
1963	8	The Central Sales Tax (Amendment) Act, 1963.	The whole.
1963	11	The Marine Insurance Act, 1963.	Section 92.
1963	15	The Bengal Finance (Sales Tax) (Delhi Amendment) Act, 1963.	The whole.
1963	23	The Indian Emigration (Amendment) Act, 1963.	The whole.
1963	24	The Iron Ore Mines Labour Welfare Cess (Amendment) Act, 1963.	The whole.
1963	26	The Code of Civil Procedure (Amendment) Act, 1963.	The whole.
1963	27	The All-India Services (Amendment) Act, 1963.	The whole.
1963	28	The Employees' Provident Funds (Amendment) Act, 1963.	The whole.
1963	29	The Institutes of Technology (Amendment) Act, 1963.	Sections 2 to 6.
1963	30	The Customs and Central Excises (Amendment) Act, 1963.	The whole.
1963	32	The Special Marriage (Amendment) Act, 1963.	The whole.
1963	33	The Indian Sale of Goods (Amendment) Act, 1963.	The whole.
1963	34	The Warehousing Corporations (Amendment) Act, 1963.	The whole.
1963	36	The Limitation Act, 1963.	Sections 28 and 32.
1963	39	The Industrial Employment (Standing Orders) Amendment Act, 1963.	The whole.
1963	40	The Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1963.	The whole.
1963	42	The Drugs and Magic Remedies (Objectable Advertisements) Amendment Act, 1963.	The whole.
1963	43	The Income-tax (Amendment) Act, 1963.	The whole.
1963	47	The Specific Relief Act, 1963.	Sections 43 and 44.

~~REPEALED~~

676

Repealing and Amending

[ACT 56]

Year 1	No. 2	Short title 3	Extent of repeal 4
1963	48	The Requisitioning and Acquisition of Immovable Property (Amendment) Act, 1963.	The whole.
1963	49	The East Punjab Ayurvedic and Unani Practitioners (Delhi Amendment) Act, 1963.	The whole.
1963	50	The Indian Tariff (Second Amendment) Act, 1963.	The whole.
1963	51	The Preventive Detention (Continuance) Act, 1963.	The whole.
1963	52	The Unit Trust of India Act, 1963.	Section 44 and the Second Schedule.
1963	55	The Banking Laws (Miscellaneous Provisions) Act, 1963.	The whole.
1963	56	The Delhi Development (Amendment) Act, 1963.	Sections 2 to 29.
1964	9	The Armed Forces (Special Powers) Continuance Act, 1964.	The whole.
1964	10	The Public Employment (Requirement as to Residence) Amendment Act, 1964.	Sections 2 and 3.
1964	12	The Indian Railways (Amendment) Act, 1964.	The whole.
1964	13	The Drugs and Cosmetics (Amendment) Act, 1964.	The whole.
1964	15	The East Punjab Ayurvedic and Unani Practitioners (Delhi Amendment) Act, 1964.	The whole.
1964	17	The Indian Coinage (Amendment) Act, 1964.	The whole.
1964	19	The Oil and Natural Gas Commission (Amendment) Act, 1964.	The whole.
1964	20	The Durgah Khawaja Saheb (Amendment) Act, 1964.	The whole.
1964	21	The Advocates (Amendment) Act, 1964.	The whole.
1964	24	The Indian Medical Council (Amendment) Act, 1964.	The whole.
1964	25	The Coir Industry (Amendment) Act, 1964.	The whole.
1964	26	The Salaries and Allowances of Members of Parliament (Amendment) Act, 1964.	The whole.

Year 1	No. 2	Short title 3	Extent of repeal 4
1964	27	The High Court Judges (Conditions of Service) Amendment Act, 1964.	The whole.
1964	30	The Kerala State Legislature (Delegation of Powers) Act, 1964.	The whole.
1964	31	The Direct Taxes (Amendment) Act, 1964.	The whole.
1964	33	The Representation of the People (Amendment) Act, 1964.	The whole.
1964	34	The Wakf (Amendment) Act, 1964.	The whole.
1964	35	The State Bank of India (Amendment) Act, 1964.	The whole.
1964	36	The Industrial Disputes (Amendment) Act, 1964.	The whole.
1964	38	The Indian Trade Unions (Amendment) Act, 1964.	The whole.
1964	40	The Anti-Corruption Laws (Amendment) Act, 1964.	The whole.
1964	41	The Mineral Oils (Additional Duties of Excise and Customs) Amendment Act, 1964.	The whole.
1964	43	The Slum Areas (Improvement and Clearance) Amendment Act, 1964.	The whole.
1964	44	The Hindu Marriage (Amendment) Act, 1964.	The whole.
1964	45	The Provisional Collection of Taxes (Amendment) Act, 1964.	The whole.
1964	46	The Wealth-tax (Amendment) Act, 1964.	The whole.
1964	47	The Essential Commodities (Amendment) Act, 1964.	The whole.
1964	48	The Official Trustees (Amendment) Act, 1964.	The whole.
1964	49	The Prevention of Food Adulteration (Amendment) Act, 1964.	The whole.
1964	51	The Indian Tariff (Amendment) Act, 1964.	The whole.
1964	52	The Repealing and Amending Act, 1964.	The whole.
1964	53	The Payment of Wages (Amendment) Act, 1964.	The whole.

REPEALED

678

Repealing and Amending

[ACT. 56]

Year 1	No. 2	Short title 3	Extent of repeal 4
1964	54	The Standards of Weights and Measures (Amendment) Act, 1964.	The whole.
1964	55	The Foreign Exchange Regulation (Amendment) Act, 1964.	The whole.
1965	1	The Income-tax (Amendment) Act, 1965.	Sections 2 to 5.
1965	6	The Industries (Development and Regulation) Amendment Act, 1965.	The whole.
1965	9	The Armed Forces (Special Powers) Continuance Act, 1965.	The whole.
1965	12	The Kerala State Legislature (Delegation of Powers) Act, 1965.	The whole.
1965	14	The Representation of the People (Amendment) Act, 1965.	The whole.
1965	16	The Press and Registration of Books (Amendment) Act, 1965.	The whole.
1965	17	The Representation of the People (Second Amendment) Act, 1965.	The whole.
1965	19	The Aligarh Muslim University (Amendment) Act, 1965.	The whole.
1965	22	The Employees' Provident Funds (Amendment) Act, 1965.	The whole.
1965	23	The Banking Laws (Application to Co-operative Societies) Act, 1965.	Sections 2 to 16; sub-section (1) of section 11 and sections 12 to 14.
1965	32	The Insurance (Amendment) Act, 1965.	The whole.
1965	33	The Life Insurance Corporation (Amendment) Act, 1965.	The whole.
1965	35	The Industrial Disputes (Amendment) Act, 1965.	The whole.
1965	36	The Delhi Motor Vehicles Taxation (Amendment) Act, 1965.	The whole.
1965	38	The Delhi Land Reforms (Amendment) Act, 1965.	Sections 2 to 26.
1965	39	The Indian Works of Defence (Amendment) Act, 1965.	The whole.
1965	41	The Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1965.	Sections 2 to 7.
1965	45	The Coal Mines Provident Fund and Bonus Schemes (Amendment) Act, 1965.	Sections 2 to 14.

REPEALED

on 1974]

*Repealing and Amending*67₉

Year 1	No. 2	Short title 3	Extent of repeal 4
1965	46	The Indian Tariff (Amendment) Act, 1965.	The whole.
1965	47	The Union Duties of Excise (Distribution) Amendment Act, 1965.	The whole.
1965	48	The Additional Duties of Excise (Goods of Special Importance) Amendment Act, 1965.	The whole.
1965	49	The Union Territories (Direct Election to the House of the People) Act, 1965.	Sections 4 and 5.
1965	51	The Estate Duty (Distribution) Amendment Act, 1965.	The whole.
1966	1	The Delhi Land Reforms (Amendment) Act, 1966.	Sections 2 and 3.
1966	2	The Imports and Exports (Control) Amendment Act, 1966.	The whole.
1966	3	The Indian Tariff (Amendment) Act, 1966.	The whole.
1966	9	The Armed Forces (Special Powers) Amendment Act, 1966.	The whole.
1966	16	The Orissa Legislative Assembly (Extension of Duration) Act, 1966.	The whole.
1966	17	The Unit Trust of India (Amendment) Act, 1966.	The whole.
1966	19	The Delhi Administration Act, 1966.	Sections 35, 36 and 37.
1966	20	The Customs (Amendment) Act, 1966.	The whole.
1966	21	The Merchant Shipping (Amendment) Act, 1966.	Sections 2 to 39.
1966	22	The Criminal Law Amendment (Amending) Act, 1966.	Sections 2 and 3.
1966	23	The Advocates (Amendment) Act, 1966.	The whole.
1966	25	The Essential Commodities (Amendment) Act, 1966.	The whole.
1966	26	The Delhi High Court Act, 1966.	Section 19 and the Schedule.
1966	28	The Punjab State Legislature (Delegation of Powers) Act, 1966.	The whole.
1966	30	The Electricity (Supply) Amendment Act, 1966.	Sections 2 to 23.
1966	34	The Companies (Amendment) Act, 1966.	The whole.

REPEALED

630

Repealing and Amending

[ACT 56]

Year I	No. 2	Short title 3	Extent of repeal 4
1966	44	The Employees' State Insurance (Amendment) Act, 1966.	Sections 2 to 42.
1966	47	The Representation of the People (Amendment) Act, 1966.	Sections 2, 4 to 60 and 62.
1966	48	The Preventive Detention (Continuance) Act, 1966.	The whole.
1966	49	The Produce Cess (Amendment) Act, 1966.	The whole.
1966	50	The Indian Tariff (Second Amendment) Act, 1966.	The whole.
1967	9	The Armed Forces (Special Powers) Continuance Act, 1967.	The whole.
1967	10	The Representation of the People (Amendment) Act, 1967.	The whole.
1967	11	The Mineral Products (Additional Duties of Excise and Customs) Amendment Act, 1967.	The whole.
1967	13	The Land Acquisition (Amendment and Validation) Act, 1967.	Sections 2 and 3.
1967	14	The Essential Commodities (Amendment) Act, 1967.	Sections 2 and 4.
1967	17	The Companies Tribunal (Abolition) Act, 1967.	The whole.
1967	21	The Tea (Amendment) Act, 1967.	The whole.
1967	22	The Public Wakfs (Extension of Limitation) Amendment Act, 1967.	The whole.
1967	24	The Indian Official Secrets (Amendment) Act, 1967.	The whole.
1967	26	The Cotton Fabrics (Additional Excise Duty) (Repeal) Act, 1967.	The whole.
1967	27	The Taxation Laws (Amendment) Act, 1967.	The whole.
1967	30	The Haryana State Legislature (Delegation of Powers) Act, 1967.	The whole.
1967	31	The Indian Tariff (Amendment) Act, 1967.	The whole.
1967	36	The Essential Commodities (Second Amendment) Act, 1967.	The whole.

Year 1	No. 2	Short title 3	Extent of repeal 4
1968	1	The Official Languages (Amendment) Act, 1968.	The whole.
1968	2	The Delhi Municipal Corporation (Amendment) Act, 1968.	The whole.
1968	6	The West Bengal State Legislature (Delegation of Powers) Act, 1968.	The whole.
1968	7	The Uttar Pradesh State Legislature (Delegation of Powers) Act, 1968.	The whole.
1968	10	The Armed Forces (Special Powers) Continuance Act, 1968.	The whole.
1968	17	The Displaced Persons (Compensation and Rehabilitation) Amendment Act, 1968.	The whole.
1968	22	The Estate Duty (Amendment) Act, 1968.	The whole.
1968	28	The Indian Coinage (Amendment) Act, 1968.	The whole.
1968	29	The Rice-Milling Industry (Regulation) Amendment Act, 1968.	The whole.
1968	30	The Press and Registration of Books (Amendment) Act, 1968.	The whole.
1968	31	The Requisitioning and Acquisition of Immovable Property (Amendment) Act, 1968.	The whole.
1968	32	The Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1968.	The whole.
1968	33	The Advocates (Amendment) Act, 1968.	The whole.
1968	35	The Inter-State Water Disputes (Amendment) Act, 1968.	The whole.
1968	39	The Bihar State Legislature (Delegation of Powers) Act, 1968.	The whole.
1968	44	The Indian Patents and Designs (Amendment) Act, 1968.	The whole.
1968	48	The Punjab State Legislature (Delegation of Powers) Act, 1968.	The whole.
1968	52	The Indian Railways (Amendment) Act, 1968.	The whole.
1968	56	The Deposit Insurance Corporation (Amendment) Act, 1968.	Sections 2 to 4, 6 and 8 to 14.

REPEALED

682

Repealing and Amending

[ACT. 56]

Year 1	No. 2	Short title 3	Extent of repeal 4
1968	57	The Food Corporations (Amendment) Act, 1968.	The whole.
1968	58	The Banking Laws (Amendment) Act, 1968.	The whole.
1968	61	The Legislative Assembly of Nagaland (Change in Representation) Act, 1968.	Sections 3 and 4.
1968	62	The Insurance (Amendment) Act, 1968.	Sections 2 to 13 and 15 to 40.
1968	63	The Indian Tariff (Amendment) Act, 1968.	The whole.
1969	1	The Public Employment (Requirement as to Residence) Amendment Act, 1969.	The whole.
1969	3	The Armed Forces (Special Powers) Continuance Act, 1969.	The whole.
1969	8	The Payment of Bonus (Amendment) Act, 1969.	The whole.
1969	9	The Public Wakfs (Extension of Limitation) Amendment Act, 1969.	The whole.
1969	10	The Limitation (Amendment) Act, 1969.	The whole.
1969	11	The Delhi Motor Vehicles Taxation (Amendment) Act, 1969.	The whole.
1969	12	The Customs (Amendment) Act, 1969.	The whole.
1969	15	The Estate Duty (Distribution) Amendment Act, 1969.	The whole.
1969	17	The Companies (Amendment) Act, 1969.	Sections 3 to 5.
1969	21	The Indian Railways (Amendment) Act, 1969.	The whole.
1969	23	The Coal Bearing Areas (Acquisition and Development) Amendment Act, 1969.	Section 2.
1969	24	The Unlawful Activities (Prevention) Amendment Act, 1969.	The whole.
1969	25	The Salaries and Allowances of Members of Parliament (Amendment) Act, 1969.	The whole.
1969	26	The Gold (Control) Amendment Act, 1969.	The whole.
1969	27	The Press Council (Amendment) Act, 1969.	The whole.
1969	28	The Central Sales Tax (Amendment) Act, 1969.	Sections 2 to 8.
1969	32	The Bihar State Legislature (Delegation of Powers) Act, 1969.	The whole.

