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TABLE SHOWING EFFECT OF PARLIAMENTARY LEGISLATION OF 1988

PART I.—CENTRAL ACTS AMENDED, REPEALED OR OTHERWISE AFFECTED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 1988 Act by which affected
1860	45	Indian Penal Code, 1860	Explanation I of s. 405 amended (w.e.f. 1-8-1988). Ss. 161 to 165A (both inclusive) omitted	33, s. 27. 49, s.31.
1881	26	Negotiable Instruments Act, 1881	Ss. 80 and 117 amended (w.e.f. 30-12-1988).	66, ss. 2 and 3.
1908	25	Code of Civil Procedure, 1908	Chapter XVII inserted (w.e.f. 1-4-1989).	<i>Ibid.</i> , s. 4.
1934	2	Reserve Bank of India Act, 1934	Rule 15-A, in Order XXXIII of First Schedule amended.	19, s. 3 and Sch. II.
1934	22	Aircraft Act, 1934	Ss. 17 and 58 amended (w.e.f. 30-12-1988).	66, ss. 5 and 6.
1934	22	Aircraft Act, 1934	S. 10 amended	50, s.2
1936	3	Parsi Marriage and Divorce Act, 1936	Ss. 3, 6, 19, 20, 25, 27, 29, 32, 34, 35, 41, 44, 47, 48 and 49 amended (w.e.f. 15-4-1988).	5, ss. 2, 3, 4, 6, 7, 8, 10, 11, 14, 16, 17, 18, 19 and 20.
1936	3	Parsi Marriage and Divorce Act, 1936	Ss. 32A and 32B inserted (w.e.f. 15-4-1988)	<i>Ibid.</i> , s. 9
1936	3	Parsi Marriage and Divorce Act, 1936	Ss. 38, 39, 40, 43 substituted (w.e.f. 15-4-1988).	<i>Ibid.</i> , ss. 12, 13 and 15.
1944	1	Central Excises and Salt Act, 1944	Ss. 11C, 37A and 38 amended (w.e.f. 1-7-1988). S.35E amended (w.e.f.)	29, ss. 10, 14 and 15. <i>Ibid.</i> , s. 11.
1944	1	Central Excises and Salt Act, 1944	Ss. 5A and 36B inserted (w.e.f. 1-7-1988).	<i>Ibid.</i> , ss. 9 and 13.
1944	1	Central Excises and Salt Act, 1944	S. 35EA inserted (w.e.f.)	<i>Ibid.</i> , s.12.
1947	2	Prevention of Corruption Act, 1947	Repealed	49, s.30.
1948	9	Dock Workers (Regulation of Employment) Act, 1948	Ss. 5D and 5E inserted	56, s. 2.
1948	254	Electricity (Supply) Act, 1948	S. 79A amended	19, s. 3 and Sch. II.

1	2	3	4	5
1949	10	Banking Regulation Act, 1949	Ss. 11, 29, 30, 51 and Third Schedule amended (w.e.f. 30-12-1988).	66, ss. 7, 8, 9, 10 and 11.
1951	41	Rajghat Samadhi Act, 1951	Ss. 4 and 7 amended S. 7A inserted	30, ss. 2 and 3. <i>Ibid.</i> , s. 4
1951	43	Representation of the People Act, 1951.	Ss. 8 and 123 amended (w.e.f. 21-3-1988).	3, s. 19.
1952	19	Employees' Provident Funds and Miscellaneous Provisions Act, 1952.	Ss. 1, 2, 5A, 5D, 5E, 6, 7A, 8A, 10, 11, 13, 14, 14AA, 16 and Schedule IV amended (w.e.f. 1-8-1988).	33 ss. 2, 3, 4, 6, 8, 9, 10, 13, 15, 16, 17, 18, 19, 21 and 26.
			Ss. 8 and 14B amended (w.e.f.).	<i>Ibid.</i> , ss. 12 and 20.
			S. 17 amended (w.e.f. 1-10-1988).	<i>Ibid.</i> , s. 23.
			Ss. 5AA and 5DD inserted (w.e.f. 1-8-1988).	<i>Ibid.</i> , ss. 5 and 7.
			Ss. 7B to 7Q, 8B to 8G and 16A inserted (w.e.f. 1-8-1988).	<i>Ibid.</i> , ss. 11, 14 and 22.
			S.18 substituted (w.e.f. 1-8-1988).	<i>Ibid.</i> , s. 24.
			S.19A substituted (w.e.f.)	<i>Ibid.</i> , s. 25.
1952	46	Criminal Law Amendment Act, 1952	Repealed	49, s. 30.
1952	60	Commissions of Inquiry Act, 1952.	Ss. 10A and 12 amended S. 5B inserted	63, ss. 3 and 4. <i>Ibid.</i> , s. 2.
1954	28	High Court Judges (Conditions of Services) Act, 1954.	S. 17A and 1st Schedule amended (w.e.f. 1-1-1986 and 1-11-1986 respectively).	20, ss. 2 and 4.
			S. 22D substituted (w.e.f. 1-11-1986).	<i>Ibid.</i> , s. 3.
1954	30	Salary, Allowances and Pension of Members of Parliament Act, 1954.	Ss. 3, 4, 6, 6A, 6B, 8, 8A and 8B (w.e.f. 1-4-1988).	60, ss. 2, 3, 4, 5, 7, 8, 9 and 10.
			6AA inserted (w.e.f. 1-4-1988).	<i>Ibid.</i> , s. 6.
1955	23	State Bank of India Act, 1955	Ss. 39, 40, 42 and 50 amended (w.e.f. 30-12-1988).	66, ss. 14, 15, 16 and 17.
			Ss. 20 and 21A amended (w.e.f.).	<i>Ibid.</i> , ss. 12 and 13.
1956	1	Companies Act, 1956	Ss. 33, 43A, 73, 74, 80, 108, 125, 149, 159, 161, 179, 198, 205, 205A, 209, 220, 224, 224A, 233B, 257, 310, 311, 314, 350, 408, 462, 551 and 619A amended (w.e.f. 15-6-1988).	31, ss. 6, 7, 10, 11, 13, 15, 18, 20, 22, 23, 24, 25, 26, 27, 29, 32, 33, 34, 35, 45, 47, 48, 49, 50, 54, 55, 56 and 58.

1	2	3	4	5	6
1956	1	Companies Act, 1956—Contd.	S. 2 partly amended (w.e.f. 15-6-1988) and partly amended (w.e.f.....).	31, s. 2.	0200
			S. 10E partly amended (w.e.f. 4-8-1989) and partly amended (w.e.f.....).	<i>Ibid.</i> , s. 4.	0201
			S. 56 amended (w.e.f. 15-6-1988).	<i>Ibid.</i> , s. 8.	0202
			S. 58A amended (w.e.f. 1-9-1989).	<i>Ibid.</i> , s. 9.	
			S. 113 partly amended (w.e.f. 15-6-1988) and partly amended (w.e.f.....).	<i>Ibid.</i> , s. 17.	
			S. 219 partly amended (w.e.f. 17-4-1989) and partly amended (w.e.f.....).	<i>Ibid.</i> , s. 31.	
			Ss. 130, 370 and 372 amended (w.e.f. 17-4-1989).	<i>Ibid.</i> , ss. 19, 51, and 52.	
			Ss. 236, 237, 241, 245, 247, 248, 250, 251, 283A, 634A, 635, 637, 640A and 640B amended (w.e.f.....).	<i>Ibid.</i> , ss. 37, 38, 39, 40, 41, 42, 43, 44, 53, 60, 61, 62, 64 and 65.	
			S. 637A amended (w.e.f. 15-7-1988).	<i>Ibid.</i> , s. 63.	
			Ss. 43, 49, 118, 144, 163, 167, 188, 196, 225, 284, 304, 307 Part VI of Chapter IVA, Part VI of Chapter VI, 407, 409, 614 and Schedule XI partly amended (w.e.f. 15-7-1988) and partly amended (w.e.f.....).	<i>Ibid.</i> , s. 67.	
			S. 610 partly amended (w.e.f. 15-7-1988) and partly amended (w.e.f.....).	<i>Ibid.</i> , s. 57.	
			S. 217 partly amended (w.e.f. 1-4-1989) and partly amended (w.e.f. 15-6-1988).	<i>Ibid.</i> , s. 30.	
			Ss. 10F and 621A inserted (w.e.f.).	<i>Ibid.</i> , s. 5 and 59.	
			Ss. 80A and 206A inserted (w.e.f. 15-6-1988).	<i>Ibid.</i> , ss. 14 and 28.	
			Schedule XIII inserted (w.e.f. 15-6-1988) and Schedule XIV inserted (w.e.f. 2-4-1987).	31, s. 66.	0203
			Ss. 155 and 156 omitted (w.e.f.....).	<i>Ibid.</i> , s. 21.	0204
			S. 5 substituted (w.e.f. 15-7-1988).	<i>Ibid.</i> , s. 3.	0205

1	2	3	4	5
1956	1	Companies Act, 1956—Concl.	Heading above, 80 and s. 269 substituted (w.e.f. 15-6-1988).	31, ss. 12 and 46.
			Ss. 111 and 235 substituted (w.e.f.).	<i>Ibid.</i> , 16 and 36.
1956	74	Central Sales Tax Act, 1956	S. 14 amended (w.e.f.).	<i>Ibid.</i> , 26., s. 85.
1957	27	Wealth-tax Act, 1957	Ss. 2, 3, 14, 15A, 17, 17A, 21A, 21AA, 23, 31, 32, 34A, 35, 35K, 37, 37A, 37B, 38, 45, 5, 24 and 35 amended (w.e.f. 1-4-1989).	4, ss. 128, 129, 133, 135, 139, 140, 144, 145, 146, 148, 149, 150, 151, 152, 153, 154, 155, 157, 158 and 160.
			S. 5 amended (w.e.f. 1-4-1988).	<i>Ibid.</i> , s. 130.
			Ss. 8A, 8AA, 8B, 9A, 10A, 11A, 11AA, 11B, 12 and 13 omitted (w.e.f. 1-4-1988).	<i>Ibid.</i> , s. 132.
			S. 15C omitted (w.e.f. 1-4-1989).	<i>Ibid.</i> , s. 137.
			Ss. 17B, Chapter IVB, 23A and 37C inserted (w.e.f. 1-4-1989).	<i>Ibid.</i> , ss. 141, 143, 147 and 156.
			S. 47 inserted (w.e.f. 1-4-1988).	<i>Ibid.</i> , s. 159.
			Ss. 8, 9, 10 and 11 substituted (w.e.f. 1-4-1988).	<i>Ibid.</i> , s. 131.
			Ss. 15, 15B, 16, 18 and 18A substituted (w.e.f. 1-4-1989).	<i>Ibid.</i> , ss. 134, 136, 138 and 142.
			S. 34C, and Part I of Schedule I amended (w.e.f. 1-4-1988).	26. ss. 62 and 66.
			Ss. 25, 34AB, 34ACC, 34AD and 37 amended (w.e.f. 1-6-1988).	<i>Ibid.</i> , ss. 57, 58, 59, 60 and 64.
			S. 43 amended (w.e.f. 1-3-1988).	<i>Ibid.</i> , s. 65.
			S. 5 partly amended (w.e.f. 1-4-1988) and partly amended (w.e.f. 1-4-1989).	<i>Ibid.</i> , s. 550.
			S. 22DD inserted (w.e.f. 1-4-1988).	<i>Ibid.</i> , s. 56.
			S. 34AE inserted (w.e.f. 1-6-1988).	<i>Ibid.</i> , s. 61.
			S. 35-I substituted (w.e.f. 1-4-1989).	<i>Ibid.</i> , s., 63.
1957	58	Additional Duties of Excise (Goods of Special Importance) Act, 1957.	First Schedule amended (w.e.f.).	26. s. 83 and Fourth Schedule.
1957	66	Delhi Municipal Corporation Act, 1957.	S. 4 amended (w.e.f. 24-12-1987).	11, s. 2.
			S. 99 amended	19, s. 3 and Sch. II.