AMPEAL

of 1974]

Repealing and Amending

683

Year 1	No. 2	Short title 3	Extent of repeal 4
1969	34	The Banaras Hindu University (Amendment) Act, 1969.	The whole.
1969	35	The Criminal and Election Laws (Amendment) Act, 1969.	Sections 2 to 5.
1969	36	The Indian Penal Code (Amendment) Act, 1969.	The whole.
1969	37	The Delhi High Court (Amendment) Act, 1969.	Sections 2 to 5.
1969	38	The Wakf (Amendment) Act, 1969.	Sections 2 to 9.
1969	39	The Oilfields (Regulation and Development) Amendment Act, 1969.	The whole.
1969	40	The Foreign Exchange Regulation (Amendment) Act, 1969.	The whole.
1969	45	The Indian Registration (Amendment) Act, 1969.	The whole.
1969	47	The Salaries and Allowances of Ministers (Amendment) Act, 1969.	The whole.
1969	53	The Indian Tariff (Amendment) Act, 1969.	The whole.
1969	56	The Motor Vehicles (Amendment) Act, 1969.	The whole.
1970	1	The Requisitioning and Acquisition of Immovable Property (Amendment) Act, 1970.	The whole.
1970	2	The Union Duties of Excise (Distribution) Amendment Act, 1970.	The whole.
1970	3	The Additional Duties of Excise (Goods of Special Importance) Amendment Act, 1970.	The whole.
1970	6	The Press Council (Amendment) Act, 1970.	The whole.
1970	14	The Essential Commodities (Amendment) Continuance Act, 1970.	The whole.
1970	15	The Calcutta Port (Amendment) Act, 1970.	The whole.
1970	17	The West Bengal State Legislature (Delegation of Powers) Act, 1970.	The whole.
1970	20	The Contingency Fund of India (Amendment) Act, 1970.	The whole.
1970	21	The Central Silk Board (Amendment) Act, 1970.	The whole.
1970	22	The Tea (Amendment) Act, 1970.	The whole.

Year 1	No. 2	Short title 3	Extent of repeal 4
1970	23	The Indian Soldiers (Litigation) Amendment Act, 1970.	The whole.
1970	25	The Merchant Shipping (Amendment) Act, 1970.	Sections 2 to 16 and 18 and 19.
1970	29	The Special Marriage (Amendment) Act, 1970.	The whole.
1970	30	The Army, Air Force and Naval Law (Amendment) Act, 1970.	The whole.
1970	31	The Dock Workers (Regulation of Employment) Amendment Act, 1970.	The whole.
1970	33	The Delhi Shops and Establishments (Amendment) Act, 1970.	The whole.
1970	34	The Indian Post Office (Amendment) Act, 1970.	The whole.
1970	35	The Delhi University (Amendment) Act, 1970.	The whole.
1970	40	The Agricultural Produce Cess (Amendment) Act, 1970.	The whole.
1970	42	The Taxation Laws (Amendment) Act, 1970.	The whole.
1970	43	The Foreign Exchange Regulation (Amendment) Act, 1970.	The whole.
1970	49	The Salaries and Allowances of Officers of Parliament (Amendment) Act, 1970.	The whole.
1970	52	The Coal Mines (Conservation and Safety) Amendment Act, 1970.	The whole.

THE SECOND SCHEDULE

(See section 3)

AMENDMENTS

Year 1	No. 2	Short title 3	Amendments 4
1936	4	The Payment of Wages Act, 1936.	In the <i>Explanation</i> to clause (e) of sub-section (2) of section 7, for the words "this sub-clause", the words "this clause" shall be substituted.
1948	15	The Industrial Finance Corporation Act, 1948.	In section 30,— (i) in sub-section (3), for the words "in his estimation", the words "in its estimation" shall be substituted; (ii) in sub-sections (5), (6) and (9), for the word "he", wherever it occurs, the word "it" shall be substituted; (iii) in sub-section (6), for the words "and the evidence, if any, recorded by him, calling upon it to show cause", the words "and the evidence, if any, recorded by it calling upon the industrial concern to show cause" shall be substituted.
1948	37	The Census Act, 1948.	(i) In sub-section (1) of section 4 and in section 5, for the words "Superintendents of Census Operations", the words "Directors of Census Operations" shall be substituted. (ii) In sections 16 and 17, for the words "Superintendent of Census Operations", the words "Director of Census Operations" shall be substituted.
1950	46	The Army Act, 1950.	In sub-section (3) of section 4, in sub-section (1) of section 6 and in sub-sections (1) and (2) of section 7, for the words, brackets and figures "clause (i) of section 2", the words, brackets and figures "clause (i) of sub-section (1) of section 2" shall be substituted.
1956	30	The Hindu Succession Act, 1956.	In the <i>Explanation</i> to section 30, for the word "sub-section", the word "section" shall be substituted.
1956	42	The Securities Contracts (Regulation) Act, 1956.	In the proviso to section 12, for the words "recognised association", the words "recognised stock exchange" shall be substituted.

~~REPEALED~~

686

Repealing and Amending

[ACT 56 OF 1974]

Year 1	No. 2	Short title 3	Amendments 4
1961	47	The Deposit Insurance Corporation Act, 1961.	In section 2, <ul style="list-style-type: none"> (i) in clause (b), for the words "Madras Industrial Investment Corporation Limited", the words "Tamil Nadu Industrial Investment Corporation Limited" shall be substituted; (ii) in clause (i), for the words "banking company" where they first occur, the words "corresponding new bank or a banking company" shall be substituted.
1962	52	The Customs Act, 1962.	In clause (a) of sub-section (2) of section 18, for the words "the finally assessed", the words "the duty finally assessed" shall be substituted.
1970	39	The Patents Act, 1970.	In the <i>Explanation</i> to section 106, for the word "existing", the word "existence" shall be substituted.
1973	46	The Foreign Exchange Regulation Act, 1973.	In sub-section (1) of section 27, for the words "any activity or a trading, commercial or industrial nature", the words "any activity of a trading, commercial or industrial nature" shall be substituted.
1974	2	The Code of Criminal Procedure, 1973.	<ul style="list-style-type: none"> (i) In section 110, in sub-clause](i) of clause (f),— <ul style="list-style-type: none"> (a) for item (b), the following item shall be substituted, namely :— "(b) the Foreign Exchange Regulation Act, 1973;" ; 46 of 1973. (b) in item (c), after the words "Provident Funds", the words "and Family Pension Fund" shall be inserted. (ii) In section 347, the word "Indian" shall be omitted.

**THE SICK TEXTILE UNDERTAKINGS (NATIONALISATION)
ACT, 1974**

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title and commencement.
2. Definitions.

CHAPTER II

ACQUISITION OF THE RIGHTS OF OWNERS OF SICK TEXTILE UNDERTAKINGS

3. Acquisition of rights of owners in respect of sick textile undertakings.
4. General effect of vesting.
5. Owner to be liable for certain prior liabilities.
6. National Textile Corporation to form subsidiary corporations.
7. Shares to be issued by the National Textile Corporation for the value of the assets transferred to it by the Central Government.

CHAPTER III

PAYMENT OF AMOUNT

8. Payment of amount to owners of sick textile undertakings.
9. Payment of further amount.
10. Accounts to be rendered by the owners of sick textile undertakings.

CHAPTER IV

MANAGEMENT, ETC., OF SICK TEXTILE UNDERTAKINGS

11. Management, etc., of sick textile undertakings.
12. Duty of persons in charge of management of sick textile undertakings to deliver all assets, etc.
13. Accounts.

CHAPTER V

PROVISIONS RELATING TO EMPLOYEES OF SICK TEXTILE UNDERTAKINGS

14. Employment of certain employees to continue.
15. Provident and other funds.
16. Transfer of employees to a Subsidiary Textile Corporation.

CHAPTER VI**COMMISSIONERS OF PAYMENTS****SECTIONS**

17. Appointment of Commissioners of Payments.
18. Payment by the Central Government to the Commissioner.
19. Certain powers of the National Textile Corporation.
20. Claims to be made to the Commissioner.
21. Priority of claims.
22. Examination of claims.
23. Admission or rejection of claims.
24. Disbursement of money by the Commissioner to claimants.
25. Disbursement of amounts to the owners of sick textile undertakings.
26. Undisbursed or unclaimed amounts to be deposited to the general revenue account.

CHAPTER VII**MISCELLANEOUS**

27. Assumption of liability.
28. Management to continue to vest in the Custodian until alternative arrangements are made.
29. Act to override all other enactments.
30. Contracts to cease to have effect unless ratified by National Textile Corporation.
31. Transfer of assets, etc., to be void in certain cases.
32. Penalties.
33. Offences by companies.
34. Protection of action taken in good faith.
35. Textile companies not to be wound up by the court.
36. Delegation of powers.
37. Power to make rules.
38. Power to remove difficulties.
39. Declaration as to the policy of the State.
40. Repeal and savings.

THE FIRST SCHEDULE.**THE SECOND SCHEDULE.**

**THE SICK TEXTILE UNDERTAKINGS (NATIONALISATION)
ACT, 1974**

No. 57 OF 1974

[21st December, 1974.]

An Act to provide for the acquisition and transfer of the sick textile undertakings, and the right, title and interest of the owners in respect of the sick textile undertakings, specified in the First Schedule with a view to re-organising and rehabilitating such sick textile undertakings so as to subserve the interests of the general public by the augmentation of the production and distribution, at fair prices, of different varieties of cloth and yarn, and for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Sick Textile Undertakings (Nationalisation) Act, 1974.

(2) The provisions of sections 32 and 33 shall come into force at once and the remaining provisions of this Act shall be deemed to have come into force on the 1st day of April, 1974.

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

(a) "appointed day" means the 1st day of April, 1974;

(b) "bank" means—

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

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

Short title
and
commencement.

Definitions.

23 of 1955.

38 of 1959.

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

5 of 1970.

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

2 of 1934.

(c) "Commissioner" means a Commissioner of Payments appointed under section 17;

(d) "Custodian" means a Custodian appointed under section 5 of the Sick Textile Undertakings (Taking Over of Management) Act, 1972, and includes the person, or body of persons authorised by the Central Government to take over the management of a textile undertaking under the Industries (Development and Regulation) Act, 1951;

72 of 1972.

(e) "National Textile Corporation" means the National Textile Corporation Limited, formed and registered under the Companies Act, 1956;

65 of 1951.

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

1 of 1956.

(g) "Ordinance" means the Sick Textile Undertakings (Nationalisation) Ordinance, 1974;

12 of 1974.

(h) "owner", when used in relation to a sick textile undertaking, means any person or firm who or which is, immediately before the appointed day, the immediate proprietor or lessee or occupier of the sick textile undertaking or any part thereof, and in the case of a textile company which is being wound up or the business whereof is being carried on by a liquidator or receiver, includes such liquidator or receiver, and also includes any agent or manager of such owner but does not include any person or body of persons authorised under the Industries (Development and Regulation) Act, 1951, or the Sick Textile Undertakings (Taking Over of Management) Act, 1972, to take over the management of the whole or any part of the sick textile undertaking;

65 of 1951.

72 of 1972.

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

(j) "sick textile undertaking" means a textile undertaking, specified in the First Schedule, the management of which has, before the appointed day, been taken over by the Central Government under the Industries (Development and Regulation) Act, 1951, or as the case may be, vested in the Central Government under the Sick Textile Undertakings (Taking Over of Management) Act, 1972;

65 of 1951.

72 of 1972.

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

(l) "Subsidiary Textile Corporation" means a Textile Corporation formed by the National Textile Corporation as its subsidiary;

(m) "textile" includes yarn or fabrics made either wholly or partly of cotton, wool, jute, synthetic and artificial (man-made) fibres;

14.3.1977 : Vide Notifi. No S.O. 238 (E), dt. 14.3.1977
(in respect of sec. 18).

63 of 1948.

65 of 1951.

65 of 1951.

1 of 1956.

(n) "textile company" means a company specified in column (3) of the First Schedule as owning the textile undertaking specified in the corresponding entry in column (2) of that Schedule;

(o) "textile undertaking" means an undertaking engaged in the manufacture of textiles and to which the provisions of the Factories Act, 1948, apply.

(2) Words and expressions used but not defined in this Act and defined in the Industries (Development and Regulation) Act, 1951, shall have the meanings respectively assigned to them in that Act.

(3) Words and expressions used but not defined either in this Act or in the Industries (Development and Regulation) Act, 1951, but defined in the Companies Act, 1956, shall have the meanings respectively assigned to them in the Companies Act, 1956.

CHAPTER II

ACQUISITION OF THE RIGHTS OF OWNERS OF SICK TEXTILE UNDERTAKINGS

3. (1) On the appointed day, every sick textile undertaking and the right, title and interest of the owner in relation to every such sick textile undertaking shall stand transferred to, and shall vest absolutely in, the Central Government.

(2) Every sick textile undertaking which stands vested in the Central Government by virtue of sub-section (1) shall, immediately after it has so vested, stand transferred to, and vested in, the National Textile Corporation.

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

(2) All property as aforesaid which have vested in the Central Government under sub-section (1) of section 3 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other incumbrances affecting it, and any attachment, injunction or decree or order of any court restricting the use of such property in any manner shall be deemed to have been withdrawn.

(3) Where any licence or other instrument in relation to a sick textile undertaking had been granted at any time before the date on which the Ordinance was promulgated, to an owner by the Central Government or a State Government or any other authority, the National Textile Corporation shall, on and from such date, be deemed to be substituted in such licence or other instrument in place of the owner referred to therein as if such licence or other instrument had been granted to it and shall hold such licence or the sick textile undertaking

Acquisition of rights of owners in respect of sick textile undertakings.

General effect of vesting.

specified in such other instrument for the remainder of the period for which the owner would have held such licence or the sick textile undertaking under such other instrument.

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

(5) For the removal of doubts, it is hereby declared that the mortgagee of any property referred to in sub-section (2) or any other person holding any charge, lien or other interest in, or in relation to, any such property shall be entitled to claim, in accordance with his rights and interests, payment of the mortgage money or other dues, in whole or in part, out of the amount specified in relation to such property in the First Schedule, but no such mortgage, charge, lien or other interest shall be enforceable against any property which has vested in the Central Government.

(6) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to any matter specified in sub-section (2) of section 5 in respect of the sick textile undertaking, instituted or preferred by or against the textile company, is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the sick textile undertaking or of anything contained in this Act but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the National Textile Corporation.

(7) Any person, who, on the date on which the Ordinance was promulgated, was in possession of, or had under his custody or control, the whole or any part of any sick textile undertaking referred to in section 3, the management of which could not be taken over by the Central Government by reason of any decree, order or injunction of any court or otherwise, shall deliver forthwith the possession of such undertaking or part and all books of account, registers and all other documents of whatever nature relating to such undertaking or part to the Central Government or the National Textile Corporation or such other person as the Central Government or the National Textile Corporation, as the case may be, may specify in this behalf.

**Owner
to be
liable for
certain
prior liabili-
ties.**

3. (1) Every liability, other than the liability specified in sub-section (2) of the owner of a sick textile undertaking, in respect of any period prior to the appointed day, shall be the liability of such owner and shall be enforceable against him and not against the Central Government or the National Textile Corporation.

(2) Any liability arising in respect of—

(a) loans advanced by the Central Government, or a State Government, or both, to a sick textile undertaking (together with interest due thereon) after the management of such undertaking had been taken over by the Central Government.

(b) amounts advanced to a sick textile undertaking (after the management of such undertaking had been taken over by the Central Government), by the National Textile Corporation or by a State Textile Corporation, or by both, together with interest due thereon,

(c) wages, salaries and other dues of employees of the sick textile undertaking, in respect of any period after the management of such undertaking had been taken over by the Central Government, shall, on and from the appointed day, be the liability of the Central Government and shall be discharged, for and on behalf of that Government, by the National Textile Corporation as and when repayment of such loans or amounts becomes due or as and when such wages, salaries or other dues become due and payable.

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

(a) save as otherwise expressly provided in this section or in any other section of this Act, no liability, other than the liability specified in sub-section (2), in relation to a sick textile undertaking in respect of any period prior to the appointed day, shall be enforceable against the Central Government or the National Textile Corporation;

(b) no award, decree or order of any court, tribunal or other authority in relation to any sick textile undertaking passed after the appointed day in respect of any matter, claim or dispute, in relation to any matter not referred to in sub-section (2), which arose before that day, shall be enforceable against the Central Government or the National Textile Corporation;

(c) no liability of any sick textile undertaking or any owner thereof for the contravention, before the appointed day, of any provision of law for the time being in force, shall be enforceable against the Central Government or the National Textile Corporation.

Explanation.—In this section, “State Textile Corporation” means a corporation, formed and registered under the Companies Act, 1956, in a State, which is in charge of the management of a sick textile undertaking either as a person authorised under the Industries (Development and Regulation) Act, 1951, or as the Custodian under the Sick Textile Undertakings (Taking Over of Management) Act, 1972 and includes the West Bengal State Textile Corporation Limited which has advanced amounts to sick textile undertakings in the State.

6. (1) The National Textile Corporation may, if it considers it necessary so to do, form subsidiary corporations under the Companies Act, 1956, and register them under that Act.

National
Textile
Corpora-
tion to
form
subsi-
diary
corpora-
tions.

(2) The National Textile Corporation may, by order in writing, transfer any sick textile undertaking or part thereof to a Subsidiary Textile Corporation and any such transfer shall be subject to such terms and conditions as may be specified in the said order.

(3) The Subsidiary Textile Corporation shall, on and from the date of such transfer, be deemed to be substituted in the licence or other instrument referred to in sub-section (3) of section 4 in place of the National Textile Corporation as if such licence or other instrument had been granted to the Subsidiary Textile Corporation, and shall hold such licence or other instrument for the remainder of the period for which the National Textile Corporation would have held such licence or other instrument.

(4) On the transfer to a Subsidiary Textile Corporation of any sick textile undertaking or any part thereof, the liabilities required to be

discharged by the National Textile Corporation under sub-section (2) of section 5, shall, in so far as they relate to the sick textile undertaking or part thereof so transferred to the Subsidiary Textile Corporation, be discharged, on and from the date of such transfer, by the Subsidiary Textile Corporation as and when any such liability is required to be discharged.

(5) Save as otherwise expressly provided in this Act, references in this Act to the National Textile Corporation shall, in respect of any sick textile undertaking or any part thereof which is transferred to a Subsidiary Textile Corporation, be construed as references to the Subsidiary Textile Corporation.

Shares
to be
issued
by the
National
Textile
Corporation
for
the
value
of the
assets
trans-
ferred
to it
by the
Central
Govern-
ment.

7. (1) An amount equal to the value of the assets of a sick textile undertaking transferred to, and vested in, the National Textile Corporation under sub-section (2) of section 3, shall be deemed to be the contribution made by the Central Government to the equity capital of the National Textile Corporation; and for the contribution so made, the National Textile Corporation shall issue (if necessary after amending its memorandum and articles of association) to the Central Government paid-up shares, in its equity capital, having a face value equal to the amount specified against the sick textile undertaking in the corresponding entry in column (4) of the First Schedule.

(2) Where any liability assumed by the Central Government under this Act is taken over by the National Textile Corporation under section 27, the Central Government shall surrender to that Corporation the shares issued to it under sub-section (1) having the face value equal to the amount to the extent to which the liability has been so taken over by the National Textile Corporation and thereupon the share capital of the National Textile Corporation shall, to the extent of the face value of the shares so surrendered, stand reduced.

CHAPTER III

PAYMENT OF AMOUNT

Payment
of
amount
to
owners
of
sick
textile
under-
takings.

8. The owner of every sick textile undertaking shall be given by the Central Government, in cash and in the manner specified in Chapter VI, for the transfer to, and vesting in, it, under sub-section (1) of section 3, of such sick textile undertaking and the right, title and interest of the owner in relation to such sick textile undertaking, an amount equal to the amount specified against it in the corresponding entry in column (4) of the First Schedule.

Payment
of fur-
ther
amount.

9. (1) In consideration of the retrospective operation of the provisions of sections 3, 4 and 5, there shall be given, in cash, by the Central Government, to the owner of every sick textile undertaking, the management of which was taken over by the Central Government, an amount equal to an amount calculated at the rate specified in section 6 of the Sick Textile Undertakings (Taking Over of Management) Act, 1972, for the period commencing on the appointed day and ending on the date on which the Ordinance was promulgated.

(2) In addition to the amount referred to in section 8, there shall be given by the Central Government, in cash, to the owner of every sick textile undertaking, simple interest at the rate of four per cent. per annum on the amount specified against such owner in the corresponding entry in column (4) of the First Schedule for the period commencing on the date on which the Ordinance was promulgated, and ending on the date on which payment of such amount is made by the Central Government to the Commissioner.

(3) The amount representing interest calculated at the rate specified in sub-section (2) shall be given in addition to the amount specified in the First Schedule.

10. (1) Where in pursuance of any decree, order or injunction of a court or otherwise, the Central Government or the Custodian was prevented from taking over the management of any sick textile undertaking, the owner of such sick textile undertaking shall,—

(a) in the case of an undertaking the management of which was subsequently taken over by the Central Government at any time before the date on which the Ordinance was promulgated, within sixty days from such date; or

(b) in the case of any other sick textile undertaking, the management of which could not be taken over by the Central Government before the date on which the Ordinance was promulgated, within sixty days from such date,

Accounts
to be ren-
dered by
the owners
of sick
textile
under-
takings.

render accounts in relation to the period commencing on the date of the notified order under the Industries (Development and Regulation) Act, 1951, or, as the case may be, on the date of commencement of the Sick Textile Undertakings (Taking Over of Management) Act, 1972, and ending on the date on which the management of the sick textile undertaking was taken over by the Central Government or the Custodian, as the case may be, with regard to the—

(i) assets and stores of the sick textile undertaking acquired or sold during the said period;

(ii) textile sold or despatched during the said period; and

(iii) income derived by the owner from the sick textile undertaking during the said period.

(2) If on examination of the accounts referred to in sub-section (1), any income is found to have been derived by the owner from the sick textile undertaking during the period referred to in that sub-section, such income shall be recoverable by the Central Government from the amount payable under section 8 to the owner of such sick textile undertaking and the debt due to the Central Government on this account shall rank as an unsecured debt.

(3) If no account is rendered by the owner of a sick textile undertaking within the period referred to in sub-section (1) or if the Central Government has any reason to believe that the account rendered by such owner is incorrect or false in material particulars, the Central Government may refer the matter to the Commissioner and thereupon the Commissioner shall determine the income derived by the owner from the sick

textile undertaking during the period referred to in sub-section (1), and take steps to recover the said income from the amount payable to the owner of the sick textile undertaking under section 8, as if the debt due to the Central Government on this account were an unsecured debt.

(4) No mortgage, charge, lien or other incumbrance in relation to a sick textile undertaking or any asset thereof shall be binding on the Central Government or the National Textile Corporation if such mortgage, charge, lien or other incumbrance was created, at any time during the period in which the Central Government or the Custodian was prevented, by any decree, order or injunction of a court or otherwise, from taking over the management of the said sick textile undertaking.

CHAPTER IV

MANAGEMENT, ETC., OF SICK TEXTILE UNDERTAKINGS

Management etc.,
of sick
textile
undertakings.

11. The National Textile Corporation or any person which that Corporation may, by order in writing, specify, shall be entitled to exercise the powers of general superintendence, direction, control and management of the affairs and business of a sick textile undertaking, the right, title and interest of an owner in relation to which have vested in that Corporation under sub-section (2) of section 3, and do all such things as the owner of the sick textile undertaking is authorised to exercise and do.

Duty of
persons
in charge
of
management
of sick
textile
undertakings
to deliver
all
assets,
etc.

12. On the vesting of the management of a sick textile undertaking in the National Textile Corporation all persons in charge of the management of such sick textile undertaking immediately before such vesting shall be bound to deliver to the National Textile Corporation all assets, books of account, registers or other documents in their custody relating to the sick textile undertaking.

Accounts.

13. The National Textile Corporation shall maintain the accounts of sick textile undertakings in accordance with the provisions of the Companies Act, 1956.

1 of 1956.

CHAPTER V

PROVISIONS RELATING TO EMPLOYEES OF SICK TEXTILE UNDERTAKINGS

Employ-
ment of
certain
employees
to con-
tinue.

14. (1) Every person who is a workman within the meaning of the Industrial Disputes Act, 1947, and has been, immediately before the appointed day, employed in a sick textile undertaking shall become, on and from the appointed day, an employee of the National Textile Corporation, and shall hold office or service in the National Textile Corporation with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if the rights in relation to such sick textile undertaking had not been transferred to, and

14 of 1947

vested in, the National Textile Corporation, and shall continue to do so unless and until his employment in the National Textile Corporation is duly terminated or until his remuneration, terms and conditions of employment are duly altered by the National Textile Corporation.

14 of 1947.

(2) Every person who is not a workman within the meaning of the Industrial Disputes Act, 1947, and who has been, immediately before the appointed day, employed in a sick textile undertaking shall, in so far as such person is employed in connection with the sick textile undertaking which has vested in the National Textile Corporation, become, as from the appointed day, an employee of the National Textile Corporation and shall hold his office or service therein by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension and gratuity and other matters as he would have held the same under the sick textile undertaking if it had not vested in the National Textile Corporation and shall continue to do so unless and until his employment in the National Textile Corporation is duly terminated or until his remuneration, terms and conditions of employment are duly altered by the National Textile Corporation:

72 of 1972.

Provided that in respect of any sick textile undertaking the management of which could not be taken over by the Central Government under the Sick Textile Undertakings (Taking Over of Management) Act, 1972, by reason of any decree, order or injunction of any court, any agent, director (including a managing or whole-time director, by whatever name called) or manager shall not become an employee of the National Textile Corporation.

14 of 1947.

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any officer or other person employed in a sick textile undertaking to the National Textile Corporation shall not entitle such officer or other employee to any compensation under this Act or any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

(4) Where, under the terms of any contract of service or otherwise, any person whose services become terminated or whose services become transferred to the National Textile Corporation by reason of the provisions of this Act is entitled to any arrears of salary or wages or any payment for any leave not availed of or other payment, not being payment by way of gratuity or pension, such person may, except to the extent such liability has been taken over by the Central Government under section 5, enforce his claim against the owner of the sick textile undertaking but not against the Central Government or the National Textile Corporation.

15. (1) Where the owner of a sick textile undertaking has established a provident fund, superannuation, welfare or other fund for the benefit of the persons employed in such sick textile undertaking the monies relatable to the employees, whose services have become transferred by or under this Act to the National Textile Corporation shall, out of the monies standing, on the appointed day, to the credit of such provident fund, superannuation, welfare or other fund, stand transferred to, and shall vest in, the National Textile Corporation.

Prov.
ident and
other
funds.

(2) The monies which stand transferred, under sub-section (1), to the National Textile Corporation shall be dealt with by that Corporation in such manner as may be prescribed.

Trans-
fer of
employees
to a
Subsi-
diary
Textile
Corpora-
tion.

16. Where any sick textile undertaking or any part thereof is transferred under this Act to a Subsidiary Textile Corporation, every person referred to in sub-section (1) and sub-section (2) of section 14 shall, on and from the date of such transfer, become an employee of the Subsidiary Textile Corporation, and the provisions of sections 14 and 15 shall apply to such employee as they apply to an employee of the National Textile Corporation as if references in the said sections to the National Textile Corporation were references to the Subsidiary Textile Corporation.

CHAPTER VI

COMMISSIONERS OF PAYMENTS

Appoint-
ment of
Commis-
sioners
of Pay-
ments.

17. (1) For the purpose of disbursing the amounts payable to the owner of each sick textile undertaking, the Central Government shall, by notification in the Official Gazette,—

- (a) appoint such number of persons as it may think fit to be Commissioners of Payments; and
- (b) define the local limits within which the Commissioners of Payments shall exercise the powers conferred, and perform the duties imposed, on them by or under this Act.