1	2	3	4	5
1958	18	Gift-Tax Act, 1958.	S. 5 amended (w.e.f. 1-4-1988)	26, s. 67.
			Ss. 24 and 36 amended (w.e.f. 1-6-1988).	ss. 68, 70.
			S. 35 amended (w.e.f. 1-4-1989).	s. 69.
			S. 42 amended (w.e.f. 1-3-1988).	s. 71.
			Ss. 2, 3, 13, 14A, 16, 16A, 22, 32, 33, 33A, 34, 36, 37, 45, 19A, 23 and 34 amended (w.e.f. 1-4-1989).	4, ss. 162, 163, 166, 168, 171, 172, 176, 178, 179, 180, 181, 182, 183, 184 and 186.
			Ss. 7A, 7AA, 7B, 8A, 9A, 11, 11A, 11AA, 11B and 12 omitted (w.e.f. 1-4-1988).	<i>Ibid.</i> , s. 165.
			Ss. 14B, 16B, Chapter IVA, 22A inserted (w.e.f. 1-4-1989).	<i>Ibid.</i> , ss. 169, 173, 175 and 177.
			S. 47 inserted (w.e.f. 1-4-1988).	<i>Ibid.</i> , s. 185.
			Ss. 14, 15, 17 and 17A substituted (w.e.f. 1-4-1989).	<i>Ibid.</i> , ss. 167, 170 and 174.
			Ss. 7, 8, 9 and 10 substituted (w.e.f. 1-4-88).	<i>Ibid.</i> s. 164.
1958	41	Supreme Court Judges (Conditions of Service) Act, 1958.	S. 16A and Schedule amended (w.e.f. 1-1-1986 and 1-11-1986) respectively.	20., ss. 5 and 7.
			S. 23D, substituted (w.e.f. 1-11-1986).	<i>Ibid.</i> , s. 6.
1958	44	Merchant Shipping Act, 1958	Ss. 352H, 352J, 352K, 352N and 352O amended (w.e.f.).	55, ss. 2, 3, 4, 5 and 6.
1958	59	Delhi Rent Control Act, 1958	Ss. 3, 6, 7, 9, 12, 14, 19, 21, 22, 25B, 26, 27, 38, 48, 49 and 56 amended (w.e.f. 1-12-1988).	57. ss. 2, 3, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 18, 19 and 20.
			Ss. 6A, 14B, 14C and 14D inserted (w.e.f. 1-12-88).	<i>Ibid.</i> , ss. 4 and 9.
			S. 39 omitted (w.e.f. 1-12-1988).	<i>Ibid.</i> , s. 17.
1959	38	State Bank of India (Subsidiary Banks) Act, 1959	Ss. 25, 26, 39, 43, 44, and 63 amended (w.e.f. 30-12-1988).	66, ss. 18, 19, 20, 21, 22 and 23.
1959	54	Arms Act, 1959	Ss. 2, 5, 7 and 25 amended (w.e.f. 27-5-1988).	42, ss. 2, 3, 4 and 5.
			S. 27 substituted (w.e.f. 27-5-1988).	<i>Ibid.</i> , s. 6.

1	2	3	4	5
1961	43	Income-Tax Act, 1961	<p>Ss. 2, 10 partly amended 10A, 13A, 14, 16, 40, 43B, 44AB, 56, 57, 58, 79, 80CC, 80HHC, 80L, 80-O partly amended 80P, 89, 115B, 115F, 132, 139, 193, 230A, 271B, 279 and 1st Schedule and Eleventh Schedule amended (w.e.f. 1-4-1989).</p>	<p>26, ss. 3, 4, 5, 7, 8, 9, 11, 12, 14, 18, 19, 20, 21, 22, 24, 25, 26, 27, 29, 31, 32, 34, 35, 37, 45, 47, 52 and 53.</p>
			<p>S. 44BB amended (w.e.f. 1-4-1983).</p>	<p><i>Ibid.</i>, s. 16.</p>
			<p>Ss. 10 partly amended 47, 80-O partly amended, 230A, 246 partly amended and 281B amended (w.e.f. 1-4-1988).</p>	<p><i>Ibid.</i>, ss. 4, 17, 26, 41, 43 and 49.</p>
			<p>Ss. 131, 194C and 263 amended (w.e.f. 1-6-1988).</p>	<p><i>Ibid.</i>, ss. 33, 38 and 44.</p>
			<p>Ss. 195 and 293 amended (w.e.f. 1-3-1988).</p>	<p><i>Ibid.</i>, ss. 39 and 51.</p>
			<p>S. 246 partly amended (w.e.f. 1-6-1987).</p>	<p><i>Ibid.</i>, s. 43.</p>
			<p>Ss. 2, 18, 29, 33, 33A, 80B, 80J, 80L and 253 amended (w.e.f. 1-4-1988).</p>	<p><i>Ibid.</i>, s. 54.</p>
			<p>S. 194A. amended (w.e.f. 1-4-1989).</p>	<p><i>Ibid.</i>, s. 54.</p>
			<p>Ss. 10B and 44AC inserted (w.e.f. 1-4-1989).</p>	<p><i>Ibid.</i>, s. 6 and 15.</p>
			<p>Ss. 43C and 245DD inserted (w.e.f. 1-4-1988).</p>	<p><i>Ibid.</i>, 13 and 42.</p>
			<p>Ss. 206C and 276B inserted (w.e.f. 1-6-1988).</p>	<p><i>Ibid.</i>, ss. 40 and 46.</p>
			<p>Ss. 18 to 21, 86A, 112A and 181 omitted (w.e.f. 1-4-1989).</p>	<p><i>Ibid.</i>, ss. 10, 28, 30 and 36.</p>
			<p>Chapter XXIIA and 285A omitted (w.e.f. 1-4-1988).</p>	<p><i>Ibid.</i>, ss. 48 and 50.</p>
			<p>S. 80CCA substituted (w.e.f. 1-4-1988).</p>	<p><i>Ibid.</i>, s. 23.</p>
			<p>Ss. 4, 15, 28, 36, 40, 40A, 43B, 64, 78, 80, 80A, 80B, 80G, 131, 132, 132A, 133, 133A, 138, 139, 139A, 140, 140A, 142, 144, 144A, 145, 149, 150, 152, 153, 154, 155, 158, 164, 164A, 187, 189, 214, 215, 220, 222, 226, 228A, 230, 230A, 240, 243, 244, 268, 269SS, 269T, 271A, 273, 273A, 273B, 274, 275, 278AA, Second Schedule, 10, 10A, 29, 32, 40A, 41, 43A,</p>	<p>4, ss. 5, 8, 9, 11, 13, 14, 15, 17, 20, 21, 22, 25, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 47, 49, 50, 52, 55, 56, 58, 59, 60, 61, 62, 64, 65, 69, 71, 82, 83, 85, 86, 88, 90, 91, 92, 95, 96, 97, 102, 103, 104, 107, 112, 113, 114, 115, 116, 120, 124 and 126.</p>

1	2	3	4	5
1961	43 Income-tax Act, 1961—contd.	44, 80, 80G, 80HHA, 132, 132B, 133A, 139, 144A, 174, 176, 199, 219, 253, 276CC, 288, First Schedule and Third Schedule amended (w.e.f. 1-4-1989).	S. 2 partly amended (w.e.f. 1-4-1988) and partly amended (w.e.f. 1-4-1989).	4, ss. 3 and 126.
		S. 10 partly amended (w.e.f. 1-7-1986) and partly amended (w.e.f. 1-4-1988) and partly amended (w.e.f. 1-4-1989).	<i>Ibid.</i> , s. 6.	
		Ss. 80L, 119, 194A, 209, 279, and 298 amended (w.e.f. 1-4-1988).	<i>Ibid.</i> , ss. 27, 31, 73, 77, 123 and 126.	
		Ss. 11, 12, 12A, 13, 35, 35B, 35C, 35CC, 35CCA, 35CCB, 39, 75, 76, 77, 80E, 80GGA, 80QQ, 141A, 144B, 146, sub-heading A and ss. 182, 183, 228, 231, 234, 247, 270, 272, 272B, 276DD and 276E, omitted (w.e.f. 1-4-1989).	<i>Ibid.</i> ss. 7, 10, 12, 19, 23, 26, 28, 46, 51, 53, 67, 89, 93, 100, 105, 109, 111, 119 and 126.	
		Ss. 121, 121A, 122, 123, 125, 125A, 126, 128, 130, 130A, 209A, 212, and 213 omitted (w.e.f. 1-4-1988).	<i>Ibid.</i> , ss. 33, 78 and 81.	
		Ss. 54A, 80F, Chapter XIV-B, 188A, 189A, 234A, 234B, 234C, 244A, 271C, 271D, 271E, 276, 293B and Tenth Schedule inserted (w.e.f. 1-4-1989).	<i>Ibid.</i> , ss. 16, 24, 63, 70, 72, 94, 98, 108, 117, 121 and 125.	
		S. 194E inserted (w.e.f. 1-4-1988)	<i>Ibid.</i> , s. 74.	
		Ss. 3, 67, 86, 143, 147, 148, 151, sub-heading DD. of Chapter XV and 167A, sub-heading B before s. 184 and ss. 184, 185, 186, 223, 224, 225, sub-heading of Chapter XX, 246, 267, 271, 272A, 276B and 296 substituted (w.e.f. 1-4-1989).	<i>Ibid.</i> , ss. 4, 18, 29, 48, 54, 57, 66, 68, 87, 99, 101, 106, 110, 118 and 122.	
		Ss. 116, 117, 118, 120, 124, 127, 196, 207, 208, 210, 211 and 218 substituted (w.e.f. 1-4-1988).	<i>Ibid.</i> , ss. 30, 32, 34, 35, 75, 76, 79, 80 and 84.	
1961	47 Deposit Insurance and Credit Guarantee Corporation Act, 1961.	Ss. 6, 28 and 50 amended (w.e.f. 30-12-1988).	66, ss. 24, 25 and 26.	
		S. 2 amended	19, s. 3 and Sch. II.	

1	2	3	4	5
1961	53	Maternity Benefit Act, 1961	Ss. 2, 3, 5, 6, 8, 12, 17 and 22 amended (w.e.f. 10-1-1989). Ss. 21 and 23 substituted (w.e.f. 10-1-1989).	61. ss. 2, 3, 4, 5, 6, 7, 8 and 10. <i>Ibid.</i> , ss. 9 and 11.
1962	52	Customs Act, 1962	Ss. 27, 115 and 156 amended (w.e.f.). Ss. 14 and 156 amended (w.e.f. 16-8-1988). Ss. 3, 28A, 152 and 159 amended (w.e.f. 1-7-1988). S. 129D amended (w.e.f.). S. 129DA inserted (w.e.f.). S. 138C inserted (w.e.f. 1-7-1988).	26, ss. 78, 79 and 80. 27, ss. 2 and 3. 29, ss. 2, 3, 7 and 8. <i>Ibid.</i> , s. 4. <i>Ibid.</i> s. 5. <i>Ibid.</i> , s. 6.
1963	38	Major Port Trusts Act, 1963	S. 88 amended (w.e.f. 28-1-1988).	12 s. 2.
1964	7	Companies (Profits) Surtax Act, 1964.	S. 18 partly amended (w.e.f. 1-4-1988) and partly amended (w.e.f. 1.4.1989). S. 3 substituted (w.e.f. 1-4-1988).	4, s. 189. <i>Ibid.</i> , s.188.
1964	18	Industrial Development Bank of India Act, 1964.	Ss. 6, 18 and 21 amended (w.e.f. 30-12-1988).	66. ss. 27, 28 and 29.
1964	37	Food Corporations Act, 1964	S. 27 amended	36, s. 2.
1966	19	Delhi Administration Act, 1966	S. 10 amended (w.e.f. 24-12-1987).	10, s.2.
1968	47	Border Security Force Act, 1968.	S. 141 amended	19, s. 3 and Sch. II.
1969	54	Monopolies and Restrictive Trade Practices Act, 1969.	Ss. 22A and 67 amended	62, ss. 2 and 3.
1970	5	Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970.	Ss. 3, 9 and 10 amended (w.e.f. 30-12-1988).	66, ss. 30, 31 and 32.
1972	57	General Insurance Business (Nationalisation) Act, 1972.	S. 35A inserted (w.e.f. 1-6-1988).	26, s. 86.
1973	50	Authorised Translations (Central Laws) Act, 1973	Long title and ss. 1 and 2 amended.	18, ss. 2, 3 and 4.
1973	56	Alcock Ashdown Company Limited (Acquisition of Undertakings) Act, 1973.	S. 2 amended Ss. 8A to 8F inserted	38, s.2. <i>Ibid.</i> s.3
1974	2	Code of Criminal Procedure, 1973	S. 105 amended	32 s. 2.