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

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

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

(5) References in this Act to the Commissioner shall, where more than one Commissioner has been appointed, be construed as references to the Commissioner in relation to the sick textile undertaking within the local limits of the jurisdiction specified under clause (b) of sub-section (1).

Payment
by the
Central
Govern-
ment to
the
Commis-
sioner.

18. (1) The Central Government shall, within thirty days from the specified date, pay in cash to the Commissioner, for payment to the owner of a sick textile undertaking, an amount equal to the amount specified against the sick textile undertaking in the First Schedule and shall also pay to the Commissioner such sums as may be due to the owner of a sick textile undertaking under sub-sections (1) and (2) of section 9.

5 of 1951.

2 of 1972.

2 of 1972.

(2) In relation to the sick textile undertakings, the management of which was taken over by the Central Government under the Industries (Development and Regulation) Act, 1951, there shall be paid by the Central Government [in addition to the amount referred to in sub-section (1)], to the Commissioner, in cash, an amount calculated at the rate specified in section 6 of the Sick Textile Undertakings (Taking Over of Management) Act, 1972, for the period commencing on the date on which such management was taken over by the Central Government and ending on the appointed day.

(3) In relation to the sick textile undertakings, the management of which was taken over by the Central Government under the Sick Textile Undertakings (Taking Over of Management) Act, 1972, there shall be paid by the Central Government [in addition to the amount referred to in sub-section (1)], to the Commissioner, in cash, such amount payable under section 6 of that Act as remains unpaid in relation to the period commencing on the date on which such management was taken over by the Central Government and ending on the appointed day.

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

(5) Separate records shall be maintained by the Commissioner in respect of each sick textile undertaking in relation to which payments have been made to him under this Act.

(6) Interest accruing on the amounts standing to the credit of the deposit account referred to in sub-section (4) shall inure to the benefit of the owners of the sick textile undertakings.

19. (1) The National Textile Corporation shall be entitled to receive, up to the specified date, to the exclusion of all other persons, any money due to the sick textile undertaking, realised after the appointed day, notwithstanding that the realisations pertain to a period prior to the appointed day.

CERTAIN POWERS OF THE NATIONAL TEXTILE CORPORATION

(2) The National Textile Corporation may make a claim to the Commissioner with regard to every payment made by the Custodian after the appointed day but before the date on which the Ordinance was promulgated for discharging any liability of the owner of a sick textile undertaking in relation to any period prior to the appointed day, and every such claim shall have priority, in accordance with the priorities attaching under this Act, to the matter in relation to which such liability has been discharged by the Custodian.

(3) Save as otherwise provided in this Act, the liabilities in relation to a sick textile undertaking in respect of any period prior to the appointed day which have not been discharged by the Custodian shall be the liabilities of the owner of that sick textile undertaking.

Claims
to be
made
to the
Commiss-
ioner.

20. Every person having a claim against the owner of a sick textile undertaking shall prefer such claim before the Commissioner within thirty days from the specified date:

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

Priority
of
claims.

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

(a) category I will have precedence over all other categories and category II will have precedence over category III and so on;

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

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

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

Exam-
nation
of claims.

22. (1) On receipt of the claims under section 20, the Commissioner shall arrange the claims in the order of priority specified in the Second Schedule and examine the same in accordance with the said order.

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

Admis-
sion or
rejection
of
claims.

23. (1) After examining the claims with reference to the priority set out in the Second Schedule, the Commissioner shall fix a certain date on or before which every claimant shall file the proof of his claim or be excluded from the benefit of the disbursement made by the Commissioner.

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

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

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

5 of 1908.

45 of 1860.

2 of 1974.

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

- (a) the summoning and enforcing the attendance of any witness and examining him on oath;
- (b) the discovery and production of any document or other material object producible as evidence;
- (c) the reception of evidence on affidavits;
- (d) the issuing of any commission for the examination of witnesses.

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

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

Provided that where a person who is a Judge of a High Court is appointed to be the Commissioner, such appeal shall lie to the High Court for the State in which the sick textile undertaking is situated, and such appeal shall be heard and disposed of by not less than two Judges of that High Court.

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

Disbursement
ment of
money
by the
Commiss-
sioner
to
claimants.

25. (1) If out of the monies paid to him in relation to a sick textile undertaking, there is a balance left after meeting the liabilities as specified in the Second Schedule, the Commissioner shall disburse such balance to the owner of such sick textile undertaking.

Disburse-
ment of
amounts
to the
owners
of sick
textile
under-
takings.

(2) Before making any payment to the owner of any sick textile undertaking under sub-section (1), the Commissioner shall satisfy himself as to the right of such person to receive the whole or any part of such amount, and in the event of there being a doubt or dispute as to the right of the person to receive the whole or any part of the amount referred to in sections 8 and 9, the Commissioner shall refer the matter to the court and make the disbursement in accordance with the decision of the court.

(3) For the removal of doubts, it is hereby declared that the entries in column (3) of the First Schedule shall not be deemed to be conclusive as to the right, title and interest of any person in relation to any sick textile undertaking specified in the corresponding entries in column (2).

of the said Schedule and evidence shall be admissible to establish the right, title and interest of any person in relation to such sick textile undertaking.

(4) Where any machinery, equipment or other property in a sick textile undertaking has vested in the National Textile Corporation, but such machinery, equipment or other property does not belong to the owner of such sick textile undertaking, the amount specified in column (4) of the First Schedule against such sick textile undertaking shall, on a reference made to it by the Commissioner, be apportioned by the court between the owner of such sick textile undertaking and the owner of such machinery, equipment or other property having due regard to the value of such machinery, equipment or other property on the appointed day.

Explanation.—In this section, “court”, in relation to a sick textile undertaking, means the principal civil court of original jurisdiction within the local limits of whose jurisdiction the sick textile undertaking is situated.

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

Assumption of liability.

Management to continue to vest in the Custodian until alternative arrangements are made.

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

CHAPTER VII

MISCELLANEOUS

27. (1) Where any liability of the owner of a sick textile undertaking arising out of any item specified in category I of the Second Schedule is not discharged fully by the Commissioner out of the amount paid to him under this Act, the Commissioner shall intimate in writing to the Central Government the extent of the liability which remains undischarged, and that liability shall be assumed by the Central Government.

(2) The Central Government may, by order, direct the National Textile Corporation to take over any liability assumed by that Government under sub-section (1), and on receipt of such direction, it shall be the duty of the National Textile Corporation to discharge such liability.

28. Notwithstanding the vesting, under this Act, of a sick textile undertaking in the National Textile Corporation,—

(a) the Custodian who has been managing the affairs of such undertaking before the date on which the Ordinance was promulgated shall, until alternative arrangements have been made by the National Textile Corporation, continue to manage the affairs of such undertaking as if the Custodian had been authorised by the National Textile Corporation to manage the affairs of such undertaking; and

(b) the Custodian or any person authorised by him for this purpose shall, until alternative arrangements have been made by the National Textile Corporation, continue to be authorised to operate, in relation to the sick textile undertaking, any account of such under-

taking in a bank as if such Custodian or the person authorised by the Custodian had been authorised by the National Textile Corporation to operate such account.

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

Act to override all other enactments.

30. (1) Every contract entered into by the owner or occupier of any sick textile undertaking for any service, sale or supply and in force immediately before the appointed day shall, on and from the expiry of one hundred and eighty days from the date on which this Act receives the assent of the President, cease to have effect unless such contract is before the expiry of that period, ratified, in writing, by the National Textile Corporation and in ratifying such contract the National Textile Corporation may, with the previous approval of the Central Government, make such alterations or modifications therein as it may think fit:

Contracts to cease to have effect unless ratified by National Textile Corporation.

Provided that the National Textile Corporation shall not omit to ratify a contract, and shall not make any alteration or modification in a contract, unless it is satisfied that such contract is unduly onerous or has been entered into in bad faith or is detrimental to the interests of the sick textile undertaking.

(2) The National Textile Corporation shall not omit to ratify a contract, and, shall not make any alteration or modification therein, except after giving to the parties to the contract a reasonable opportunity of being heard and except after recording in writing its reasons for refusal to ratify the contract or for making any alteration or modification therein.

31. (1) Except with the prior approval of the Central Government, no owner of a sick textile undertaking, specified in the Schedule to the Sick Textile Undertakings (Taking Over of Management) Act, 1972, the management of which could not be taken over by the Central Government by reason of any decree, order or injunction of any court or otherwise, shall, on and from the date of introduction of the Sick Textile Undertakings (Nationalisation) Bill, 1974, in the House of the People, transfer, by sale, mortgage or otherwise, any property or other assets forming part of the said sick textile undertaking and any such transfer without the previous approval of the Central Government shall be void and inoperative.

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

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

32. Any person who,—

(a) having in his possession, custody or control any property forming part of a sick textile undertaking, wrongfully withholds such property from the Central Government or the National Textile Corporation, or any person authorised by that Government or Corporation, as the case may be, in this behalf, or

Penalties.

(b) wrongfully obtains possession of, or retains, any property forming part of the sick textile undertaking or wilfully withholds or

fails to furnish to the Central Government, the National Textile Corporation or any person specified by that Government, or Corporation, as the case may be, any document relating to such sick textile undertaking which may be in his possession, custody or control or fails to deliver to the National Textile Corporation or any person specified by that Corporation any assets, books of account, registers or other documents in his custody relating to the sick textile undertaking, or

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

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

Offences by companies.

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

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

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

Explanation.—For the purposes of this section,—

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

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

Protection of action taken in good faith.

34. No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer of that Government or the Custodian or the National Textile Corporation or any Subsidiary Textile Corporation or any officer or other person authorised by either of such Corporations for anything which is in good faith done or intended to be done under this Act.

Textile companies not to be wound up by the court.

35. No proceeding for the winding up of a textile company, the right, title and interest in relation to the sick textile undertaking owned by which have vested in the National Textile Corporation under this Act or for the appointment of a receiver in respect of the business of the sick textile undertaking shall lie or be proceeded with in any court except with the consent of the Central Government.

36. (1) The Central Government may, by notification, direct that all or any of the powers exercisable by it under this Act, other than the power under section 37, may also be exercised by any person or persons as may be specified in the notification.

Delega-
tion of
powers.

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

37. (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:—

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

(b) the manner in which monies in any provident or other fund referred to in section 15 shall be dealt with;

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

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

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

Power to
remove
difficul-
ties.

Provided that no such order shall be made after the expiry of a period of two years from the date on which this Act receives the assent of the President.

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

Declara-
tion as to
the policy
of the
State.

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

Ord. 12 of
1974.

40. (1) The Sick Textile Undertakings (Nationalisation) Ordinance, 1974, is hereby repealed.

Repeal
and
savings.

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

THE FIRST SCHEDULE

[See sections 2 (h), 8 and 18]

Sl. No.	Name of the undertaking	Name of the owner	Amount (in rupees)
(1)	(2)	(3)	(4)
1	Adoni Cotton Mills, Alur Road, Adoni (Andhra Pradesh)	Adoni Cotton Mills Limited, 22, Bell Building, Sir P. M. Road, Bombay-1.	10,79,000
2	Ahmedabad Jupiter Spinning, Weaving and Manufacturing Mills, Mill No. 1, Dadheechi Road, Ahmedabad (Gujarat)	The Ahmedabad Jupiter Spinning, Weaving and Manufacturing Company Limited, Dadheechi Road, Ahmedabad.	1,39,06,000
3	Ahmedabad Jupiter Spinning, Weaving and Manufacturing Mills, Mill No. 2, Parel, Bombay-13 (Maharashtra)		2,35,68,000
4	Ahmedabad New Textile Mills, Outside Raipur Gate, Ahmedabad (Gujarat)	The Ahmedabad New Textile Mills Company Limited, Outside Raipur Gate, Ahmedabad.	93,44,000
5	Ajudhia Textile Mills, Azadpur, Delhi-33	The Ajudhia Textile Mills Limited, 23-24, Radha Bazar Street, Calcutta-1.	8,41,000
6	Alagappa Textiles (Cochin) Mills, Alagappanagar (Kerala)	The Alagappa Textiles (Cochin) Limited, Alagappanagar (Kerala).	43,62,000
7	Anantapur Cotton Mills, Tadapatri (Andhra Pradesh)	The Anantapur Cotton Mills Limited, Tadapatri (Andhra Pradesh).	2,97,000
8	Apollo Mills, N. M. Joshi Marg, Chinchpokli, Bombay-II (Maharashtra)	Apollo Mills Limited, N.M. Joshi Marg, Chinchpokli, Bombay-II (Maharashtra).	1,20,37,000
9	Arati Cotton Mills, Dassnagar, Howrah (West Bengal)	Arati Cotton Mills Limited, 29, Strand Road, Calcutta-1.	4,85,000
10	Associated Industries (Assam) (Spinning Unit), Chandrapur, Distt. Kamrup (Assam)	Associated Industries (Assam), Chandrapur, Distt. Kamrup (Assam).	14,14,000
11	Aurungabad Mills, Aurangabad (Maharashtra)	The Aurungabad Mills Limited, 16, Himgiri Padam Tekri Pedoor Road, Bombay-26.	1,000