1	2	3	4	5
1974	6	Water (Prevention and Control of Pollution) Act, 1974.	Ss. 2, 3, 4, 5, 12, 14, 16, 18, 20, 24, 25, 27, 30, 31, 32, 33, 42, 43, 44, 45, 49, 63 and 64 amended Ss. 33A, 37A and 45A inserted. Ss. 39 and 41 substituted	53 ss. 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 22, 23, 24, 26, 27 and 28. <i>Ibid.</i> , ss. 18, 19 and 25. <i>Ibid.</i> , ss. 20 and 21.
1974	52	Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974.	s. 3 amended (w.e.f. 4-7-1988)	46, s. 15.
1975	51	Customs Tariff Act, 1975	First Schedule amended (w.e.f.).	26, s. 76 and Second Schedule.
1976	1	Income-tax (Amendment) Act, 1976.	Repealed	19, s. 2 and Sch. I.
1976	3	Unit Trust of India (Amendment) Act, 1976.	Repealed	19, s. 2 and Sch. I.
1976	4	Delhi Development (Amendment) Act, 1976.	Repealed	19, s. 2 and Sch. I.
1976	9	Indian Railways (Amendment) Act, 1976.	Repealed	19, s. 2 and Sch. I.
1976	12	Imports and Exports (Control) Amendment Act, 1976.	Repealed	19, s. 2 and Sch. I.
1976	15	Delhi Land Holdings (Ceiling) Amendment Act, 1976.	Ss. 2 to 13 and 15 repealed	19, s. 2 and Sch. I.
1976	18	Delhi Rent Control (Amendment) Act, 1976.	Ss. 2, 5, 6, 7 and 8 repealed.	19, s. 2 and Sch. I.
1976	20	Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Act, 1976.	Repealed	19, s. 2 and Sch. I.
1976	21	Regional Rural Banks Act, 1976	Ss. 2, 3, 4, 5, 6, 9, 11, 13, 16, 17, 20, 28, 29 and 30 amended (w.e.f. 28-9-88) Chapter V- A and 24A inserted (w.e.f. 28-9-1988). Ss. 19 and 30 amended (w.e.f. 30-12-1988) Chapter VII repealed.	1, ss. 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 15, 16 and 17. <i>Ibid.</i> , ss. 13 and 14, 66, ss. 33 and 34. 19, s. 2 and Sch. I.
1976	23	Payment of Bonus (Amendment) Act, 1976.	Ss. 2 to 29 and 31 repealed.	19, s. 2 and Sch. I.
1976	24	Press Council (Repeal) Act, 1976.	Repealed	19, s. 2 and Sch. I.
1976	26	Motor Vehicles (Amendment) Act, 1976.	Repealed	19, s. 2 and Sch. I.
1976	28	Parliamentary Proceedings (Protection of Publication) Repeal Act, 1976.	S. 3 repealed	19, s. 2 and Sch. I.
1976	29	Payment of Wages (Amendment) Act, 1976.	Repealed	19, s. 2 and Sch. I.

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1976	30	House of the People (Extension of Duration) Act, 1976.	Repealed	19, s. 2 and Sch. I
1976	32	Industrial Disputes (Amendment) Act, 1976.	Repealed	19, s. 2 and Sch. I
1976	34	Prevention of Food Adulteration (Amendment) Act, 1976.	Repealed	19, s. 2 and Sch. I
1976	35	High Court Judges (Conditions of Service) Amendment Act, 1976.	Repealed	19, s. 2 and Sch. I
1976	36	Supreme Court Judges (Conditions of Service) Amendment Act, 1976.	Repealed	19, s. 2 and Sch. I
1976	37	Indian Lighthouse (Amendment) Act, 1976.	Repealed	19, s. 2 and Sch. I
1976	41	Tamil Nadu State Legislature (Delegation of Powers) Act, 1976.	Repealed	19, s. 2 and Sch. I
1976	42	Warehousing Corporations (Amendment) Act, 1976.	Repealed	19, s. 2 and Sch. I
1976	44	Gujarat State Legislature (Delegation of Powers) Act, 1976.	Repealed	19, s. 2 and Sch. I
1976	45	Contempt of Courts (Amendment) Act, 1976.	Repealed	19, s. 2 and Sch. I
1976	46	Kerala Legislative Assembly (Extension of Duration) Amendment Act, 1976.	Repealed	19, s. 2 and Sch. I
1976	53	Maternity Benefit (Amendment) Act, 1976.	Repealed	19, s. 2 and Sch. I
1976	54	Indian Standards Institution (Certification Marks) Amendment Act, 1976.	Repealed	19, s. 2 and Sch. I
1976	58	Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Amendment Act, 1976.	Repealed	19, s. 2 and Sch. I
1976	65	Workmen's Compensation (Amendment) Act, 1976.	Repealed	19, s. 2 and Sch. I
1976	67	Coal Mines (Nationalisation) Amendment Act, 1976.	Repealed	19, s. 2 and Sch. I
1976	68	Marriage Laws (Amendment) Act, 1976.	Ss. 2 to 38 repealed	19, s. 2 and Sch. I
1976	69	Merchant Shipping (Amendment) Act, 1976.	Repealed	19, s. 2 and Sch. I
1976	70	Pharmacy (Amendment) Act, 1976.	Repealed	19, s. 2 and Sch. I
1976	71	Tariff Commission (Repeal) Act, 1976.	Repealed	19, s. 2 and Sch. I
1976	73	Banking and Public Financial Institutions Laws (Amendment) Act, 1976.	Ss. 3 to 6 repealed	19, s. 2 and Sch. I

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1976	74	Additional Emoluments (Compulsory Deposit) Amendment Act, 1976.	Repealed	19, s. 2 and Sch. I
1976	75	Tea (Amendment) Act, 1976.	Repealed	19, s. 2 and Sch. I
1976	79	President's Pension (Amendment) Act, 1976.	Repealed	19, s. 2 and Sch. I
1976	81	Contingency Fund of India (Amendment) Act, 1976.	Repealed	19, s. 2 and Sch. I
1976	82	Antiquities and Art Treasures (Amendment) Act, 1976.	Repealed	19, s. 2 and Sch. I
1976	86	Government of Union Territories (Amendment) Act, 1976.	Repealed	19, s. 2 and Sch. I
1976	88	Representation of the People (Amendment) Act, 1976.	Repealed	19, s. 2 and Sch. I
1976	90	Conservation of Foreign Exchange and Prevention of Smuggling Activities (Second Amendment) Act, 1976.	Ss. 2 and 4 repealed	19, s. 2 and Sch. I
1976	92	Essential Commodities (Amendment) Act, 1976.	Ss. 2 to 8 repealed	19, s. 2 and Sch. I
1976	93	Dhoties (Additional Excise Duty) Repeal Act, 1976.	Repealed	19, s. 2 and Sch. I
1976	94	Factories (Amendment) Act, 1976.	Repealed	19, s. 2 and Sch. I
1976	99	Labour Provident Fund Laws (Amendment) Act, 1976.	Repealed	19, s. 2 and Sch. I
1976	102	Kerala Legislative Assembly (Extension of Duration) Second Amendment Act, 1976.	Repealed	19, s. 2 and Sch. I
1976	103	Central Sales Tax (Amendment) Act, 1976.	Ss. 2 to 8 repealed	19, s. 2 and Sch. I
1976	104	Code of Civil Procedure (Amendment) Act, 1976.	Ss. 2 to 96 and sub-section (1) of section 98 repealed	19, s. 2 and Sch. I
1976	105	Salaries and Allowances of Members of Parliament (Amendment) Act, 1976.	Repealed	19, s. 2 and Sch. I
1976	106	Untouchability (Officers) Amendment and Miscellaneous Provision Act, 1976.	Ss. 2 to 18 and 21 repealed	19, s. 2 and Sch. I
1976	107	Advocates (Amendment) Act, 1976.	Ss. 2 to 10 repealed	19, s. 2 and Sch. I
1976	108	Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976.	Ss. 3 and 4 and the First and the Second Schedules repealed	19, s. 2 and Sch. I
1976	109	House of the People (Extension of Duration) Amendment Act, 1976.	Repealed	19, s. 2 and Sch. I
1976	115	Electricity (Supply) Amendment Act, 1976.	Repealed	19, s. 2 and Sch. I

1	2	3	4	5
1977	12	Food Corporations (Amendment) Act, 1977.	Repealed	19, s.2 and Sch. I
1977	13	Petroleum Pipelines (Acquisition of Right of User in Land) Amendment Act, 1977.	Repealed	19, s.2 and Sch. I
1977	14	Prevention of Publication of Objectionable Matter (Repeal) Act, 1977.	Repealed	19, s.2 and Sch. I
1977	19	Payment of Wages (Amendment) Act, 1977.	Repealed	19, s.2 and Sch. I
1977	20	Presidential and Vice-Presidential Election (Amendment) Act, 1977.	Repealed	19, s.2 and Sch. I
1977	21	Yoga Undertakings (Taking Over of Management) Act, 1977.	Repealed	19, s.2 and Sch. I
1977	23	Oil and Natural Gas Commission (Amendment) Act, 1977.	Repealed	19, s.2 and Sch. I
1977	24	Insecticides (Amendment) Act, 1977.	Repealed	19, s.2 and Sch. I
1977	26	Cardamom (Amendment) Act, 1977.	Repealed	19, s.2 and Sch. I
1977	30	National Highways (Amendment) Act, 1977.	Repealed	19, s. 2 and Sch. I
1977	31	Petroleum (Amendment) Act, 1977.	Repealed	19, s.2 and Sch. I
1977	32	Tea (Amendment) Act, 1977	Repealed	19, s.2 and Sch. I
1977	33	Salary and Allowances of Leaders of Opposition in Parliament Act, 1977.	Ss. 11 and 12 repealed	19, s.2 and Sch. I
1977	35	Inland Steam-vessels (Amendment) Act, 1977.	Repealed	19, s.2 and Sch. I
1977	37	Salaries and Allowances of Ministers (Amendment) Act, 1977.	S. 2 repealed	19, s.2 and Sch. I
1977	38	Advocates (Amendment) Act, 1977.	Repealed	19, s.2 and Sch. I
1977	39	Indian Iron and Steel Company (Acquisition of Shares) Amendment Act, 1977.	Repealed	19, s.2 and Sch. I
1977	40	Enemy Property (Amendment) Act, 1977.	Repealed	19, s.2 and Sch. I
1977	43	Payment of Bonus (Amendment) Act, 1977.	Ss. 3 to 21 repealed	19, s.2 and Sch. I
1977	44	Requisitioning of Acquisition of Immovable Property (Amendment) Act, 1977.	Repealed	19, s.2 and Sch. I
1977	46	Companies (Amendment) Act, 1977.	Repealed	19, s.2 and Sch. I

1	2	3	4	5
1977	47	Betwa River Board (Amendment) Act, 1977.	Repealed	19, s.2 and Sch. I
1977	48	Supreme Court (Number of Judges) Amendment Act, 1977.	Repealed	19, s.2 and Sch. I
1978	1	Merchant Shipping (Amendment) Act, 1978.	Repealed	19, s.2 and Sch. I
1978	2	Child Marriage Restraint (Amendment) Act, 1978.	Repealed	19, s.2 and Sch. I
1978	12	Public Wakfs (Extension of Limitation) (Delhi Amendment) Act, 1978.	Repealed	19, s.2 and Sch. I
1978	15	Children (Amendment) Act, 1978.	Repealed	19, s.2 and Sch. I
1978	17	Port Laws (Amendment) Act, 1978.	Repealed	19, s.2 and Sch. I
1978	22	Coal Mines Nationalisation Laws (Amendment) Act, 1978.	Ss. 2 to 19 repealed	19, s.2 and Sch. I
1978	23	Electricity (Supply) Amendment Act, 1978.	Repealed	19, s.2 and Sch. I
1978	24	Reserve Bank of India (Amendment) Act, 1978.	Repealed	19, s.2 and Sch. I
1978	25	Customs, Central Excises and Salt and Central Boards of Revenue (Amendment) Act, 1978.	Repealed	19, s.2 and Sch. I
1978	26	Customs Tariff (Amendment) Act, 1978.	Repealed	19, s.2 and Sch. I
1978	27	Maintenance of Internal Security (Repeal) Act, 1978.	Repealed	19, s.2 and Sch. I
1978	28	Insolvency Laws (Amendment) Act, 1978.	Repealed	19, s.2 and Sch. I
1978	29	Taxation Laws (Amendment) Act, 1978.	Repealed	19, s.2 and Sch. I
1978	30	Coast Guard Act, 1978.	S. 75 amended	19, s.3 and Sch. II
1978	31	Passports (Amendment) Act, 1978.	Repealed	19, s.2 and Sch. I
1978	32	Indian Explosives (Amendment) Act, 1978.	Repealed	19, s.2 and Sch. I
1978	36	Tobacco Board (Amendment) Act, 1978.	Repealed	19, s.2 and Sch. I
1978	37	Press Council Act, 1978.	S. 27 repealed	19, s.2 and Sch. I
1978	38	Repealing and Amending Act, 1978.	Repealed	19, s.2 and Sch. I
1978	39	Employment of Children (Amendment) Act, 1978.	Repealed	19, s.2 and Sch. I
1978	45	Code of Criminal Procedure (Amendment) Act, 1978.	Repealed	19, s.2 and Sch. I