(1)	(2)	(3)	(4)
12	Azam Jahi Mills, Warangal (Andhra Pradesh)	The Azam Jahi Mills Limited, 159, Gunfoundry Road, Hyderabad.	92,95,000
13	Balarama Varma Textile Mills, Shencottah (Tamil Nadu)	Balarama Varma Textiles Limited, Shencottah (Tamil Nadu).	34,00,000
14	Bangasri Cotton Mills, Sodepur (West Bengal)	The Bangasri Cotton Mills Limited, Chandrachur Sadan, Sodepur, 24-Pan- ganas (West Bengal).	4,85,000
15	Bengal Fine Spinning and Weaving Mills, Mill No. 1, Konnagar, District Hooghly (West Bengal)	Bengal Fine Spinning and Weaving Mills Limited, 7, Bipin Bihari Ganguly Street, Calcutta.	15,16,000
16	Bengal Fine Spinning and Weaving Mills, Mill No. 2, Kataganj, District Nadia (West Bengal)		11,96,000
17	Bengal Luxmi Cotton Mills, Serampore, District Hooghly (West Bengal)	Bengal Luxmi Cotton Mills Limited, 7, Chowringhee Road, Calcutta.	22,00,000
18	Bengal Nagpur Cotton Mills, Rajnandgaon (Madhya Pradesh)	Bengal Nagpur Cotton Mills Limited, 4, Lyons Range, Calcutta.	69,71,000
19	Bengal Textile Mills, Cos- simbazar (West Bengal)	Bengal Textile Mills Limited, Mercantile Building, Lal Bazar, Calcutta.	3,48,000
20	Bihar Co-operative Weavers' Spinning Mills, Mokameh, Patna (Bihar)	Bihar Co-operative Weavers' Spinning Mills Limited, Mokameh, Patna.	13,07,000
21	Bijli Cotton Mills, Mendu Road, Hathras (Uttar Pradesh)	The Bijli Cotton Mills (Pri- vate) Limited, Agra (Uttar Pradesh).	21,49,000
22	Burhanpur Tapti Mills, Lal- bag, Burhanpur R. S. (Ni- mar) (Madhya Pradesh)	The Burhanpur Tapti Mills Limited, Burhanpur R. S. Nimar (Madhya Pradesh).	86,80,000
23	Cambodia Mills, Ondipudur, Coimbatore-16 (Tamil Nadu)	The Cambodia Mills Limited, Ondipudur, Coimbatore-16 (Tamil Nadu).	64,40,000
24	Cannanore Spinning and Weaving Mills, Cannanore (Kerala)	The Cannanore Spinning and Weaving Mills Limited, Cannanore (Kerala).	47,08,000
25	Cannanore Spinning and Weaving Mills, Mahe (Pondicherry)		61,24,000

(1)	(2)	(3)	(4)
26	Central Cotton Mills, Howrah (West Bengal)	Central Cotton Mills Limited, 9, Brabourne Road, Calcutta-I.	44,10,000
27	Chhaganlal Textile Mills, Chalisgaon, East Khandesh (Maharashtra)	The Chhaganlal Textile Mills (Private) Limited, Chowk, Bhopal (Madhya Pradesh).	5,42,000
28	Coimbatore Murugan Mills, Mettupalayam Road, Coimbatore-II	The Coimbatore Murugan Mills Limited, Mettupala- yam Road, Coimbatore-II.	18,50,000
29	Coimbatore Spinning and Weaving Mills, Krishnaswamy Mudaliar Road, Coimbatore-I	The Coimbatore Spinning and Weaving Company Limited, Krishnaswamy Mudaliar Road, Coimbatore-I.	47,03,000
30	Dayalbagh Spinning and Weaving Mills, Amritsar (Punjab)	Sir Sahabji Maharaj Mills Limited, Dayalbagh, Agra (Uttar Pradesh).	5,74,000
31	Digvijay Spinning and Weaving Mills, Lalbagh, Parel, Bombay-33 (Maharashtra)	The Digvijay Spinning and Weaving Company Limited, Lalbagh, Parel, Bombay-33.	75,65,000
32	Edward Mills, Beawar (Rajasthan)	The Edward Mills Company Limited, Beawar (Rajasthan).	6,79,000
33	Edward Textile Mills, Fer- guson Road, Lower Parel, Bombay (Maharashtra)	Edward Textile Mills Limi- ted, Indu House, Dougall Road, Ballard Estate, Bombay (Maharashtra).	66,28,000
34	Fine Knitting Mills, near Chamundamata, Asarva Road, Ahmedabad (Gujarat)	The Fine Knitting Company Limited, Asarva, near Chamundamata, Ahmeda- bad-16 (Gujarat).	10,17,000
35	Gaya Cotton and Jute Mills, Gaya (Bihar)	Gaya Cotton and Jute Mills Limited, Gaya (Bihar).	10,49,000
36	Himabhai Manufacturing Mills, Outside Saraspur Gate, Ahmedabad (Gujarat)	The Himabhai Manufactur- ing Company Limited, Opp. Chartoda Kabristan, Saras- pur, Ahmedabad-18 (Gu- jarat).	54,77,000
37	Hira Mills, 1/10, Hira Mill Marg (Agar Road), Ujjain (Madhya Pradesh)	The Hira Mills Limited, 1/10, Hira Mill Marg (Agar Road), Ujjain (Madhya Pradesh).	12,39,000
38	India United Mills, Mill No. 1, Ambedkar Marg, Bombay-12.	The India United Mills Limited, Indu House, Narottam Morarjee Marg (Dougall Road), Ballard Estate, Bombay—400001.	
39	India United Mills, Mill No. 2, Bhogale Marg, Bombay-33.		

(1)	(2)	(3)	(4)
40	India United Mills, Mill No. 3, Bhogale Marg, Bombay-33		
41	India United Mills, Mill No. 4, T. B. Kadam Marg, Bombay-33		
42	India United Mills, Mill No. 5, Chinchpokli Lane, Bombay-27	The India United Mills Limited, Indu House, Narottam Morarjee Marg (Dougall Road), Ballard Estate, Bombay-400001.	1,000
43	India United Mills, Dye Works, Savarkar Marg, Bombay-28		
44	Indore Malwa United Mills, Indore	The Indore Malwa United Mills Limited, 139, Meadows Street, Fort, Bombay.	94,25,000
45	Jayashankar Mills Barsi, Barsi, District Sholapur (Maharashtra)	The Jayashankar Mills Barsi Limited, Barsi, 139, District Sholapur (Maharashtra).	31,04,000
46	Jehangir Vakil Mills, Outside Delhi Gate, Ahmedabad (Gujarat)	The Jehangir Vakil Mills Company Limited, Outside Delhi Gate, Ahmedabad (Gujarat).	98,89,000
47	Jyoti Weaving Factory, 69, S. K. Dev Road, Calcutta-48, West Bengal	Jyoti Weaving Factory (Private) Limited, 69, S. K. Dev Road, Patipukur, Calcutta-48 (West Bengal).	1,000
48	Kaleeswarar Mills, 'A' Unit, Coimbatore (Tamil Nadu)	The Kaleeswarar Mills Limited, Coimbatore (Tamil Nadu).	32,08,000
49	Kaleeswarar Mills, 'B' Unit, Kalayarkoil (District Ramanad), (Tamil Nadu)		15,97,000
50	Kalyanmal Mills, 15, Silnath Camp, Indore (Madhya Pradesh)	Kalyanmal Mills Limited, 15, Silnath Camp, Indore (Madhya Pradesh).	90,64,000
51	Kanoria Industries (Cotton Mills Section), Konnagar (West Bengal)	Kanoria Industries Limited, 59, Netaji Subhas Road, Calcutta-1.	7,88,000
52	Kerala Lakshmi Mills, Trichur (Kerala State)	Kerala Lakshmi Mills Limited, Pullachi, Trichur-4, Kerala State.	25,71,000
53	Keshav Mills, Petlad (Gujarat)	Keshav Mills Company Limited, Petlad (Gujarat).	56,28,000
54	Kharar Textile Mills, Kharar, near Chandigarh	The Panipat Woollen and General Mills Company Limited, Kharar, near Chandigarh.	12,89,000

(1)	(2)	(3)	(4)
55	Kishnaveni Textile Mills, Trichy Road, Singanallur Post, Coimbatore (Tamil Nadu)	Kishnaveni Textiles Limited, Trichy Road, Singanallur Post, Coimbatore-5.	25,50,000
56	Laxmi Narayan Cotton Mills, Rishra (West Bengal)	Laxmi Narayan Cotton Mills Limited, 4B, Garstin Place, Calcutta-I.	18,77,000
57	Lord Krishna Textile Mills, Saharanpur (Uttar Pradesh)	Lord Krishna Sugar Mills Limited, Chand Hotel, Chandni Chowk, Delhi.	69,92,000
58	Mahalakshmi Mills, Beawar (Rajasthan)	The Mahalakshmi Mills Company Limited, Beawar (Rajasthan).	3,68,000
59	Mahalaxmi Mills, Vartej Road, Bhavnagar (Gujarat)	The Mahalaxmi Mills Limited, Vartej Road, Bhavnagar (Gujarat).	83,61,000
60	Mahboob Shahi Kulbarga Mills, Gulbarga (Karnataka)	Mahboob Shahi Kulbarga Mills Company Limited, Gulbarga (Karnataka).	1,34,84,000
61	Manindra Mills, Cossimbazar (West Bengal)	Manindra Mills Limited, B.K. Paul Avenue, Calcutta.	7,71,000
62	Minerva Mills, Malleswaram, Bangalore-3 (Karnataka)	Minerva Mills Limited, Temple Bar Building, 70, Forbes Street, Fort, Bombay-I.	75,41,000
63	Model Mills Nagpur, Umrer Road, Nagpur (Maharashtra)	The Model Mills Nagpur Limited, Ilaco House, Sir Phirozshah Mehta Road, Bombay-I.	1,000
64	Muir Mills, Civil Lines, Kanpur (Uttar Pradesh)	Muir Mills Company Limited, 1,36,60,000 Civil Lines, Kanpur (Uttar Pradesh).	
65	Mysore Spinning and Manufacturing Mills, Magadi Road, Bangalore (Karnataka)	The Mysore Spinning and Manufacturing Company Limited, 70, Forbes Street, Fort, Bombay.	84,97,000
66	Natraj Spinning and Weaving Mills, Nirmal, Adilabad District (Andhra Pradesh)	Natraj Spinning and Weaving Mills Limited, 37, Lal Bahadur Stadium, Hyderabad-I.	17,26,000
67	Netha Co-operative Spinning Mills, 608, Elechiguda, Secundrabad-3 (Andhra Pradesh)	The Netha Co-operative Spinning Mills Limited, Secundrabad-3.	28,42,000
68	New Bhopal Textile Mills, Chandbar, Tehsil Huzur, Bhopal (Madhya Pradesh)	The New Bhopal Textiles Limited, Chandbar, Tehsil Huzur, Bhopal.	7,35,000

(1)	(2)	(3)	(4)
69	New Kaiser-i-Hind Spinning and Weaving Mills, Gorupdeo Road, Chinchpokli, Bombay-33 (Maharashtra)	New Kaiser-i-Hind Spinning and Weaving Company Limited, Ashoka Apartment, Altamount Road, Bombay.	48,70,000
70	New Maneckchock Spinning and Weaving Mills, Opp. Idgah Gate, Ahmedabad-16 (Gujarat)	The New Maneckchock Spinning and Weaving Company Limited, Opp. Idgah Gate, Ahmedabad-16.	54,37,000
71	New Pratap Spinning, Weaving and Manufacturing Mills, Dhulia, West Khandesh	New Pratap Spinning and Weaving and Manufacturing Company Limited, Dhulia, West Khandesh.	70,45,000
72	New Victoria Mills, 14/I, Civil Lines, Kanpur (Uttar Pradesh)	The New Victoria Mills Company Limited, 14/I, Civil Lines, Kanpur (Uttar Pradesh).	47,38,000
73	Om Parasakthi Mills, Krishnarayapuram, Ganapathy P.O., Coimbatore-6 (Tamil Nadu)	Om Parasakthi Mills Limited, Krishnarayapuram, Ganapathy P.O., Coimbatore-6.	27,99,000
74	Orissa Cotton Mills, Bhagatpur, Cuttack	Orissa Cotton Mills Limited, 41, Ironside Road, Calcutta-I.	1,000
75	Osmanshahi Mills, Mill Road, Nanded (Maharashtra)	Osmanshahi Mills Limited, Mill Road, Nanded (Maharashtra).	1,06,71,000
76	Panipat Woollen Mills, Kharar, near Chandigarh	The Panipat Woollen and General Mills Company Limited, Kharar, near Chandigarh.	6,40,000
77	Pankaja Mills, Coimbatore	Pankaja Mills Limited, Coimbatore.	26,10,000
78	Parvathi Mills, Quilon (Kerala)	Parvathi Mills Limited, Quilon (Kerala).	26,05,000
79	Pioneer Spinners, Pioneernagar (Tamil Nadu)	Pioneer Spinners (Private) Limited, Pioneernagar (Tamil Nadu).	26,44,000
80	Prabha Mills, Viramgam (Gujarat)	Prabha Mills Limited, Highway Rose Building, 92, Ambawadi Dixit Road, Vile Parle, Bombay-57.	9,10,000
81	R. B. Bansilal Abirchand Spinning and Weaving Mills, Hinghanghat (Maharashtra)	R. B. Bansilal Abirchand Spinning and Weaving Mills Company (Private) Limited, Hinghanghat (Maharashtra).	57,50,000
82	Rajkot Spinning and Weaving Mills, Karansinhji Cross Road, Post Box No. 2, Rajkot (Gujarat)	The Rajkot Spinning and Weaving Mills Limited, Karansinhji Cross Road, Post Box No. 2, Rajkot.	31,79,000

(1)	(2)	(3)	(4)
83	Rajnagar Spinning, Weaving and Manufacturing Mills, Unit No. 1, Ahmedabad (Gujarat)	The Rajnagar Spinning, Weaving and Manufacturing Company Limited, Outside Prem Gate, Ahmedabad.	58,81,000
84	Rajnagar Spinning, Weaving and Manufacturing Mills, Unit No. 2, Ahmedabad (Gujarat)		
85	Rampooria Cotton Mills, Serampore (West Bengal)	Rampooria Cotton Mills Limited, 8-B, Lall Bazar Street, Calcutta-I.	47,67,000
86	R.S.R. Gopaldas Mohta Spinning and Weaving Mills, Akola (Maharashtra)	The R.S.R. Gopaldas Mohta Spinning and Weaving Mills (Private) Limited, Akola, District Akola (Maharashtra).	1,01,88,000
87	Savatram Ramprasad Mills, Akola (Maharashtra)	Savatram Ramprasad Mills Company Limited, Akola (Maharashtra).	59,34,000
88	Seksaria Cotton Mills, Delisle Road, Parel, Bombay	Seksaria Cotton Mills Limited, Delisle Road, Parel, Bombay.	49,67,000
89	Shree Bijay Cotton Mills, Bijainagar (Rajasthan)	Shree Bijay Cotton Mills Limited, Bijainagar (Rajasthan).	87,000
90	Shree Mahalaxmi Mills, Palta (West Bengal)	M/s. Gajraj Pannalal Limited, Calcutta.	27,22,000
91	Shri Vikram Cotton Mills, Talkatora, Lucknow (Uttar Pradesh)	Shri Vikram Cotton Mills Limited, Lucknow (Uttar Pradesh).	12,46,000
92	Sodepur Cotton Mills, Sodepur (West Bengal)	Sodepur Cotton Mills Limited, Sodepur (West Bengal).	1,000
93	Somasundaram Mills, 10/64, Somasundaram Mill Road, Coimbatore	The Somasundaram Mills (Private) Limited, 10/64, Somasundaram Mill Road, Coimbatore (Tamil Nadu).	38,25,000
94	Sree Yallamma Cotton, Woollen and Silk Mills, Yallamnagar (Tolahunaso Railway Station)	Sree Yallamma Cotton, Woollen and Silk Mills Company Limited, Davangere City (Karnataka State).	10,18,000
95	Sri Bharathi Mills, Mudaliarpet P.O., Pondicherry	Sri Bharathi Mills Limited, Mudaliarpet P.O., Pondicherry.	15,22,000
96	Sri Kothandram Spinning Mills, Madurai	Sri Kothandram Spinning Mills (Private) Limited, Madurai.	97,000