1	2	3	4	5
1978	46	Suppression of Immoral Traffic in Women and Girls (Amendment) Act, 1978.	Repealed	19, s.2 and Sch. I
1978	47	Motor Vehicles (Amendment) Act, 1978.	Repealed	19, s.2 and Sch. I
1978	48	Payment of Bonus (Amendment) Act, 1978.	Repealed	19, s.2 and Sch. I
1979	4	Copra Cess Act, 1979	S. 20 repealed	19, s.2 and Sch. I
1979	6	Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions (Amendment) Act, 1979.	Repealed	19, s.2 and Sch. I
1979	12	Punjab Excise (Delhi Amendment) Act, 1979.	Ss. 2 to 5 and 7 repealed	19, s.2 and Sch. I
1979	17	Industries (Development and Regulation) Amendment Act, 1979.	Repealed	19, s.2 and Sch. I
1979	18	Sugar Undertakings (Taking Over of Management) Amendment Act, 1979.	Ss. 2 and 4 repealed	19, s.2 and Sch. I
1979	20	Merchant Shipping (Amendment) Act, 1979.	Repealed	19, s.2 and Sch. I
1979	23	Additional Duties of Excise (Goods of Special Importance) Amendment Act, 1979.	Repealed	19, s.2 and Sch. I
1979	26	Estate Duty (Distribution) Amendment Act, 1979.	Repealed	19, s.2 and Sch. I
1979	27	Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1979.	Repealed	19, s.2 and Sch. I
1980	1	Government of Union Territories (Amendment) Act, 1980.	Repealed	19, s.2 and Sch. I
1980	4	Contingency Fund of India (Amendment) Act, 1980.	Repealed	19, s.2 and Sch. I
1980	5	Payment of Bonus (Amendment) Act, 1980.	Repealed	19, s.2 and Sch. I
1980	6	Central Excise and Salt and Additional Duties of Excise (Amendment) Act, 1980.	Ss. 2 to 4 and 6 repealed	19, s.2 and Sch. I
1980	8	Representation of the People (Amendment) Act, 1980.	Repealed	19, s.2 and Sch. I
1980	35	Requisitioning and Acquisition of Immovable Property (Amendment) Act, 1980.	Repealed	19, s.2 and Sch. I
1980	37	Delhi High Court (Amendment) Act, 1980.	Ss. 2 and 3 repealed	19, s.2 and Sch. I
1980	38	Assam State Legislature (Delegation of Powers) Act, 1980.	Repealed	19, s.2 and Sch. I

1	2	3	4	5
1980	40	Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.	Ss. 3, 9, 10 and 19 amended (w.e.f. 30-12-1988) S.20 repealed	66, ss. 35, 36, 37 and 38. 19, s.2 and Sch. I
1980	45	Inter-State Water Disputes (Amendment) Act, 1980.	Repealed	19, s.2 and Sch. I
1980	47	Advocates (Amendment) Act, 1980.	Repealed	19, s.2 and Sch. I
1980	49	Dock Workers (Regulation of Employment) Amendment Act, 1980.	Ss. 2, 4 and 5 repealed	19, s.2 and Sch. I
1980	50	Hindustan Tractors Limited (Acquisition and Transfer of Undertakings) Amendment Act, 1980.	Repealed	19, s.2 and Sch. I
1980	51	Mica Mines Labour Welfare Fund (Amendment) Act, 1980.	Repealed	19, s.2 and Sch. I
1980	53	Territorial Army (Amendment) Act, 1980.	Repealed	19, s.2 and Sch. I
1980	54	Hotel-Receipts Tax Act, 1980	S. 37 repealed	19, s.2 and Sch. I
1980	55	Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Amendment Act, 1980.	Repealed	19, s.2 and Sch. I
1980	57	High Court and Supreme Court Judges (Conditions of Service) Amendment Act, 1980.	Repealed	19, s.2 and Sch. I
1980	60	Monopolies and Restrictive Trade Practices (Amendment) Act, 1980.	Repealed	19, s.2 and Sch. I
1980	61	Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1980.	Repealed	19, s.2 and Sch. I
1980	63	Code of Criminal Procedure (Amendment) Act, 1980.	Ss. 2 to 9 and 11 repealed	19, s.2 and Sch. I
1980	65	National Security Act, 1980	S. 14A amended (w.e.f. 26-5-1988)	43, s.2
1980	66	Payment of Bonus (Second Amendment) Act, 1980.	Repealed	19, s.2 and Sch. I
1980	69	Forest (Conservation) Act, 1980.	S.2 amended (w.e.f. 15-3-1989) Ss. 3A and 3B inserted. (w.e.f. 15-3-1989)	69, s.2 Ibid. s.3
1981	1	Life Insurance Corporation (Amendment) Act, 1981.	Repealed	19, s.2 and Sch. I
1981	6	Delhi Sikh Gurdwaras (Amendment) Act, 1981.	Repealed	19, s.2 and Sch. I
1981	7	Special Bearer Bonds (Immunities and Exemptions) Act, 1981.	Ss. 5, 6 and 9 repealed	19, s.2 and Sch. I
1981	17	Oil and Natural Gas Commission (Amendment) Act, 1981.	Repealed	19, s.2 and Sch. I

1	2	3	4	5
1981	19	Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities (Amendment) Act, 1981.	S. 2 repealed	19, s. 2 and Sch. I
1981	21	Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1981.	Repealed	19, s. 2 and Sch. I
1981	22	Income-tax (Amendment) Act, 1981.	Repealed	19, s. 2 and Sch. I
1981	23	Compulsory Deposit Scheme (Income-tax Payers) Amendment Act, 1981.	Repealed	19, s. 2 and Sch. I
1981	24	Customs Tariff (Amendment) Act, 1981.	Repealed	19, s. 2 and Sch.
1981	25	Coal Mines Labour Welfare Fund (Amendment) Act, 1981.	S. 2 repealed	19, s. 2 and Sch. I
1981	26	High Court at Bombay (Extension of Jurisdiction to Goa, Daman and Diu) Act, 1981.	S. 12 repealed	19, s. 2 and Sch. I
1981	27	Delhi University (Amendment) Act, 1981.	Repealed	19, s. 2 and Sch. I
1981	28	Export-Import Bank of India Act, 1981.	SS. 6, 19, 22 and 39 amended (w.e.f. 30-12-1988). S. 40 and Second Schedule repealed	66, ss. 39, 40, 41 and 42. 19, s. 2 and Sch. I
1981	32	Victoria Memorial (Amendment) Act, 1981.	Repealed	19, s. 2 and Sch. I
1981	35	State of Nagaland (Amendment) Act, 1981.	Repealed	19, s. 2 and Sch. I
1981	36	Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions (Amendment) Act, 1981.	Repealed	19, s. 2 and Sch. I
1981	38	Income-tax (Second Amendment) Act, 1981.	Repealed	19, s. 2 and Sch. I
1981	39	Assam State Legislature (Delegation of Powers) Act, 1981.	Repealed	19, s. 2 and Sch. I
1981	43	Merchant Shipping (Amendment) Act, 1981.	Repealed	19, s. 2 and Sch. I
1981	44	Sugar Undertakings (Taking Over of Management) Amendment Act, 1981.	Repealed	19, s. 2 and Sch. I
1981	45	Oil Industry (Development) Amendment Act, 1981.	Repealed	19, s. 2 and Sch. I
1981	46	Economic Offences (Inapplicability of Limitation) Amendment Act, 1981.	Repealed	19, s. 2 and Sch. I

1	2	3	4	5
1981	47	Beedi Workers Welfare Cess (Amendment) Act, 1981.	Repealed	19, s. 2 and Sch. I
1981	49	Cinematograph (Amendment) Act, 1981.	Repealed	19, s. 2 and Sch. I
1981	50	Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981.	S. 22A inserted	35, s. 2
1981	51	Khuda Bakhsh Oriental Public Library (Amendment) Act, 1981.	Repealed	19, s. 2 and Sch. I
1981	52	Rampur Raza Library (Amendment) Act, 1981.	Repealed	19, s. 2 and Sch. I
1981	58	Plantations Labour (Amendment) Act, 1981.	Repealed	19, s. 2 and Sch. I
1981	59	Indian Iron and Steel Company (Acquisition of Shares) Amendment Act, 1981.	Repealed	19, s. 2 and Sch. I
1981	61	National Bank for Agriculture and Rural Development Act, 1981.	Ss. 5, 6, 7 and 46 amended (w.e.f. 30-12-1988) S. 61 and Second Schedule repealed	66, ss. 43, 44, 45 and 46. 19, s. 2 and Sch. I
1981	62	Aligarh Muslim University (Amendment) Act, 1981.	Ss. 2 to 21 repealed	19, s. 2 and Sch. I
1982	2	Industrial Finance Corporation (Amendment) Act, 1982.	Repealed	19, s. 2 and Sch. I
1982	13	Central Silk Board (Amendment) Act, 1982.	Repealed	19, s. 2 and Sch. I
1982	15	Customs Tariff (Amendment) Act, 1982.	S. 2 repealed	19, s. 2 and Sch. I
1982	16	Indian Railways (Amendment) Act, 1982.	Repealed	19, s. 2 and Sch. I
1982	17	Major Port Trusts (Amendment) Act, 1982.	Repealed	19, s. 2 and Sch. I
1982	18	Industrial Employment (Standing Orders) Amendment Act, 1982.	Repealed	19, s. 2 and Sch. I
1982	20	Pensions' (Amendment) Act, 1982.	Repealed	19, s. 2 and Sch. I
1982	21	Architects (Amendment) Act, 1982.	Repealed	19, s. 2 and Sch. I
1982	22	Pharmacy (Amendment) Act, 1982.	Repealed	19, s. 2 and Sch. I
1982	23	Wild Life (Protection) Amendment Act, 1982.	Repealed	19, s. 2 and Sch. I
1982	24	Air Corporations (Amendment) Act, 1982.	Repealed	19, s. 2 and Sch. I
1982	25	Assam State Legislature (Delegation of Powers) Act, 1982.	Repealed	19, s. 2 and Sch. I

1	2	3	4	5
1982	26	Prevention of Cruelty to Animals (Amendment) Act, 1982.	Ss. 2 to 17 repealed	19, s. 2 and Sch. I
1982	27	Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities (Amendment) Act, 1982.	Repealed	19, s. 2 and Sch. I
1982	30	Monopolies and Restrictive Trade Practices (Amendment) Act, 1982.	Repealed	19, s. 2 and Sch. I
1982	34	Special Courts (Repeal) Act, 1982.	Repealed	19, s. 2 and Sch. I
1982	35	Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1982.	Repealed	19, s. 2 and Sch. I
1982	39	Public Wakfs (Extension of Limitation) (Delhi Amendment) Act, 1982.	Repealed	19, s. 2 and Sch. I
1982	41	Metro Railways (Construction of Works) Amendment Act, 1982.	Ss. 2 to 16 repealed	19, s. 2 and Sch. I
1982	42	East Punjab Urban Rent Restriction (Chandigarh Amendment) Act, 1982.	Ss. 2 and 3 repealed	19, s. 2 and Sch. I
1982	44	Iron Ore Mines and Manganese Ore Mines Labour Welfare Cess (Amendment) Act, 1982.	Repealed	19, s. 2 and Sch. I
1982	45	Iron Ore Mines and Manganese Ore Mines Labour Welfare Fund (Amendment) Act, 1982.	Repealed	19, s. 2 and Sch. I
1982	47	Motor Vehicles (Amendment) Act, 1982.	Repealed	19, s. 2 and Sch. I
1982	48	Navy (Amendment) Act, 1982.	Repealed	19, s. 2 and Sch. I
1982	51	Contingency Fund of India (Amendment) Act, 1982.	Repealed	19, s. 2 and Sch. I
1982	52	Customs Tariff (Second Amendment) Act, 1982.	Repealed	19, s. 2 and Sch. I
1982	53	Food Corporations (Amendment) Act, 1982.	Repealed	19, s. 2 and Sch. I
1982	55	Powers-of-Attorney (Amendment) Act, 1982.	Repealed	19, s. 2 and Sch. I
1982	56	Charitable Endowments (Amendment) Act, 1982.	Repealed	19, s. 2 and Sch. I
1982	57	Sugar Cess (Amendment) Act, 1982.	Repealed	19, s. 2 and Sch. I
1982	61	Salary, Allowances and Pension of Members of Parliament (Second Amendment) Act, 1982.	Repealed	19, s. 2 and Sch. I

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1982	63	Road Transport Corporations (Amendment) Act, 1982.	Ss. 2 to 14, 16 and Schedule repealed	19, s. 2 and Sch. I
1982	64	Sugar Development Fund (Amendment) Act, 1982.	Repealed	19, s. 2 and Sch. I
1982	67	International Monetary Fund and Bank (Amendment) Act, 1982.	Repealed	19, s. 2 and Sch. I
1982	68	Drugs and Cosmetics (Amendment) Act, 1982.	Ss. 2 to 4 repealed	19, s. 2 and Sch. I
1982	69	Sales Promotion Employees (Conditions of Service) Amendment Act, 1982.	S. 2 repealed	19, s. 2 and Sch. I
1982	70	Limestone and Dolomite Mines Labour Welfare Fund (Amendment) Act, 1982.	Ss. 2 to 7 repealed	19, s. 2 and Sch. I
1982	72	Industrial Development Bank of India (Amendment) Act, 1982.	Repealed	19, s. 2 and Sch. I
1983	1	Aircraft (Amendment) Act, 1983.	Repealed	19, s. 2 and Sch. I
1983	8	Delhi Municipal Corporation (Amendment) Act, 1983.	Repealed	19, s. 2 and Sch. I
1983	9	Delhi Administration (Amendment) Act, 1983.	Repealed	19, s. 2 and Sch. I
1983	11	Finance Act, 1983.	S. 40 partly amended (w.e.f. 1-4-1988) and (partly w.e.f. amended 1-4-1989)	26, s. 87
1983	12	Merchant Shipping (Amendment) Act, 1983.	Repealed	19, s. 2 and Sch. I
1983	14	Central Industrial Security Force (Amendment) Act, 1983.	Ss. 2 to 13 and Schedule repealed	19, s. 2 and Sch. I
1983	15	Cantonments (Amendment) Act, 1983.	Repealed	19, s. 2 and Sch. I
1983	16	Electricity (Supply) Amendment Act, 1983.	Repealed	19, s. 2 and Sch. I
1983	18	Administrators-General (Amendment) Act, 1983.	Repealed	19, s. 2 and Sch. I
1983	22	Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1983.	Repealed	19, s. 2 and Sch. I
1983	23	Copyright (Amendment) Act, 1983.	Repealed	19, s. 2 and Sch. I

1	2	3	4	5
1983	24	Hindu Widows' Re-marriage (Repeal) Act, 1983.	Repealed	19, s. 2 and Sch. I
1983	25	Arms (Amendment) Act, 1983.	Repealed	19, s. 2 and Sch. I
1983	26	Societies Registration (Delhi Amendment) Act, 1983.	Repealed	19, s. 2 and Sch. I
1983	30	Vegetable Oils Cess Act, 1983.	S. 7 repealed	19, s. 2 and Sch. I
1983	38	Tea (Amendment) Act, 1983.	Repealed	19, s. 2 and Sch. I
1983	39	Illegal Migrants (Determination by Tribunals) Act, 1983.	Ss. 5, 6, 8, 10, 12, 13, 14, 15, 16, 20, 25 and 28 amended Ss. 8A and 21A inserted S. 17 substituted	24, ss. 2, 3, 4, 6, 7, 8, 9, 10, 11, 13, 15 and 16. <i>ibid.</i> ss. 5 and 14 <i>ibid.</i> , s. 12
1983	42	Mines (Amendment) Act, 1983.	Ss. 2 to 48 repealed	19, s. 2 and Sch. I
1983	43	Criminal Law (Amendment) Act, 1983.	Repealed	19, s. 2 and Sch. I
1983	44	Indian Railways (Amendment) Act, 1983.	Ss. 2 to 4 repealed	19, s. 2 and Sch. I
1983	45	Punjab Panchayat Samities and Zila Parishads (Temporary Supersession) Second Amendment Act, 1983.	Repealed	19, s. 2 and Sch. I
1983	46	Criminal Law (Second Amendment) Act, 1983.	Repealed	19, s. 2 and Sch. I
1983	48	Public Financial Institutions (Obligation as to Fidelity and Secrecy) Act, 1983.	Ss. 5 and 6	19, s. 2 and Sch. I
1984	2	Comptroller and Auditor-General's (Duties, Power and Conditions of Service) Amendment Act, 1984.	Repealed	19, s. 2 and Sch. I
1984	4	Industries (Development and Regulation) Amendment Act, 1984.	Ss. 2 to 5 and 7 repealed	19, s. 2 and Sch. I
1984	19	Government of Union Territories (Amendment) Act, 1984.	Ss. 2 and 3	19, s. 2 and Sch. I
1984	20	Oilfields (Regulation and Development) Amendment Act, 1984.	Repealed	19, s. 2 and Sch. I
1984	22	Workmen's Compensation (Amendment) Act, 1984.	Repealed	19, s. 2 and Sch. I
1984	23	Punjab Commercial Crops Cess (Amendment) Act, 1984.	Repealed	19, s. 2 and Sch. I

1	2	3	4	5
1984	24	National Security (Amendment) Act, 1984.	Repealed	19, s.2 and Sch. I
1984	25	Payment of Gratuity (Amendment) Act, 1984.	Repealed	19, s.2 and Sch. I
1984	26	Payment of Gratuity (Second Amendment) Act, 1984.	Ss. 2 to 5 repealed	19, s.2 and Sch. I
1984	27	Union Duties of Excise (Distribution) Amendment Act, 1984.	Repealed	19, s.2 and Sch. I
1984	28	Union Duties of Excise (Electricity Distribution) Amendment Act, 1984.	Repealed	19, s.2 and Sch. I
1984	29	Additional Duties of Excise Goods of Special Importance Amendment Act, 1984.	Repealed	19, s.2 and Sch. I
1984	30	Monopolies and Restrictive Trade Practices (Amendment) Act, 1984.	Repealed	19, s.2 and Sch. I
1984	31	Visva-Bharati (Amendment) Act, 1984.	Ss. 2 to 27 repealed	19, s.2 and Sch. I
1984	32	Estate Duty (Distribution) Amendment Act, 1984.	Repealed	19, s.2 and Sch. I
1984	35	Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1984.	Repealed	19, s.2 and Sch. I
1984	36	Punjab State Legislature (Delegation of Powers) Act, 1984.	Repealed	19, s.2 and Sch. I
1984	37	Delhi Rent Control (Amendment) Act, 1984.	Repealed	19, s.2 and Sch. I
1984	40	Export (Quality Control and Inspection) Amendment Act, 1984.	Repealed	19, s.2 and Sch. I
1984	45	Employees' State Insurance (Amendment) Act, 1984.	Ss. 2 to 14 repealed	19, s.2 and Sch. I
1984	48	Electricity (Supply) Amendment Act, 1984.	Repealed	19, s.2 and Sch.
1984	49	Industrial Disputes (Amendment) Act, 1984.	Repealed	19, s.2 and Sch. I
1984	54	Levy Sugar Price Equalisation Fund (Amendment) Act, 1984.	Ss. 2 to 7 repealed	19, s.2 and Sch. I
1984	56	Cinematograph (Amendment) Act, 1984.	Repealed	19, s.2 and Sch. I
1984	58	Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Act, 1984.	Repealed	19, s.2 and Sch.

1	2	3	4	5
1984	59	University Grants Commission (Amendment) Act, 1984.	Ss. 2 to 8 repealed	19, s.2 and Sch. I
1984	60	National Security (Second Amendment) Act, 1984.	Repealed	19, s.2 and Sch. I
1984	62	Industrial Reconstruction Bank of India Act, 1984.	Ss. 10, 29, 32 and 69 amended (w.e.f. 30-12-1988)	66, ss. 47, 48, 49 and 50
1984	64	Banking Laws (Amendment) Act, 1984.	Repealed	19, s.2 and Sch. I
1984	65	Copyright (Amendment) Act, 1984.	Repealed	19, s.2 and Sch. I
1984	68	Land Acquisition (Amendment) Act, 1984.	Ss. 2 to 29 repealed	19, s.2 and Sch. I
1985	60	Railway Protection Force (Amendment) Act, 1985.	S.3 amended	19, s.3 and Sch. II
1986	5	Central Excise Tariff Act, 1985	Schedule amended (w.e.f.)	26, s.81 and Third Schedule.
1986	7	Additional Duties of Excise (Goods of Special Importance) Amendment Act, 1986.	S.1 amended	19, s.3 and Sch. II
1986	11	The Spices Cess Act, 1986.	S.3 amended	19, s.3 and Sch. II
1986	62	Customs and Excise Revenues Appellate Tribunal Act, 1986.	S. 14 amended (w.e.f.)	29, s. 16
1986	69	State of Arunachal Pradesh Act, 1986.	S. 10 substituted	52, s.2
1987	35	Expenditure-tax Act, 1987.	Ss. 6, 13 and 24 amended (w.e.f. 1-4-1988)	26, ss. 73, 74 and 75.
1988	4	Direct Tax Laws Act, 1987.	Ss. 36, 37, 38, 128, 153, 154, 155, 158, 162 and 182 amended (w.e.f. 1-4-1988)	26, s.88
			S. 92 omitted (w.e.f. 1-4-1988)	26, s.88

PART II.—CENTRAL ORDINANCES REPEALED OR AMENDED

Year	No. of Ordinance	Short title of Ordinance	No. and section of 1988 Act by which repealed or amended
1944	38	Criminal Law Amendment Ordinance, 1944.	Ss. 3, 9, 10, 11, 13 and Schedule amended. 49, s. 29
1987	9	Delhi Municipal Corporation (Second Amendment) Ordinance, 1987 (w.e.f. 24-12-1987).	11, s. 3
1987	10	Delhi Administration (Amendment) Ordinance, 1987 (w.e.f. 24-12-1987).	10, s. 3
1988	1	Major Port Trusts (Amendment) Ordinance, 1988 (w.e.f. 28-1-1988).	12, s. 3
1988	2	Benami Transactions (Prohibition of Right to recover Property) Ordinance, 1988 (w.e.f. 19-5-1988).	45, s. 9
1988	3	Religious Institutions (Prevention of Misuse) Ordinance, 1988 (w.e.f. 26-5-1988).	41, s. 10
1988	4	National Security (Amendment) Ordinance, 1988 (w.e.f. 26-5-1988).	43, s. 3
1988	5	Arms (Amendment) Ordinance, 1988 (w.e.f. 27-5-1988).	42, s. 7
1988	6	Bharat Petroleum Corporation Limited (Determination of Conditions of Service of Employees) Ordinance, 1988 (w.e.f. 2-7-1988).	44, s. 4
1988	7	Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Ordinance, 1988 (w.e.f. 4-7-1988).	46, s. 16

PART III.—STATE ACTS AMENDED

No. of Year	No. of Act	Short title	How affected	No. and section of 1988 Act by which affected
1976	25	Tamil Nadu Co-operative Societies (Appointment of Special Officers) Act, 1976.	S. 4 amended	23, s. 2
1986	17	Tamil Nadu Agricultural Service Co-operative Societies (Appointment of Special Officers) Act, 1986.	S. 4 amended (w.e.f. 28-3-1988)	22, s. 2
1986	69	State of Arunachal Pradesh Act, 1986.	S.10 substituted	52 s. 2

PART IV.—CONSTITUTION OF INDIA AMENDED

How affected	No. and section of 1988 Act by which affected
Article 356 amended	Constitution (Fifty-ninth Amendment) Act, 1988, s. 2.
Article 359A inserted	<i>Ibid.</i> , s. 3.
Article 276 amended	Constitution (Sixtieth Amendment) Act, 1988, s. 2.
Sixth Schedule amended in its application to the States of Tripura and Mizoram.	Sixth Schedule to the Constitution (Amendment) Act, 1988 67, s. 2.

THE REGIONAL RURAL BANKS (AMENDMENT)
ACT, 1987

No. 1 OF 1988

[3rd January, 1988.]

An Act further to amend the Regional Rural Banks Act, 1976.

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

1. (1) This Act may be called the Regional Rural Banks (Amendment) Act, 1987.

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.

21 of 1976. 2. In section 2 of the Regional Rural Banks Act, 1976 (hereinafter referred to as the principal Act), after clause (c), the following clause shall be inserted, namely:—

Amendment of section 2.

61 of 1981. '(ca) "National Bank" means the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981;'

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

Amendment of section 3.

"(3) It shall be the duty of the Sponsor Bank to aid and assist the Regional Rural Bank, sponsored by it, by—

(a) subscribing to the share capital of such Regional Rural Bank;

(b) training personnel of such Regional Rural Bank; and

(c) providing such managerial and financial assistance to such Regional Rural Bank during the first five years of its functioning, as may be mutually agreed upon between the Sponsor Bank and the Regional Rural Bank:

Provided that the Central Government may, either on its own motion or on the recommendation of the National Bank, extend the said period of five years by such further period, not exceeding five years at a time, subject to such conditions as it may deem fit to impose."

¹ 28-9-1988 vide Notification No. S.O. 897 (E), dated 28-9-1988, Gazette of India, Extraordinary, 1988, Pt. II, Sec. 3 (ii).

Amend-
ment of
section 4.

4. In section 4 of the principal Act, in sub-section (1), for the words "Reserve Bank", the words "National Bank" shall be substituted.

Amend-
ment of
section
5.

5. In section 5 of the principal Act,—

(a) for the words "one crore of rupees, divided into one lakh", the words "five crores of rupees divided into five lakhs" shall be substituted;

(b) in the proviso, for the words "Reserve Bank", the words "National Bank" shall be substituted.

Amend-
ment of
section
6.

6. In section 6 of the principal Act,—

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

"(1) The issued capital of each Regional Rural Bank shall, in the first instance, be such as may be fixed by the Central Government in this behalf, but it shall in no case be less than twenty-five lakhs of rupees or exceed one crore of rupees.;"

(b) in sub-section (3), for the words "Reserve Bank", the words "National Bank" shall be substituted.

Amend-
ment of
section
9.