(1)	(2)	(3)	(4)
97	Sri Ranga Vilas Ginning, Spinning and Weaving Mills, Avanashi Road, Peelamedu P.O., Coimbatore (Tamil Nadu)	Sri Ranga Vilas Ginning, Spinning and Weaving Mills Limited, Avanashi Road, Peelamedu P.O., Post Box No. 828, Coimbatore.	35,14,000
98	Sri Sarada Mills, Podanur (Tamil Nadu)	Sri Sarada Mills Limited, Po- danur (Tamil Nadu).	50,31,000
99	Suraj Textile Mills, Malout Mandi, Punjab	Suraj Textile Mills Limited, Malout Mandi, Punjab.	2,37,000
100	Swadeshi Cotton and Flour Mills, 7, Silnath Camp, Indore-3 (Madhya Pradesh)	The Swadeshi Cotton and Flour Mills Limited, 7, Shil- nath Camp, Indore-3 (Madhya Pradesh).	1,000
101	Tirupathi Cotton Mills, Reni- gunda (Andhra Pradesh)	Tirupathi Cotton Mills Limited, 8, Boag Road, T. Nagar, Madras-17.	23,99,000
102	Vidarbha Mills (Berar) Ellich- pur (Maharashtra)	Vidarbha Mills Berar Limited, Ellichpur (Maharashtra).	73,26,000
103	Vijaymohini Mills, Trivandrum	The Vijaymohini Mills Limited, Trivandrum.	32,95,000

THE SECOND SCHEDULE

[See sections 21, 22, 23 and 27]

Order of priorities for the discharge of liabilities in respect of a sick textile undertaking

PART A

Post-take-over management period

Category I.—

- (a) Loans advanced by a bank.
- (b) Loans advanced by an institution other than a bank.
- (c) Any other loan.
- (d) Any credit availed of for purpose of trade or manufacturing operations.

Category II.—

- (a) Revenue, taxes, cesses, rates or any other dues to the Central Government or a State Government.
- (b) Any other dues.

PART B

Pre-take-over management period

Category III.—

Arrears in relation to provident fund, salaries and wages, and other amounts, due to an employee.

Category IV.—

Secured loans.

Category V.—

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

Category VI.—

- (a) Any credit availed of for purpose of trade or manufacturing operations.
- (b) Any other dues.

**THE REPRESENTATION OF THE PEOPLE (AMENDMENT)
ACT, 1974**

No. 58 OF 1974

[21st December, 1974]

An Act further to amend the Representation of the People Act, 1951.

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

1. (1) This Act may be called the Representation of the People (Amendment) Act, 1974.

Short title and commencement.

(2) It shall be deemed to have come into force on the 19th day of October, 1974.

2. In section 77 of the Representation of the People Act, 1951, in sub-section (1), the following *Explanations* shall be inserted at the end, namely:—

Amendment of Act 43 of 1951.

'Explanation 1.—Notwithstanding any judgment, order or decision of any court to the contrary, any expenditure incurred or authorized in connection with the election of a candidate by a political party or by any other association or body of persons or by any individual (other than the candidate or his election agent) shall not be deemed to be, and shall not ever be deemed to have been, expenditure in connection with the election incurred or authorized by the candidate or by his election agent for the purposes of this sub-section;

Provided that nothing contained in this *Explanation* shall affect—

(a) any judgment, order or decision of the Supreme Court whereby the election of a candidate to the House of the People or to the Legislative Assembly of a State has been declared void or set aside before the commencement of the Representation of the People (Amendment) Ordinance, 1974;

13 of 1974.

(b) any judgment, order or decision of a High Court whereby the election of any such candidate has been declared void or set aside before the commencement of the said Ordinance if no appeal has been preferred to the Supreme Court against such judgment, order or decision of the High Court before such commencement and the period of limitation for filing such appeal has expired before such commencement.

Explanation 2.—For the purposes of *Explanation 1*, “political party” shall have the same meaning as in the Election Symbols (Reservation and Allotment) Order, 1968, as for the time being in force.

Repeal. 3. The Representation of the People (Amendment) Ordinance, 1974, 13 of 1974, is hereby repealed.

38 of 1978, S. 2 & Sch I

Rep. by Act.....

**THE PUNJAB MUNICIPAL (CHANDIGARH AMENDMENT)
ACT, 1974**

NO. 59 OF 1974

[21st December, 1974]

An Act further to amend the Punjab Municipal Act, 1911, as in force
in the Union territory of Chandigarh.

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

1. This Act may be called the Punjab Municipal (Chandigarh Amend-
ment) Act, 1974.

Short
title.

2. In section 188 of the Punjab Municipal Act, 1911, as applied to the
Union territory of Chandigarh under section 7A of the Capital of Punjab
(Development and Regulation) Act, 1952 (hereinafter referred to as the
Punjab Municipal Act), for clause (t), the following clauses shall be
substituted, namely:—

Amend-
ment
of
section
188.

"(t) render licences necessary for handcarts employed for
transport or for hawking articles for sale and for persons using such
handcarts,

(ta) specify the trade or trades for which handcarts may not
be used,

(tb) specify the designs for handcarts used for any trade and
different designs may be specified for handcarts used for different
trades,

(tc) specify the maximum number of licences that may be issued
for the use of handcarts for any trade or trades,

(td) impose restrictions as to the times during which handcarts
may be used for carrying on any trade and the area of operation of
such trade and also for the parking places for the handcarts,

Punjab
Act III
of 1911.
Punjab
Act
XXVII
of
1952.

REPEALED

718

Punjab Municipal (Chandigarh Amendment)

[ACT 59 OF 1974]

(te) prescribe the fees payable for the issue of such licences and the conditions for the grant, renewal or revocation of such licences:

Provided that—

(i) no trade shall be specified under clause (ta) as a trade for which handcarts may not be used, unless the use of handcarts for carrying on such trade is likely to be harmful to the health, hygiene or sanitation of the general public or is otherwise against the interests of the general public;

(ii) in making bye-laws under clause (tc) or clause (td), regard shall be had to the volume of traffic, the nature of the roads and the space available for parking, the problems of sanitation and other relevant factors".

Amend-
ment
of
section
199.

3. In section 199 of the Punjab Municipal Act,—

(a) in sub-section (1)—

(i) for the words "fifty rupees", the words "two hundred rupees" shall be substituted;

(ii) for the words "five rupees", the words "twenty rupees" shall be substituted;

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

"(1A) Such bye-laws may also provide that if any person, convicted for the breach, or abetment of breach, of any bye-law made under clause (t) of section 188, is convicted and it is proved that such person was convicted of a like offence on not less than two previous occasions, then, the court, before which the third or subsequent conviction takes place, may order the confiscation of the handcart employed for transport or hawking articles for sale, as the case may be, in contravention of the provisions of any bye-law made under the said clause (t)."

38 of 1978, S. 2 + Sch I
Step. by no.

THE WORKING JOURNALISTS (CONDITIONS OF SERVICE) AND MISCELLANEOUS PROVISIONS (AMENDMENT) ACT, 1974

No. 60 OF 1974

[21st December, 1974]

An Act further to amend the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955.

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

Short title.

**Amend-
ment of
section 1.**

**Amend-
ment of
section
2.**

1. This Act may be called the Working Journalists (Conditions of Service) and Miscellaneous Provisions (Amendment) Act, 1974.

45 of 1955.
2. In sub-section (1) of section 1 of the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955 (hereinafter referred to as the principal Act), for the words "Working Journalists", the words "Working Journalists and other Newspaper Employees" shall be substituted.

3. In section 2 of the principal Act,—

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

(a) "Board" means—

(i) in relation to working journalists, the Wage Board constituted under section 9; and

~~REPEALED~~

720 *Working Journalists (Conditions of Service) and Miscellaneous Provisions (Amendment)* [ACT 60]

- (ii) in relation to non-journalist newspaper employees, the Wage Board constituted under section 13C;'
- (b) after clause (d), the following clause shall be inserted, namely:—

(dd) "non-journalist newspaper employee" means a person employed to do any work in, or in relation to, any newspaper establishment, but does not include any such person who—

- (i) is a working journalist, or
(ii) is employed mainly in a managerial or administrative capacity, or
(iii) being employed in a supervisory capacity, performs, either by the nature of the duties attached to his office or by reason of the powers vested in him, functions mainly of a managerial nature;

Inser-
tion of
new
Chapter
II-A.

Fixation
or revi-
sion of
rates of
wages
of non-
journalists
news-
paper
employees.

4. In the principal Act, after Chapter II, the following Chapter shall be inserted, namely:—

"CHAPTER II-A

NON-JOURNALIST NEWSPAPER EMPLOYEES

13B. (1) The Central Government may, in the manner hereinafter provided,—

(a) fix rates of wages in respect of non-journalist newspaper employees; and

(b) revise, from time to time, at such intervals as it may think fit, the rates of wages fixed under this section.

(2) The rates of wages may be fixed or revised by the Central Government in respect of non-journalist newspaper employees for time-work and for piece-work.

13C. For the purpose of fixing or revising rates of wages in respect of non-journalist newspaper employees under this Act, the Central Government shall, as and when necessary, constitute a Wage Board which shall consist of—

(a) two persons representing employers in relation to newspaper establishments;

(b) two persons representing non-journalist newspaper employees; and

(c) three independent persons, one of whom shall be a person who is, or has been, a Judge of a High Court or the Supreme Court and who shall be appointed by that Government as the Chairman thereof.

13D. The provisions of sections 10 to 13A shall apply to, and in relation to, the Board constituted under section 13C, the Central Government and non-journalist newspaper employees, subject to the modifications that—

(a) the references to the Board and working journalists therein, wherever they occur, shall be construed respectively as references to the Board constituted under section 13C and to non-journalist newspaper employees;

Appli-
cation of
certain
provisions.

(b) the references in sub-section (3) of section 11 to section 9 shall be construed as a reference to section 13C; and

(c) the references in section 13 and section 13A to section 12 shall be construed as references to section 12 read with this section."

5. In section 19B of the principal Act, for the words "any working journalist", the words "any newspaper employee" shall be substituted.

Amendment of section 19B.

6. In sub-section (3) of section 20 of the principal Act,—

(i) for the words "or in two successive sessions", the words "or in two or more successive sessions" shall be substituted;

(ii) for the words "in which it is so laid or the session immediately following", the words "immediately following the session or the successive sessions aforesaid" shall be substituted.

Amendment of section 20.

THE APPROPRIATION (No. 4) ACT, 1974

No. 61 OF 1974

[21st December, 1974]

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 1974-75.

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

Short title.

Issue of
Rs. 1,29,58,
43,000 out
of the
Consoli-
dated
Fund of
India for
the year
1974-75.

Approp-
riation.

1. This Act may be called the Appropriation (No. 4) Act, 1974.
2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of one hundred twenty-nine crores, fifty-eight lakhs and forty-three thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1974-75, in respect of the services specified in column 2 of the Schedule.
3. The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3 Sums not exceeding			
		Voted by Parliament	Charged on the Consolidated Fund	Total	
		Rs.	Rs.	Rs.	
12	Foreign Trade and Export Production	Revenue Capital	4,000 1,11,50,01,000	4,000 1,11,50,01,000
24	Department of Education	Revenue	7,00,000	..	7,00,000
26	Department of Social Welfare	Revenue	1,000	..	1,000
44	Heavy Industries	Capital	1,000	..	1,000
48	Police	Revenue	..	35,000	35,000
61	Information and Publicity	Revenue	1,000	..	1,000
67	Labour and Employment	Revenue	..	3,06,000	3,06,000
70	Ministry of Petroleum and Chemicals	Revenue	1,00,000	..	1,00,000
77	Road and Inland Water Transport	Capital	4,03,00,000	..	4,03,00,000
80	Mines and Minerals	Revenue	61,00,000	..	61,00,000
83	Department of Rehabilitation	Capital	55,00,000	..	55,00,000
86	Aviation	Revenue Capital	1,13,86,000 7,16,50,000	1,13,86,000 7,16,50,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
94	Atomic Energy Research, Development and Industrial Projects Revenue	1,50,00,000	..	1,50,00,000
99	Department of Science and Technology Revenue	12,06,000	..	12,06,000
100	Survey of India Revenue	179,44,000	..	179,44,000
102	Department of Space Revenue	2,06,08,000	..	2,06,08,000
TOTAL		1,29,55,02,000	3,41,000	1,29,58,43,000

THE GUJARAT APPROPRIATION (No. 3) ACT, 1974

No. 62 OF 1974

[26th December, 1974.]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Gujarat for the services of the financial year 1974-75.

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

1. This Act may be called the Gujarat Appropriation (No. 3) Act, 1974. Short title.

2. From and out of the Consolidated Fund of the State of Gujarat 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 forty-five crores, thirteen lakhs and forty-one thousand rupees towards defraining the several charges which will come in course of payment during the financial year 1974-75, in respect of the services specified in column 2 of the Schedule.

Issue of Rs.
45,13,41,000
from and
out of the
Consolidated
Fund of the
State of
Gujarat
for the
financial
year
1974-75.

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

Appropria-
tion.

THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote/ Approp- riation	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
3	Elections . . . Revenue	60,00,000	..	60,00,000
18	Revenue expenditure on Entertainment and Education Cess . . . Revenue	45,000	..	45,000
28	Administration of Indian Partnership Act and General Insurance . . . Revenue	20,00,000	..	20,00,000
39	Interest on Debt pertaining to Food and Civil Supplies Department . . . Revenue	..	20,00,000	20,00,000
42	Food and Nutrition (Food and Civil Supplies Department) . . . Revenue Capital	..	36,000 13,000	36,000 13,000
55	Agriculture (Agriculture, Forests and Co-operation Department) . . . Revenue Capital	5,00,00,000	1,000	5,00,00,000 1,000
56	Minor Irrigation, Soil Conservation and Area Development (Agriculture, Forests and Co-operation Department) Revenue	3,60,01,000	..	3,60,01,000
57	Animal Husbandry . . . Capital	7,02,000	..	7,02,000
60	Forests . . . Revenue	1,000	..	1,000
66	Education . . . Revenue	71,000	8,000	79,000
67	Art and Culture (Education and Labour Department) . . . Revenue	1,07,000	..	1,07,000
70	Labour and Employment . . . Revenue	..	1,000	1,000
71	Social Security and Welfare (Education and Labour Department) . . . Revenue	9,54,000	..	9,54,000
89	Social Security and Welfare (Industries, Mines and Power Department) . . . Revenue Capital	50,40,000 25,01,000	..	50,40,000 25,01,000
96	Mines and Minerals . . . Capital	60,00,000	..	60,00,000
99	Consumer Industries . . . Capital	9,00,000	..	9,00,000

1 No. of Vote/ Appropri- ation	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
				Rs.
100	Investments in Industrial Financial Institutions . . . Capital	50,00,000	..	50,00,000
106	Community Development . . . Revenue	2,45,000	..	2,45,000
107	Medical . . . Revenue	1,54,000	..	1,54,000
109	Public Health, Sanitation and Water Supply . . . Revenue Capital	6,46,000 8,07,000	..	6,46,000 8,07,000
118	Non-residential buildings . . . Revenue Capital	1,000 16,000	1,000 16,000
120	Housing (Public Works Department) . . . Revenue	..	10,000	10,000
124	Irrigation . . . Capital	5,00,000	1,000	5,01,000
125	Ports . . . Capital	..	34,000	34,000
127	Roads and Bridges . . . Revenue	..	45,000	45,000
137	District Administration . . . Revenue	..	1,000	1,000
141	Relief on account of Natural Calamities (Revenue Department) . . . Revenue Capital	30,85,00,000 2,30,00,000	..	30,85,00,000 2,30,00,000
	TOTAL . . .	44,91,74,000	21,67,000	45,13,41,000

100-00

THE GUJARAT APPROPRIATION (No. 4) ACT, 1974

No. 63 OF 1974

[26th December, 1974]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Gujarat for the services of the financial year 1974-75.

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

Short title.

Issue of Rs. 7,48,25,000 from and out of the consolidated Fund of the State of Gujarat for the financial year 1974-75.

Appropriation.

1. This Act may be called the Gujarat Appropriation (No. 4) Act, 1974.

2. From and out of the Consolidated Fund of the State of Gujarat 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 seven crores, forty-eight lakhs and twenty-five thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1974-75, in respect of the services specified in column 2 of the Schedule.

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

THE SCHEDULE

(See sections 2 and 3)

I No. of Vote/ Appropri- ation	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Conso- lidated Fund	Total
14	Economic Advice and Statistics . . . Revenue	Rs. 38,000	Rs. ..	Rs. 38,000
15	Loans and Advances to Government Servants in General Administration Department . . . Capital	3,33,000	..	3,33,000
31	Loans and Advances to Government Servants in Finance Department . . . Capital	22,95,000	..	22,95,000
38	Loans and Advances to Government Servants in Legal Department . . . Capital	13,87,000	..	13,87,000
44	Loans and Advances to Government Servants in Food and Civil Supplies Department . . . Capital	8,50,000	..	8,50,000
46	Loans and Advances to Government Servants in Gujarat Legislature Secretariat . . . Capital	50,000	..	50,000
50	Relief Works (Agriculture, Forests and Co-operation Department) . . . Revenue	43,08,000	..	43,08,000
53	Co-operation (Agriculture, Forests and Co-operation Department) . . . Revenue	1,000	..	1,000
55	Agriculture (Agriculture, Forests and Co-operation Department) . . . Revenue Capital	3,55,000 40,00,000	..	3,55,000 40,00,000
56	Minor Irrigation, Soil Conservation and Area Development (Agriculture, Forests and Co-operation Department) . . . Revenue	4,38,000	..	4,38,000
59	Fisheries . . . Revenue	1,000	2,000	3,000
60	Forests . . . Revenue Capital	52,000 50,00,000	9,000 ..	61,000 50,00,000

No. of Vote/ Ap- pro- priation	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Conso- lidated Fund	3
				Total
62	Loans and Advances to Government Servants in Agriculture, Forests and Co-operation Department Capital	Rs.	Rs.	Rs.
		48,70,000	..	48,70,000
66	Education . . . Revenue	..	1,000	1,000
69	Housing . . . Capital	10,00,000	..	1000,000
71	Social Security and Welfare (Education and Labour Department) . Revenue	74,50,000	..	74,50,000
73	Loans and Advances to Government Servants in Education and Labour Department . Capital	42,00,000	..	42,00,000
77	Police . . . Revenue	20,82,000	..	20,82,000
85	Loans and Advances to Government Servants in Home Department . Capital	1,09,29,000	..	1,09,29,000
91	Export Promotion . Revenue	3,00,000	..	3,00,000
94	Industries . . Revenue Capital	83,000	1,000 ..	1,000 83,000
95	Village and Small Industries . . Revenue	8,70,000	..	8,70,000
102	Loans and Advances to Government Servants in Industries, Mines and Power Department Capital	20,00,000	..	20,00,000
103	Interest payment on Debt pertaining to Panchayats and Health Department . Revenue	..	8,65,000	8,65,000
109	Public Health, Sanitation and Water Supply . Capital	7,00,000	..	7,00,000
116	Loans and Advances to Government Servants in Panchayats and Health Department . Capital	77,31,000	..	77,31,000
118	Non-residential Buildings . Revenue	6,00,000	..	6,00,000
124	Irrigation . . . Revenue Capital	20,84,000 1,30,000	1,000 ..	20,85,000 1,30,000
127	Roads and Bridges . Revenue	..	7,000	7,000
131	Loans and Advances to Government Servants in Public Works Department . Capital	68,00,000	..	68,00,000
137	District Administration . Revenue	..	1,000	1,000

I No.of Vote/ Ap- pro- pri- ation	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Conso- lidated Fund	Total
		Rs.	Rs.	
140	Social Security and Welfare (Revenue Department) . . . Revenue	..	1,000	1,000
146	Loans and Advances to Government Servants in Revenue Department . Capital	30,00,000	..	30,00,000
	TOTAL	7,39,37,000	8,88,000	7,48,25,000

THE PONDICHERRY APPROPRIATION (No. 2) ACT, 1974

No. 64 OF 1974

[26th December, 1974]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the Union territory of Pondicherry for the services of the financial year 1974-75.

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

Short title. 1. This Act may be called the Pondicherry Appropriation (No. 2) Act, 1974.

Issue of Rs. 8,53,08,000 out of the Consolidated Fund of the Union territory of Pondicherry for the financial year 1974-75. 2. From and out of the Consolidated Fund of the Union territory of Pondicherry there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of three crores, fifty-three lakhs and eight thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1974-75, in respect of the services specified in column 2 of the Schedule.

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

Services and Purposes		Sums not exceeding		No. of Votes	
Voted by	Charged on the Consill- dard Total	Rs.	Rs.	Rs.	
Administrators	Admnistrators of Justice	49,000	49,000	4	4
Revenue	Sales Tax	60,000	60,000	5	5
Revenue	Taxes on Vehicles	1,95,000	1,95,000	6	6
Revenue	Secretariat	50,000	50,000	7	7
Revenue	District Administration	4,31,000	4,31,000	8	8
Revenue	Treasury and Accounts	99,000	99,000	9	9
Revenue	Police	24,83,000	24,83,000	10	10
Jails	Prisons	1,48,000	1,48,000	11	11
Revenue	Stationery and Printing	1,62,000	1,62,000	12	12
Miscellaneous Adminis- trative Services	Revenue	2,55,000	2,55,000	13	13
Revenue	Revenue	1,62,000	1,62,000	14	14
Revenue	Revenue	1,48,000	1,48,000	15	15
Revenue	Revenue	2,55,000	2,55,000	16	16
Revenue	Revenue	36,000	36,000	17	17
Education	Revenue	70,55,000	70,55,000	18	18
Medicai	Revenue	38,05,000	38,05,000	19	19
Information and Publicity Revenue	Revenue	1,43,000	1,43,000	20	20
Labor and Employment	Revenue	2,13,000	2,13,000	21	21
Social Welfare	Revenue	10,89,000	10,89,000	22	22
Co-operation	Revenue	2,18,000	2,18,000	23	23
Miscellaneous General	Revenue	51,000	51,000	24	24
Homoeopathic Services	Revenue	18,62,000	18,62,000	25	25
Animal Husbandry	Revenue	1,45,000	1,45,000	26	26

THE SCHEDULE

(See Sections 2 and 3)

I No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
27	Fisheries Department Revenue	2,68,000	..	2,68,000
30	Food and Nutrition Revenue	59,000	..	59,000
31	Electricity Revenue	45,33,000	..	45,33,000
	Capital	20,31,000	..	20,31,000
32	Ports and Pilotage Revenue	91,000	..	91,000
	Capital	1,72,000	..	1,72,000
33	Public Debt Capital	..	15,76,000	15,76,000
34	Loans to Government Servants Capital	4,00,000	..	4,00,000
	TOTAL	3,36,66,000	16,42,000	3,53,08,000

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THE SALARIES AND ALLOWANCES OF MEMBERS OF
PARLIAMENT (AMENDMENT) ACT, 1974

No. 65 of 1974

[27th December, 1974]

An Act further to amend the Salaries and Allowances of Members of Parliament Act, 1954.

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

1. This Act may be called the Salaries and Allowances of Members of Parliament (Amendment) Act, 1974. Short title.

2. In section 4 of the Salaries and Allowances of Members of Parliament Act, 1954, in sub-clause (ii) of clause (c) of sub-section (1), for the words "thirty-two paise per kilometer", the words "one rupee per kilometer" shall be substituted. Amendment of section 4.

30 of 1954.

THE CONSTITUTION (THIRTY-SECOND AMENDMENT) ACT, 1973

AN

Act

further to amend the Constitution of India.

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

Short title and commencement.

1. (1) This Act may be called the Constitution (Thirty-second Amendment) Act, 1973.

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

Amendment of article 371.

2. Clause (1) of article 371 of the Constitution shall be omitted, and in the marginal heading to that article, the words "Andhra Pradesh", shall be omitted.

Insertion of new articles 371D and 371E.

3. After article 371C of the Constitution, the following articles shall be inserted, namely:—

Special provisions with respect to the State of Andhra Pradesh.

"371D. (1) The President may by order made with respect to the State of Andhra Pradesh provide, having regard to the requirements of the State as a whole, for equitable opportunities and facilities for the people belonging to different parts of the State, in the matter of public employment and in the matter of education, and different provisions may be made for various parts of the State.

¹1-7-1974: Vide G.S.R. 297(E), dated 1-7-1974.

Constitution (Thirty-second) Amendment

757

(2) An order made under clause (1) may, in particular,—

(a) require the State Government to organise any class or classes of posts in a civil service of, or any class or classes of civil posts under, the State into different local cadres for different parts of the State and allot in accordance with such principles and procedure as may be specified in the order the persons holding such posts to the local cadres so organised;

(b) specify any part or parts of the State which shall be regarded as the local area—

(i) for direct recruitment to posts in any local cadre (whether organised in pursuance of an order under this article or constituted otherwise) under the State Government;

(ii) for direct recruitment to posts in any cadre under any local authority within the State; and

(iii) for the purposes of admission to any University within the State or to any other educational institution which is subject to the control of the State Government;

(c) specify the extent to which, the manner in which and the conditions subject to which, preference or reservation shall be given or made—

(i) in the matter of direct recruitment to posts in any such cadre referred to in sub-clause (b) as may be specified in this behalf in the order;

(ii) in the matter of admission to any such University or other educational institution referred to in sub-clause (b) as may be specified in this behalf in the order,

to or in favour of candidates who have resided or studied for any period specified in the order in the local area in respect of such cadre, University or other educational institution, as the case may be.

(3) The President may, by order, provide for the constitution of an Administrative Tribunal for the State of Andhra Pradesh to exercise such jurisdiction, powers and authority [—including any jurisdiction, power and authority which immediately before the commencement of the Constitution (Thirty-second Amendment) Act, 1973, was exercisable by any court (other than the Supreme Court) or by any tribunal or other authority] as may be specified in the order with respect to the following matters, namely:—

(a) appointment, allotment or promotion to such class or classes of posts in any civil service of the State, or to such class or classes of civil posts under the State, or to such class or classes of posts under the control of any local authority within the State, as may be specified in the order;

(b) seniority of persons appointed, allotted or promoted to such class or classes of posts in any civil service of the State, or to such class or classes of civil posts under the State, or to such class or classes of posts under the control of any local authority within the State, as may be specified in the order;

(c) such other conditions of service of persons appointed, allotted or promoted to such class or classes of posts in any civil service or the State or to such class or classes of civil posts under the State or to such class or classes of posts under the control of any local authority within the State, as may be specified in the order.

(4) An order made under clause (3) may—

(a) authorise the Administrative Tribunal to receive representations for the redress of grievances relating to any matter within its jurisdiction as the President may specify in the order and to make such orders thereon as the Administrative Tribunal deems fit;

(b) contain such provisions with respect to the powers and authorities and procedure of the Administrative Tribunal (including provisions with respect to the powers of the Administrative Tribunal to punish for contempt of itself) as the President may deem necessary;

(c) provide for the transfer to the Administrative Tribunal of such classes of proceedings, being proceedings relating to matters within its jurisdiction and pending before any court (other than the Supreme Court) or tribunal or other authority immediately before the commencement of such order, as may be specified in the order;

(d) contain such supplemental, incidental and consequential provisions (including provisions as to fees and as to limitation, evidence or for the application of any law for the time being in force subject to any exceptions or modifications) as the President may deem necessary.