7. In section 9 of the principal Act, in sub-section (1), for clauses (a), (b) and (c), the following clauses shall be substituted, namely:—

(a) two directors, who are not officers of the Central Government, State Government, Reserve Bank, National Bank, Sponsor Bank or any other bank, to be nominated by the Central Government;

(b) one director, who is an officer of the Reserve Bank, to be nominated by that Bank;

(c) one director, who is an officer of the National Bank, to be nominated by that Bank;

(d) two directors, who are officers of the Sponsor Bank, to be nominated by that Bank; and

(e) two directors, who are officers of the concerned State Government, to be nominated by that Government."

Amend-
ment of
section 11.

8. In section 11 of the principal Act,—

(i) in sub-section (1),—

(a) for the words "The Central Government", the words "The Sponsor Bank" shall be substituted;

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

"Provided that no appointment of such an individual shall be made,—

(a) if such an individual is an officer of the Sponsor Bank, except after consultation with the National Bank; and

(b) in any other case, except with the prior approval of the Central Government.;"

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

“(1A) Notwithstanding anything contained in sub-section (1),—

(a) the Sponsor Bank shall have the right to terminate the term of office of the Chairman at any time before the expiry of the period specified in sub-section (1):

Provided that no such termination shall be made,—

(a) if the Chairman is an officer of the Sponsor Bank, except after consultation with the National Bank; and

(b) in any other case, except with the prior approval of the Central Government:

Provided further that where the Chairman is not an officer of the Central Government, State Government, Reserve Bank, National Bank, Sponsor Bank or any other bank, he shall be given notice of not less than three months in writing or three months' salary and allowances in lieu of such notice; and

(b) the Chairman shall have the right to resign his office at any time before the expiry of the period specified in sub-section (1) by giving to the Sponsor Bank, notice of not less than three months in writing.”;

(iii) in sub-section (4),—

(a) for the words “The Central Government”, the words “The Sponsor Bank” shall be substituted;

(b) for the words “Provided that”, the following shall be substituted, namely:—

“Provided that no such removal shall be made,—

(a) if the Chairman is an officer of the Sponsor Bank, except after consultation with the National Bank; and

(b) in any other case, except with the prior approval of the Central Government:

Provided further that”;

(iv) in sub-section (5), for the words “the Central Government”, the words “the Sponsor Bank in consultation with the National Bank” shall be substituted.

9. In section 13 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) A director may resign his office by giving notice thereof in writing to the authority by which he was nominated; and, on such resignation being accepted, the director shall be deemed to have vacated his office.”.

Amendment of section 16.

10. In section 16 of the principal Act, after the words "Reserve Bank," at both the places where they occur, the words "National Bank," shall be inserted.

Amendment of section 17.

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

(a) after the words "necessary or desirable", the words "in such manner as may be prescribed" shall be inserted;

(b) in the first proviso, the words " , during the first five years of the functioning of a Regional Rural Bank," shall be omitted.

Amendment of section 20.

12. In section 20 of the principal Act, in sub-section (1), for the words "sixty days from the date of closure of its accounting year", the words "three months from the date of the closure of its accounting year, or such further period, not exceeding three months, as may be permitted by the Reserve Bank" shall be substituted.

Insertion of new Chapter VA.

13. After Chapter V of the principal Act, the following Chapter shall be inserted, namely:—

"CHAPTER VA

AMALGAMATION OF REGIONAL RURAL BANKS

Amalgamation of Regional Rural Banks.

23A. (1) Notwithstanding anything contained in this Act, if the Central Government, after consultation with the National Bank, the concerned State Government and the Sponsor Bank, is of the opinion that it is necessary in the public interest or in the interest of the development of the area served by any Regional Rural Bank or in the interest of the Regional Rural Banks themselves, that two or more Regional Rural Banks should be amalgamated, that Government may, by notification in the Official Gazette, provide for the amalgamation of such Regional Rural Banks (hereafter in this Chapter referred to as the transferor Regional Rural Banks) into a single Regional Rural Bank (hereafter in this Chapter referred to as the transferee Regional Rural Bank) with such constitution, property, powers, rights, interests, authorities and privileges; and with such liabilities, duties and obligations, as may be specified in the notification.

(2) Every notification issued under sub-section (1) shall indicate the date with effect from which the amalgamation shall become effective.

(3) Every notification issued under sub-section (1) may also provide for all or any of the following matters, namely:—

(a) the continuance in service of all the employees of the transferor Regional Rural Banks (excepting such of them as not being workmen with the meaning of the Industrial Disputes Act, 1947 are specifically mentioned in the notification) in the transferee Regional Rural Bank at the same remuneration and on the same terms and conditions of service, which they were getting or, as the case may be, by which they were being governed, immediately before the date on which the amalgamation takes effect;

(b) notwithstanding anything contained in clause (a), where any of the employees of the transferor Regional Rural Banks, not

14 of 1947.

being workmen within the meaning of the Industrial Disputes Act, 1947 are specifically mentioned in the notification, or where any employee of the transferor Regional Rural Banks has by notice in writing given to the transferee Regional Rural Bank at any time before the expiry of a period of three months next following the date on which the amalgamation takes effect, intimated his intention of not becoming an employee of the transferee Regional Rural Bank, the payment to such employee of compensation, if any, to which he is entitled under the Industrial Disputes Act, 1947, and such gratuity, provident fund and other retirement benefits ordinarily admissible to him under the rules or authorisations of the concerned transferor Regional Rural Banks immediately before that date;

(c) the other terms and conditions for the amalgamation of Regional Rural Banks; and

(d) the continuance by or against the transferee Regional Rural Bank of any pending legal proceeding by or against any transferor Regional Rural Banks and such consequential, incidental and supplemental provisions, as may, in the opinion of the Central Government, be necessary to give effect to the amalgamation.

(4) Every notification issued under sub-section (1) shall, as soon as may be after it has been made, be laid before each House of Parliament.

23B. (1) A notification issued under sub-section (1) of section 23A, shall constitute sufficient notice of the provisions thereof to all the parties concerned and shall be binding on the transferor Regional Rural Banks and the transferee Regional Rural Bank and to the depositors, creditors, employees and all other persons having dealings with such banks.

(2) Notwithstanding anything contained in the Transfer of Property Act, 1882 or the Registration Act, 1908, any notification issued under sub-section (1) of section 23A shall be sufficient conveyance, in accordance with the provisions of the notification, of the business, properties, assets and liabilities, rights, interests, powers, privileges, benefits and obligations of whatever nature of the transferor Regional Rural Banks to the transferee Regional Rural Bank.

(3) On and from the date on which the amalgamation takes effect under section 23A, any reference to the transferor Regional Rural Banks in any agreement, conveyance, assurance, power of attorney or any other document of whatsoever nature, shall be deemed to be a reference to the transferee Regional Rural Bank and the rights and obligations of the transferor Regional Rural Banks shall be deemed to be the rights and obligations of the transferee Regional Rural Bank to the extent specified in the said amalgamation.

23C. On and from the date on which the amalgamation takes effect under section 23A, the transferor Regional Rural Banks shall cease to carry on business, including that of making of any payment to any depositors or discharge any liability or obligation to the creditors except to the extent as may be necessary for the implementation of the provisions of the said amalgamation.

Noti-
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parties.

4 of 1882.
16 of 1908.

Cessa-
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Regional
Rural
Banks.

Liquidation of Regional Rural Banks.

23D. Where a notification is issued for the amalgamation of Regional Rural Banks under sub-section (1) of section 23A, the Central Government may, by a further notification in the Official Gazette, direct that on such date as may be specified therein, the transferor Regional Rural Banks, which by reason of amalgamation will cease to function, shall stand dissolved and such direction shall take effect notwithstanding anything to the contrary contained in section 26.

Insertion of new section 24A.

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

Inspection, audit and scrutiny by the Sponsor Bank.

“24A. Notwithstanding anything contained in section 19 and without prejudice to the provisions of section 35 of the Banking Regulation Act, 1949, the Sponsor Bank shall, from time to time, monitor the progress of the Regional Rural Banks sponsored by it and cause inspection, internal audit and scrutiny to be made by one or more of its officers and suggest corrective measures to be taken by such Regional Rural Bank.”

Amendment of section 28.

15. In section 28 of the principal Act, in sub-section (2), after the words “the Reserve Bank”, the words “or the National Bank” shall be inserted.

Amendment of section 29.

16. In section 29 of the principal Act,—

(a) in sub-section (1), for the words “Reserve Bank”, the words “National Bank” shall be substituted;

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

“(ba) the manner in which the officers and other employees of the Regional Rural Banks shall be appointed;”

Amendment of section 30.

17. In section 30 of the principal Act, in sub-section (1), for the words “Reserve Bank”, the words “National Bank” shall be substituted.

THE CHANDIGARH (DELEGATION OF POWERS)
ACT, 1987

No. 2 of 1988

[3rd January, 1988.]

An Act to provide for the delegation of powers vested in the Administrator of the Union territory of Chandigarh.

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

1. (1) This Act may be called the Chandigarh (Delegation of Powers) Act, 1987.

Short
title
and
extent.

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

2. In this Act, unless the context otherwise requires, "Administrator" means the administrator of the Union territory of Chandigarh appointed by the President under article 239 of the Constitution.

Defini-
tion.

3. (1) Any power, authority or jurisdiction or any duty which the Administrator may exercise or discharge under any law in force in the Union territory of Chandigarh may be exercised or discharged also by such officer or other authority as may be specified in this behalf by the Central Government or the Administrator by notification in the Official Gazette.

Delega-
tion of
powers,
etc.,
vested in
Adminis-
trator.

(2) The Administrator may transfer any appeal or application for revision or any other matter pending before him for disposal to an officer or other authority competent under sub-section (1) to dispose of the same.

(3) The Administrator may withdraw for disposal by himself any appeal or application for revision or any other matter pending before an officer or other authority competent under sub-section (1) to dispose of the same.

4. Notwithstanding any judgment, decree or order of any court or tribunal or other authority to the contrary, where any power, authority or jurisdiction or any duty which the Administrator may exercise or discharge under any law in force in the Union territory of Chandigarh had been exercised or discharged by any officer or other authority before the commencement of this Act, such power, authority, juris-

Valida-
tion.

diction or duty shall be deemed to have been validly and effectively exercised or discharged by such officer or other authority as if the provisions of sub-section (1) of section 3 were in force at all material times when such power, authority or jurisdiction was exercised or such duty was discharged and that officer or other authority had been specified as an officer or other authority by the Central Government or the Administrator in that behalf under the said sub-section, and accordingly, no suit or other proceeding shall be instituted, maintained or continued in any court or tribunal or before other authority on the ground that such officer or other authority was not competent to exercise such power, authority or jurisdiction or to discharge such duty.

THE COMMISSION OF SATI (PREVENTION) ACT, 1987

No. 3 OF 1988

[3rd January, 1988.]

An Act to provide for the more effective prevention of the commission of *sati* and its glorification and for matters connected therewith or incidental thereto,

WHEREAS *sati* or the burning or burying alive of widows or women is revolting to the feelings of human nature and is nowhere enjoined by any of the religions of India as an imperative duty;

AND WHEREAS it is necessary to take more effective measures to prevent the commission of *sati* and its glorification;

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

PART I

PRELIMINARY

1. (1) This Act may be called the Commission of Sati (Prevention) Act, 1987.

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

(3) It shall come into force in a State on such date¹ as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different States.

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

(a) "Code" means the Code of Criminal Procedure, 1973;

(b) "glorification", in relation to *sati*, whether such *sati* was committed before or after the commencement of this Act, includes, among other things,—

(i) the observance of any ceremony or the taking out of a procession in connection with the commission of *sati*; or

(ii) the supporting, justifying or propagating the practice of *sati* in any manner; or

Short title, extent and commencement.

Definitions.

2 of 1974.

¹ 21-3-1988; vide Notification No. G.S.R. 359 (E), dated 21-3-1988, Gazette of India, Extraordinary, 1988, pt. II, sec. 3 (i).

(iii) the arranging of any function to eulogise the person who has committed *sati*; or

(iv) the creation of a trust, or the collection of funds, or the construction of a temple or other structure or the carrying on of any form of worship or the performance of any ceremony thereat, with a view to perpetuate the honour of, or to preserve the memory of, a person who has committed *sati*;

(c) "*sati*" means the act of burning or burying alive of—

(i) any widow along with the body of her deceased husband or any other relative or with any article, object or thing associated with the husband or such relative; or

(ii) any woman along with the body of any of her relatives, irrespective of whether such burning or burying is claimed to be voluntary on the part of the widow or the woman or otherwise;

(d) "Special Court" means a Special Court constituted under section 9;

(e) "temple" includes any building or other structure, whether roofed or not, constructed or made to preserve the memory of a person in respect of whom *sati* has been committed or used or intended to be used for the carrying on of any form of worship or for the observance of any ceremony in connection with such commission.

(2) Words and expressions used but not defined in this Act and defined in the Indian Penal Code or in the Code shall have the same meanings as are respectively assigned to them in the Indian Penal Code or the Code.

45 of 1860.

PART II

PUNISHMENTS FOR OFFENCES RELATING TO SATI

3. Notwithstanding anything contained in the Indian Penal Code, whoever attempts to commit *sati* and does any act towards such commission shall be punishable with imprisonment for a term which may extend to six months or with fine or with both:

45 of 1860.

Provided that the Special Court trying an offence under this section shall, before convicting any person, take into consideration the circumstances leading to the commission of the offence, the act committed, the state or mind of the person charged of the offence at the time of the commission of the act and all other relevant factors.

4. (1) Notwithstanding anything contained in the Indian Penal Code, if any person commits *sati*, whoever abets the commission of such *sati*, either directly or indirectly, shall be punishable with death or imprisonment for life and shall also be liable to fine.

45 of 1860.

(2) If any person attempts to commit *sati*, whoever abets such attempt, either directly or indirectly, shall be punishable with imprisonment for life and shall also be liable to fine.

Attempt
to commit
sati.

Abetment
of *sati*.

Explanation.—For the purposes of this section, any of the following acts or the like shall also be deemed to be an abetment, namely:—

- (a) any inducement to a widow or woman to get her burnt or buried alive along with the body of her deceased husband or with any other relative or with any article, object or thing associated with the husband or such relative, irrespective of whether she is in a fit state of mind or is labouring under a state of intoxication or stupefaction or other cause impeding the exercise of her free will;
- (b) making a widow or woman believe that the commission of *sati* would result in some spiritual benefit to her or her deceased husband or relative or the general well being of the family;
- (c) encouraging a widow or woman to remain fixed in her resolve to commit *sati* and thus instigating her to commit *sati*;
- (d) participating in any procession in connection with the commission of *sati* or aiding the widow or woman in her decision to commit *sati* by taking her along with body of her deceased husband or relation to the cremation or burial ground;
- (e) being present at the place where *sati* is committed as an active participant to such commission or to any ceremony connected with it;
- (f) preventing or obstructing the widow or woman from saving herself from being burnt or buried alive;
- (g) obstructing or interfering with, the police in the discharge of its duties of taking any steps to prevent the commission of *sati*.

5. Whoever does any act for the glorification of *sati* shall 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 which shall not be less than five thousand rupees but which may extend to thirty thousand rupees.

Punishment for glorification of *sati*.

PART III

POWERS OF COLLECTOR OR DISTRICT MAGISTRATE TO PREVENT OFFENCES RELATING TO SATI

6. (1) Where the Collector or the District Magistrate is of the opinion that *sati* or any abetment thereof is being, or is about to be committed, he may, by order, prohibit the doing of any act towards the commission of *sati* by any person in any area or areas specified in the order.

Power to prohibit certain acts.

(2) The Collector or the District Magistrate may also, by order, prohibit the glorification in any manner of *sati* by any person in any area or areas specified in the order.

(3) Whoever contravenes any order made under sub-section (1) or sub-section (2) shall, if such contravention is not punishable under any other provision of this Act, 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 which shall not be less than five thousand rupees but which may extend to thirty thousand rupees.

Power to
remove
certain
temples or
other
structures.

7. (1) The State Government may, if it is satisfied that in any temple or other structure which has been in existence for not less than twenty years, any form of worship or the performance of any ceremony is carried on with a view to perpetuate the honour of, or to preserve the memory of, any person in respect of whom *sati* has been committed, by order, direct the removal of such temple or other structure.

(2) The Collector or the District Magistrate may, if he is satisfied that in any temple or other structure, other than that referred to in sub-section (1), any form of worship or the performance of any ceremony is carried on with a view to perpetuate the honour of, or to preserve the memory of, any person in respect of whom *sati* has been committed, by order, direct the removal of such temple or other structure.

(3) Where any order under sub-section (1) or sub-section (2) is not complied with, the State Government or the Collector or the District Magistrate, as the case may be, shall cause the temple or other structure to be removed through a police officer not below the rank of a Sub-Inspector at the cost of the defaulter.

Power
to seize
certain
properties.

8. (1) Where the Collector or the District Magistrate has reason to believe that any funds or property have been collected or acquired for the purpose of glorification of the commission of any *sati* or which may be found under circumstances which create suspicion of the commission of any offence under this Act, he may seize such funds or property.

(2) Every Collector or District Magistrate acting under sub-section (1) shall report the seizure to the Special Court, if any, constituted to try any offence in relation to which such funds or property were collected or acquired and shall await the orders of such Special Court as to the disposal of the same.

PART IV

SPECIAL COURTS

Trial of
offences
under
this Act.

9. (1) Notwithstanding anything contained in the Code, all offences under this Act shall be triable only by a Special Court constituted under this section.

(2) The State Government shall, by notification in the Official Gazette, constitute one or more Special Courts for the trial of offences under this Act and every Special Court shall exercise jurisdiction in respect of the whole or such part of the State as may be specified in the notification.

(3) A Special Court shall be presided over by a Judge to be appointed by the State Government with the concurrence of the Chief Justice of the High Court.

(4) A person shall not be qualified for appointment as a Judge of a Special Court unless he is, immediately before such appointment, a Sessions Judge or an Additional Sessions Judge in any State.

Special
Public
Prosecu-
tors.

10. (1) For every Special Court, the State Government shall appoint a person to be a Special Public Prosecutor.

(2) A person shall be eligible to be appointed as a Special Public Prosecutor under this section only if he had been in practice as an advo-

cate for not less than seven years or has held any post for a period of not less than seven years under the State requiring special knowledge of law.

(3) Every person appointed as a Special Public Prosecutor under this section shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code and the provisions of the Code shall have effect accordingly.

11. (1) A Special Court may take cognizance of any offence, without the accused being committed to it for trial, upon receiving a complaint of facts which constitute such offence, or upon a police report of such facts.

Procedure and powers of Special Courts.

(2) Subject to the other provisions of this Act, a Special Court shall, for the purpose of the trial of any offence, have all the powers of a Court of Session and shall try such offence as if it were a Court of Session, so far as may be, in accordance with the procedure prescribed in the Code for trial before a Court of Session.

12. (1) When trying any offence under this Act, a Special Court may also try any other offence with which the accused may, under the Code, be charged at the same trial if the offence is connected with such other offence.

Power of Special Court with respect to other offences.

(2) If, in the course of any trial of any offence under this Act it is found that the accused person has committed any other offence under this Act or under any other law, a Special Court may convict such person also of such other offence and pass any sentence authorised by this Act or such other law for the punishment thereof.

(3) In every inquiry or trial, the proceedings shall be held as expeditiously as possible and, in particular, where the examination of witnesses has begun, the same shall be continued from day to day until all the witnesses in attendance have been examined, and if any Special Court finds the adjournment of the same beyond the following date to be necessary, it shall record its reasons for doing so.

13. Where a person has been convicted of an offence under this Act, the Special Court trying such offence may, if it is considered necessary so to do, declare that any funds or property seized under section 8 shall stand forfeited to the State.

Forfeiture of funds or property.

14. (1) Notwithstanding anything contained in the Code, an appeal shall lie as a matter of right from any judgment, sentence or order, not being an interlocutory order, of a Special Court to the High Court both on facts and on law.

Appeal.

(2) Every appeal under this section shall be preferred within a period of thirty days from the date of the judgment, sentence or order appealed from:

Provided that the High Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days.

PART V

MISCELLANEOUS

Protection of action taken under this Act.

15. No suit, prosecution or other legal proceeding shall lie against the State Government or any officer or authority of the State Government for anything which is in good faith done or intended to be done in pursuance of this Act or any rules or orders made under this Act.

Burden of proof.

16. Where any person is prosecuted of an offence under section 4, the burden of proving that he had not committed the offence under the said section shall be on him.

Obligation of certain persons to report about the conviction of offence under this Act.

17. (1) All officers of Government are hereby required and empowered to assist the police in the execution of the provisions of this Act or any rule or order made thereunder.

(2) All village officers and such other officers as may be specified by the Collector or the District Magistrate in relation to any area and the inhabitants of such area shall, if they have reason to believe or have the knowledge that *sati* is about to be, or has been, committed in the area shall forthwith report such fact to the nearest police station.

(3) Whoever contravenes the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.

Person convicted of an offence under section 4 to be disqualified from inheriting certain properties.

18. A person convicted of an offence under sub-section (1) of section 4 in relation to the commission of *sati* shall be disqualified from inheriting the property of the person in respect of whom such *sati* has been committed or the property of any other person which he would have been entitled to inherit on the death of the person in respect of whom such *sati* has been committed.

Amendment of Act 43 of 1951.

19. In the Representation of the People Act, 1951,—

(a) in section 8, in sub-section (2), after the proviso, the following proviso shall be inserted, namely:—

“Provided further that a person convicted by a Special Court for the contravention of any of the provisions of the Commission of Sati (Prevention) Act, 1987 shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of five years since his release.”;

(b) in section 123, after clause (3A), the following clause shall be inserted, namely:—

“(3B) The propagation of the practice or the commission of *sati* or its glorification by a candidate or his agent or any other person with the consent of the candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

Explanation.—For the purposes of this clause, “sati” and “glorification” in relation to sati shall have the meanings respectively assigned to them in the Commission of Sati (Prevention) Act, 1987.’

20. The provisions of this Act or any rule or order made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

Act to have over-riding effect.

21. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or 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.

22. (1) All laws in force in any State immediately before the commencement of this Act in that State which provide for the prevention or the glorification of sati shall, on such commencement, stand repealed.

Repeal of existing laws.

(2) Notwithstanding such repeal, anything done or any action taken under any law repealed under sub-section (1) shall be deemed to have been done or taken under the corresponding provisions of this Act; and, in particular, any case taken cognizance of by a Special Court under the provisions of any law so repealed and pending before it immediately before the commencement of this Act in that State shall continue to be dealt with by that Special Court after such commencement as if such Special Court had been constituted under section 9 of this Act.

THE DIRECT TAX LAWS (AMENDMENT) ACT, 1987

ARRANGEMENT OF SECTIONS

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59. Amendment of section 153.
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61. Amendment of section 155.
62. ~~Amendment of section 158.~~ *omitted*
63. ~~Insertion of new Chapter XIV-B.~~
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88. Amendment of section 226.
89. Omission of section 228.
90. Amendment of section 228A.
91. Amendment of section 230.
92. ~~Amendment of section 230A.~~ *Comitted*
93. Omission of section 231.
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95. Amendment of section 240.
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97. Amendment of section 244.
98. Insertion of new section 244A.
99. Amendment of sub-heading and substitution of new sections for section 246.
100. ~~Omission of section 247.~~ *Comitted*
101. ~~Substitution of new section for section 267.~~
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104. Amendment of section 269T.
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- 113. Amendment of section 273A.
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- 123. Amendment of section 298.
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- 130. Amendment of section 5.
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- 133. Amendment of section 14.
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- 135. Amendment of section 15A.
- 136. Substitution of new section for section 15B.
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- 138. Substitution of new section for section 16.
- 139. Amendment of section 17.
- 140. Amendment of section 17A.
- 141. Insertion of new section 17B.
- ~~142. Substitution of new sections for sections 18 and 18A.~~ *committed*
- 143. Insertion of new Chapter IVB.
- ~~144. Amendment of section 21A.~~
- 145. Amendment of section 21AA.
- 146. Amendment of section 23.
- ~~147. Insertion of new section 23A.~~ *committed*
- 148. Amendment of section 31.
- 149. Amendment of section 32.
- 150. Amendment of section 34A.
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- 153. Amendment of section 37.
- 154. Amendment of section 37A.
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- 156. Insertion of new section 37C.
- 157. Amendment of section 38.
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- 161. Substitution of new authorities.
- 162. Amendment of section 2.
- 163. Amendment of section 3.
- 164. Substitution of new sections for sections 7, 8, 9 and 10.
- 165. Omission of sections 7A, 7AA, 7B, 8A, 9A, 11, 11A, 11AA, 11B and 12.
- 166. Amendment of section 13.
- 167. Substitution of new section for section 14.
- 168. Amendment of section 14A.
- 169. Insertion of new section 14B.
- 170. Substitution of new section for section 15.
- 171. Amendment of section 16.
- 172. Amendment of section 16A.
- 173. Insertion of new section 16B.
- ~~174. Substitution of new sections for sections 17 and 17A. Comitted~~
- ~~175. Insertion of new Chapter IVA.~~
- 176. Amendment of section 22.
- ~~177. Insertion of new section 22A. Comitted~~
- 178. Amendment of section 32.
- 179. Amendment of section 33.
- 180. Amendment of section 33A.
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- 183. Amendment of section 37.
- 184. Amendment of section 45.
- 185. Insertion of new section 47.
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AMENDMENTS TO THE COMPANIES (PROFITS) SURTAX ACT, 1964

- 187. Substitution of new authorities.
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THE DIRECT TAX LAWS (AMENDMENT) ACT, 1987

No. 4 OF 1988

[24th January, 1988.]