(5) The order of the Administrative Tribunal finally disposing of any case shall become effective upon its confirmation by the State Government or on the expiry of three months from the date on which the order is made, whichever is earlier:

Provided that the State Government may, by special order made in writing and for reasons to be specified therein, modify or annul any order of the Administrative Tribunal before it becomes effective and in such a case, the order of the Administrative Tribunal shall have effect only in such modified form or be of no effect, as the case may be.

(6) Every special order made by the State Government under the proviso to clause (5) shall be laid, as soon as may be after it is made, before both Houses of the State Legislature.

(7) The High Court for the State shall not have any powers of superintendence over the Administrative Tribunal and no court (other than the Supreme Court) or tribunal shall exercise any jurisdiction, power or authority in respect of any matter subject to the jurisdiction, power or authority of, or in relation to, the Administrative Tribunal.

(8) If the President is satisfied that the continued existence of the Administrative Tribunal is not necessary, the President may by order abolish the Administrative Tribunal and make such provisions in such order as he may deem fit for the transfer and disposal of cases pending before the Tribunal immediately before such abolition.

(9) Notwithstanding any judgment, decree or order of any court, tribunal or other authority,—

(a) no appointment, posting, promotion or transfer of any person—

(i) made before the 1st day of November, 1956, to any post under the Government of, or any local authority within, the State of Hyderabad as it existed before that date; or

(ii) made before the commencement of the Constitution (Thirty-second Amendment) Act, 1973, to any post under the Government of, or any local or other authority within, the State of Andhra Pradesh; and

(b) no action taken or thing done by or before any person referred to in sub-clause (a),

shall be deemed to be illegal or void or ever to have become illegal or void merely on the ground that the appointment, posting, promotion or transfer of such person was not made in accordance with any law, then in force, providing for any requirement as to residence within the State of Hyderabad or, as the case may be, within any part of the State of Andhra Pradesh, in respect of such appointment, posting, promotion or transfer.

(10) The provisions of this article and of any order made by the President thereunder shall have effect notwithstanding anything in any other provision of this Constitution or in any other law for the time being in force.

371E. Parliament may by law provide for the establishment of a University in the State of Andhra Pradesh." Establishment of Central University in Andhra Pradesh.

4. In the Seventh Schedule to the Constitution, in List I, in entry 63, for the words "Delhi University, and", the words, figures and letter "Delhi University; the University established in pursuance of article 371E;" shall be substituted. Amendment of Seventh Schedule.

THE CONSTITUTION (THIRTY-THIRD AMENDMENT)
ACT, 1974

[19th May, 1974]

An Act further to amend the Constitution of India.

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

- Amendment of article 101.
- This Act may be called the Constitution (Thirty-third Amendment) Act, 1974.
 - In article 101 of the Constitution, in clause (3),—

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

"(b) resigns his seat by writing under his hand addressed to the Chairman or the Speaker, as the case may be, and his resignation is accepted by the Chairman or the Speaker, as the case may be,";

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

"Provided that in the case of any resignation referred to in sub-clause (b), if from information received or otherwise and after making such inquiry as he thinks fit, the Chairman or the

Speaker, as the case may be, is satisfied that such resignation is not voluntary or genuine, he shall not accept such resignation.”.

3. In article 190 of the Constitution, in clause (3),—

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

“(b) resigns his seat by writing under his hand addressed to the Speaker or the Chairman, as the case may be, and his resignation is accepted by the Speaker or the Chairman, as the case may be.”;

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

“Provided that in the case of any resignation referred to in sub-clause (b), if from information received or otherwise and after making such inquiry as he thinks fit, the Speaker or the Chairman, as the case may be, is satisfied that such resignation is not voluntary or genuine, he shall not accept such resignation.”.

Amend-
ment of
article
190.

THE CONSTITUTION (THIRTY-FOURTH AMENDMENT)
ACT, 1974

[7th September, 1974]

An Act further to amend the Constitution of India.

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

Short title.

1. This Act may be called the Constitution (Thirty-fourth Amendment) Act, 1974.

Amend-
ment of
Ninth
Schedule.

2. In the Ninth Schedule to the Constitution, after entry 66 and before the *Explanation*, the following entries shall be inserted, namely:—

“67. The Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (Andhra Pradesh Act 1 of 1973).

68. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1972 (Bihar Act I of 1973).

69. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) (Amendment) Act, 1973 (Bihar Act IX of 1973).
70. The Bihar Land Reforms (Amendment) Act, 1972 (Bihar Act V of 1972).
71. The Gujarat Agricultural Lands Ceiling (Amendment) Act, 1972 (Gujarat Act 2 of 1974).
72. The Haryana Ceiling on Land Holdings Act, 1972 (Haryana Act 26 of 1972).
73. The Himachal Pradesh Ceiling on Land Holdings Act, 1972 (Himachal Pradesh Act 19 of 1973).
74. The Kerala Land Reforms (Amendment) Act, 1972 (Kerala Act 17 of 1972).
75. The Madhya Pradesh Ceiling on Agricultural Holdings (Amendment) Act, 1972 (Madhya Pradesh Act 12 of 1974).
76. The Madhya Pradesh Ceiling on Agricultural Holdings (Second Amendment) Act, 1972 (Madhya Pradesh Act 13 of 1974).
77. The Mysore Land Reforms (Amendment) Act, 1973 (Karnataka Act 1 of 1974).
78. The Punjab Land Reforms Act, 1972 (Punjab Act 10 of 1973).
79. The Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973 (Rajasthan Act 11 of 1973).
80. The Gudalur Janmam Estates (Abolition and Conversion into Ryotwari) Act, 1969 (Tamil Nadu Act 24 of 1969).
81. The West Bengal Land Reforms (Amendment) Act, 1972 (West Bengal Act XII of 1972).
82. The West Bengal Estates Acquisition (Amendment) Act, 1964 (West Bengal Act XXII of 1964).
83. The West Bengal Estates Acquisition (Second Amendment) Act, 1973 (West Bengal Act XXXIII of 1973).
84. The Bombay Tenancy and Agricultural Lands (Gujarat Amendment) Act, 1972 (Gujarat Act 5 of 1973).
85. The Orissa Land Reforms (Amendment) Act, 1974 (Orissa Act 9 of 1974).
86. The Tripura Land Revenue and Land Reforms (Second Amendment) Act, 1974 (Tripura Act 7 of 1974).

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INDEX

	PAGE
A	
ACQUISITION	
Alcock Ashdown Company Limited (— of Undertakings) Amendment Act	484
Esso (— of Undertakings in India) Act	277
Esso (— of Undertakings in India) Amendment Act	555
ADDITIONAL DUTIES OF EXCISE	
— (Goods of Special Importance) Amendment Act	413
ADDITIONAL EMOLUMENTS	
— (Compulsory Deposit) Act	496
ALCOCK ASHDOWN	
— Company Limited (Acquisition of Undertakings) Amendment Act	484
APPROPRIATION	
— Act	357
— (No. 2) Act	364
— (No. 3) Act	591
— (No. 4) Act	722
— (Vote on Account) Act	327
Gujarat — Act	342
Gujarat — (No. 2) Act	417
Gujarat — (No. 3) Act	725
Gujarat — (No. 4) Act	728
Gujarat — (Vote on Account) Act	346
Pondicherry — Act	426
Pondicherry — (No. 2) Act	732
Pondicherry — (Vote on Account) Act	361
— (Railways) Act	336
— (Railways) No. 2 Act	353
— (Railways) No. 3 Act	355
— (Railways) No. 4 Act	593
B	
BONUS	
Payment of — (Amendment) Act	590
C	
CHANDIGARH	
East Punjab Urban Rent Restriction (Extension to —) Act	661
Punjab Municipal (— Amendment) Act	717
CINEMATOGRAPH	
— (Amendment) Act	443

COAL MINES	
— (Conservation and Development) Act	453
CODE OF CRIMINAL PROCEDURE, 1973	29
COMMISSION	
Delhi (Urban Art) — Act	1
COMPANIES	
— (Amendment) Act	556
— (Temporary Restrictions on Dividends) Act	487
COMPULSORY DEPOSIT	
Additional Emoluments (—) Act	496
COMPULSORY DEPOSIT SCHEME	
— (Income-tax Payers) Act	512
CONSERVATION OF FOREIGN EXCHANGE	
— and Prevention of Smuggling Activities Act	647
CONSTITUTION	
— (Thirty-second Amendment) Act	736
— (Thirty-third Amendment) Act	740
— (Thirty-fourth Amendment) Act	742
CO-OPERATIVE DEVELOPMENT CORPORATION	
National — (Amendment) Act	270
CRIMINAL PROCEDURE	
Code of — 1973	29
 D	
DELEGATION OF POWERS	
Gujarat State Legislature (—) Act	338
DELHI	
— Municipal Corporation (Amendment) Act	664
— Sikh Gurdwaras (Amendment) Act	609
— Urban Art Commission Act	614
— Public Wakfs (Extension of Limitation) (— Amendment) Act	335
DEVELOPMENT	
Oil Industry (—) Act	611
National Co-operative — Corporation (Amendment) Act	270
DEVELOPMENT AND REGULATION	
Industries (—) Amendment Act	483
DIRECT TAXES	
— (Amendment) Act	429

E

	PAGE
EAST PUNJAB	
— Urban Rent Restriction (Extension to Chandigarh) Act	661
ECONOMIC OFFENCES	
— (Inapplicability of Limitation) Act	340
ELECTIONS	
Presidential and Vice-Presidential — (Amendment) Act	286
ESSENTIAL COMMODITIES	
— (Amendment) Act	472
ESSO	
— (Acquisition of Undertakings in India) Act	277
— (Acquisition of Undertakings in India) Amendment Act	555
ESTATE DUTY	
— (Distribution) Amendment Act	411
EXCISE	
Additional Duties of — (Goods of Special Importance) Amendment Act	413
Union Duties of — (Distribution) Amendment Act	415
EXTENSION OF LIMITATION	
Public Wakfs (—) (Delhi Amendment) Act	335

F

FINANCE	
— Act	371
— (No. 2) Act	479
FOREIGN EXCHANGE	
Conservation of.— and Prevention of Smuggling Activities Act	647

G

GUJARAT	
— Appropriation Act	342
— Appropriation (No. 2) Act	417
— Appropriation (No. 3) Act	725
— Appropriation (No. 4) Act	728
— Appropriation (Vote on Account) Act	346
— State Legislature (Delegation of Powers) Act	338

H

HYDERABAD	
University of — Act	522
INCOME-TAX PAYERS	
Compulsory Deposit Scheme (—) Act	512

	PAGE
INDUSTRIES	
— (Development and Regulation) Amendment Act	483
INTEREST TAX	
— Act	595
INDIAN IRON AND STEEL COMPANY	
— (Taking Over of Management) Amendment Act	492
M	
MAJOR PORT TRUSTS	
— (Amendment) Act	461
MEMBERS OF PARLIAMENT	
Salaries and Allowances of — (Amendment) Act	735
MUNICIPAL CORPORATION	
Delhi — (Amendment) Act	664
N	
NATIONALISATION	
Sick Textiles Undertakings (—) Act	687
NAVY	
— (Amendment) Act	654
NORTH-EASTERN AREAS	
— (Re-organisation) Act	334
O	
OIL INDUSTRY	
— (Development) Act	611
P	
PAYMENT OF BONUS	
— (Amendment) Act	590
PONDICHERRY	
— Appropriation Act	426
— Appropriation (No. 2) Act	732
— Appropriation (Vote on Account) Act	361
PRESIDENTIAL AND VICE-PRESIDENTIAL ELECTIONS	
— (Amendment) Act	286
PRESS COUNCIL	
— (Amendment) Act	485
PREVENTION OF SMUGGLING ACTIVITIES	
Conservation of Foreign Exchange and — Act	647

PUBLIC WORKS

— (Extension of Limitation) (Delhi Amendment) Act 335

PUNJAB MUNICIPAL

(Chandigarh Amendment) Act 717

R**RAILWAYS**

Appropriation (—) Act 336

Appropriation (—) No. 2 Act 353

Appropriation (—) No. 3 Act 355

Appropriation (—) No. 4 Act 593

RE-ORGANISATION

North-Eastern Areas (—) Amendment Act 334

REPEALING AND AMENDING ACT

671

REPRESENTATION OF THE PEOPLE

— (Amendment) Act 715

RESERVE BANK OF INDIA

— (Amendment) Act 634

S**SALARIES AND ALLOWANCES**

— of Members of Parliament (Amendment) Act 735

SICK TEXTILES UNDERTAKINGS

— (Nationalisation) Act 687

SIKH GURDWARAS

Delhi — (Amendment) Act 609

SMALL COINS

— (Offences) Amendment Act 631

SMUGGLING ACTIVITIES

Conservation of Foreign Exchange and Prevention of — Act 647

STATE LEGISLATURE

Gujarat — (Delegation of Powers) Act 338

T**TAKING OVER OF MANAGEMENT**

Indian Iron and Steel Company (—) Amendment Act 492

TELEGRAPH

Indian — (Amendment) Act 629

Index

PAGE

	PAGE
URBAN DUTIES	
UNIVERSITY — of Hyderabad Act	10A (mentioning) (notified to Governor) — JAMDIKING HAWZ 22
UNION DUTIES OF EXCISE. — (Distribution) Amendment Act	10A (mentioning) (notified to Governor) — 415
URBAN RENT RESTRICTION	
URBAN RENT RESTRICTION East Punjab — (Extension to Chandigarh) Act	10A (mentioning) (notified to Governor) — CHANDIGARH 661
V	
NOTE ON ACCOUNT	
Appropriation (—) Act	10A & 10B (notified to Governor) — 10A & 10B (notified to Governor) — 327
Gujarat Appropriation (—) Act	VOLUNTARY 346
Pondicherry Appropriation (—) Act	10A (mentioning) (notified to Governor) — 361
WATER	
WATER — (Prevention and Control on Pollution) Act	WATER POLLUTION AND CONTROL 296
WORKING JOURNALISTS	
WORKING JOURNALISTS — (Conditions of Service) and Miscellaneous Provisions (Amendment) Act	WORKING JOURNALISTS 719
WORKS OF DEFENCE	
WORKS OF DEFENCE Indian — (Amendment) Act	632