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.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Direct Tax Laws (Amendment) Act, 1987.

(2) Save as otherwise provided in this Act, it shall come into force on the 1st day of April, 1989 and any reference to the commencement of this Act in any provision of this Act shall be construed as a reference to the commencement of that provision.

Short title and commencement.

CHAPTER II

AMENDMENTS TO THE INCOME-TAX ACT, 1961

43 of 1961.

2. In the Income-tax Act, 1961 (hereafter in this Chapter referred to as the Income-tax Act), save as otherwise expressly provided in this Act, and unless the context otherwise requires, the references to any authority specified in column (1) of the Table below shall be substituted with effect from the 1st day of April, 1988 by the references to the authority or authorities specified in the corresponding entry in column (2) of the said Table and such consequential changes as the rules of grammar may require shall also be made:

Substitution of new authorities.

TABLE

(1)	(2)
Director of Inspection	Director General or Director
Deputy Director of Inspection	Deputy Director
Assistant Director of Inspection	Assistant Director
Commissioner	Chief Commissioner or Commissioner
Inspecting Assistant Commissioner	Deputy Commissioner
Appellate Assistant Commissioner	Deputy Commissioner (Appeals)
Income-tax Officer	Assessing Officer:

Provided that nothing contained in this section shall apply to the references to "Commissioner" occurring in sections 245D, 253, 256, 263 and 264.

Amend-
ment of
section 2.

3. In section 2 of the Income-tax Act,—

(a) clauses (1) and (1A) shall be renumbered as clauses (1A) and (1B) respectively, and before clause (1A) as so renumbered, the following clause shall be inserted, namely:—

'(1) "advance tax" means the advance tax payable in accordance with the provisions of Chapter XVII-C;'

(b) after clause (7), the following clause shall be inserted with effect from the 1st day of April, 1988, namely:—

'(7A) "Assessing Officer" means the Assistant Commissioner or the Income-tax Officer who is vested with the relevant jurisdiction by virtue of directions or orders issued under sub-section (1) or sub-section (2) of section 120 or any other provision of this Act, and the Deputy Commissioner who is directed under clause (b) of sub-section (4) of that section to exercise or perform all or any of the powers and functions conferred on, or assigned to, an Assessing Officer under this Act;'

(c) after clause (9), the following clause shall be inserted with effect from the 1st day of April, 1988, namely:—

'(9A) "Assistant Commissioner" means a person appointed to be an Assistant Commissioner of Income-tax under sub-section (1) of section 117;'

(d) clause (15A) shall be renumbered as clause (15B), and before clause (15B) as so renumbered, the following clause shall be inserted with effect from the 1st day of April, 1988, namely:—

'(15A) "Chief Commissioner" means a person appointed to be a Chief Commissioner of Income-tax under sub-section (1) of section 117;'

(e) in clause (16), the words "and includes a person appointed to be an Additional Commissioner of Income-tax under that sub-section" shall be omitted with effect from the 1st day of April, 1988;

(f) after clause (19), the following clauses shall be inserted with effect from the 1st day of April, 1988, namely:—

'(19A) "Deputy Commissioner" means a person appointed to be a Deputy Commissioner of Income-tax under sub-section (1) of section 117;'

'(19B) "Deputy Commissioner (Appeals)" means a person appointed to be a Deputy Commissioner of Income-tax (Appeals) under sub-section (1) of section 117;'

(g) for clause (21), the following clause shall be substituted with effect from the 1st day of April, 1988, namely:—

'(21) "Director General or Director" means a person appointed to be a Director General of Income-tax or, as the case may be, a Director of Income-tax, under sub-section (1) of section 117, and includes a person appointed under that sub-section to be a Deputy Director of Income-tax or an Assistant Director of Income-tax';

(h) clause (22A) shall be renumbered as clause (22B), and before clause (22B) as so renumbered, the following clause shall be inserted, namely:—

'(22A) "domestic company" means an Indian company, or any other company which, in respect of its income liable to tax under this Act, 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';

(i) after clause (23), the following clause shall be inserted, namely:—

'(23A) "foreign company" means a company which is not a domestic company';

(j) in clause (24), in sub-clause (iia), for the words "not being contributions made with a specific direction that they shall form part of the corpus of the trust or institution", the words, brackets, letters and figures "or by a trust or institution of national importance referred to in clause (d) of sub-section (1) of section 80F" shall be substituted;

(k) for clause (25), the following clause shall be substituted with effect from the 1st day of April, 1988, namely:—

'(25) "Income-tax Officer" means a person appointed to be an Income-tax Officer under sub-section (1) of section 117';

(l) clause (27) shall be omitted with effect from the 1st day of April, 1988;

(m) in clause (28), for the word, brackets and figure "sub-section (2)", the word, brackets and figure "sub-section (1)" shall be substituted with effect from the 1st day of April, 1988;

(n) after clause (29B) [as inserted by clause (c) of section 3 of the Finance Act, 1987], the following clause shall be inserted, namely:—

'(29C) "maximum marginal rate" means the rate of income-tax (including surcharge on income-tax, if any) applicable in relation to the highest slab of income in the case of an individual as specified in the Finance Act of the relevant year';

(o) in clause (37A),—

(i) in sub-clause (i),—

(1) the words, brackets, figures and letter "or sub-section (9) of section 80E from any payment referred to therein" shall be omitted;

(2) for the words, figures and letter "section 115B or section 164", at both the places where they occur, the words, figures and letters "section 115B or section 115BB or section 115E or section 164 or section 164A or section 167A" shall be substituted with effect from the 1st day of April, 1988;

(3) after the words, figures and letter "or section 167A", at both the places where they occur, the words, figures and letter "or section 167B" shall be inserted;

(4) for the words, figures and letter "section 115B or, as the case may be, section 164", the words, figures and letters "section 115B or section 115BB or section 115E or section 164 or section 164A or section 167A, as the case may be," shall be substituted with effect from the 1st day of April, 1988;

(5) after the word, figures and letter "section 167A", in the third place where they occur, the words, figures and letter "or section 167B" shall be inserted;

(ii) in sub-clause (ii), for the figures, letter and word "194D and 195", the figures, letters and word "194D, 194E and 195" shall be substituted with effect from the 1st day of April, 1988;

~~(p) clause (39) shall be omitted; C.L.X.X.X~~

(q) clause (43B) shall be omitted;

(r) for clause (44), the following clause shall be substituted, namely:—

'(44) "Tax Recovery Officer" means any Income-tax Officer who may be authorised by the Chief Commissioner or Commissioner, by general or special order in writing, to exercise the powers of a Tax Recovery Officer;';

~~(s) clause (48) shall be omitted. C.L.X.X.X~~

Substitu-
tion of
new sec-
tion for
section 3.

4. For section 3 of the Income-tax Act, the following section shall be substituted, namely:—

"Previous
year" de-
fined.

'3. (1) Save as otherwise provided in this section, "previous year" for the purposes of this Act, means the financial year immediately preceding the assessment year:

Provided that, in the case of a business or profession newly set up, or a source of income newly coming into existence, in the said financial year, the previous year shall be the period beginning with the date of setting up of the business or profession or, as the case may be, the date on which the source of income newly comes into existence and ending with the said financial year.

(2) "Previous year", in relation to the assessment year commencing on the 1st day of April, 1989, means the period which begins with

to Omitted and ins. by Act 3 of 1989, S. 95 O.A.F. (14/1989).

the date immediately following the last day of the previous year relevant to the assessment year commencing on the 1st day of April, 1988 and ends on the 31st day of March, 1989:

Provided that where the assessee has adopted more than one period as the "previous year" in relation to the assessment year commencing on the 1st day of April, 1988 for different sources of his income, the previous year in relation to the assessment year commencing on the 1st day of April, 1989 shall be reckoned separately in the manner aforesaid in respect of each such source of income, and the longer or the longest of the periods so reckoned shall be the previous year for the said assessment year.

(3) Where the previous year in relation to the assessment year commencing on the 1st day of April, 1989, referred to in sub-section (2) exceeds a period of twelve months, the provisions of this Act shall apply subject to the modifications specified in the rules in the Tenth Schedule.

5. In section 4 of the Income-tax Act, in sub-section (1),—

(a) for the words "subject to the provisions of, this Act", the words and brackets "subject to the provisions (including provisions for the levy of additional income-tax) of, this Act" shall be substituted;

(b) the words "or previous years, as the case may be," shall be omitted.

Amendment of section 4.

6. In section 10 of the Income-tax Act,—

(a) after clause (2), the following clause shall be inserted, namely:—

"(2A) in the case of a partner with effect from the 1st day of April, 1988 is assessed as such, his share in the total income of the firm.

Explanation.—For the purposes of this clause, the share of a partner in the total income of a firm assessed as such shall, notwithstanding anything contained in any other law, be an amount which bears to the total income of the firm the same proportion as the amount of his share in the profits of the firm in accordance with the partnership deed bears to such profits;

(b) for clauses (4) and (4A), the following clause shall be substituted, namely:—

"(4) (i) in the case of a non-resident, any income by way of interest on such securities or bonds as the Central Government may, by notification in the Official Gazette, specify in this behalf, including income by way of premium on the redemption of such bonds;

(ii) in the case of an individual, who is a person resident outside India as defined in clause (q) of section 2 of the Foreign Exchange Regulation Act, 1973, any income by way of interest on moneys standing to his credit in a Non-Resident (External) Account in any bank in India in accordance with the said Act and the rules made thereunder;"

Amendment of section 10.

(c) for clause (5), the following clause shall be substituted, namely:—

'(5) subject to such conditions as the Central Government may prescribe (including conditions as to number of journeys and the amount which shall be exempt per head) in the case of an individual, the value of any travel concession or assistance received by or due to him,—

(a) from his employer for himself and his family, in connection with his proceeding on leave to any place in India;

(b) from his employer or former employer for himself and his family, in connection with his proceeding to any place in India after retirement from service or after the termination of his service:

Provided that the amount exempt under sub-clause (a) or sub-clause (b) shall not, except in such cases and under such circumstances as may be prescribed having regard to the travel concession or assistance granted to the employees of the Central Government, exceed the value of the travel concession or assistance which would have been received by or due to the individual in connection with his proceeding to any place in India on leave or, as the case may be, after retirement from service or after the termination of his service:

Provided further that the amount exempt under this clause shall in no case exceed the amount of expenses actually incurred for the purpose of such travel.

Explanation.—For the purposes of this clause, "family", in relation to an individual, means—

(i) the spouse and children of the individual; and

(ii) the parents, brothers and sisters of the individual or any of them, wholly or mainly dependent on the individual;

(d) in clause (10),—

(i) in sub-clause (iii), for the words "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-six thousand rupees or twenty months' salary so calculated, whichever is less", the words "calculated on the basis of the average salary for the ten months immediately preceding the month in which any such event occurs, subject to such limit as the Central Government may, by notification in the Official Gazette, specify in this behalf having regard to the limit applicable in this behalf to the employees of that Government" shall be substituted;

(ii) in the first and second provisos, for the words "shall not exceed thirty-six thousand rupees", the words "shall not exceed the limit so specified" shall be substituted;

(iii) the third and fourth provisos shall be omitted;

(iv) in the *Explanation*, for the words "In this clause", the words, brackets, figures and letters "In this clause, and in clause (10AA)" shall be substituted;

(e) in clause (10A), the proviso shall be omitted;

(f) in clause (10AA), in sub-clause (ii),—

(i) for the words "six months", the words "eight months" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 1986;

(ii) for the words "or thirty thousand rupees, whichever is less", the words "subject to such limit as the Central Government may, by notification in the Official Gazette, specify in this behalf having regard to the limit applicable in this behalf to the employees of that Government" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 1986;

(iii) in the first and second provisos, for the words "shall not exceed thirty thousand rupees", the words "shall not exceed the limit so specified" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 1986;

(iv) the third and fourth provisos shall be omitted and shall be deemed to have been omitted with effect from the 1st day of July, 1986;

(v) in the *Explanation*, the brackets and figure "(i)", and clause (ii) shall be omitted and shall be deemed to have been omitted with effect from the 1st day of July, 1986;

(g) in clause (10B), in the first proviso, for clause (ii), the following clause shall be substituted, namely:—

"(ii) such amount, not being less than fifty thousand rupees, as the Central Government may, by notification in the Official Gazette, specify in this behalf;"

(h) for clause (14), the following clause shall be substituted, namely:—

"(14) (i) any such special allowance or benefit, not being in the nature of a perquisite within the meaning of clause (2) of section 17, specifically granted to meet expenses wholly, necessarily and exclusively incurred in the performance of the duties of an office or employment of profit, as the Central Government may, by notification in the Official Gazette, specify, to the extent to which such expenses are actually incurred for that purpose;

(ii) any such allowance granted to the assessee either to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at the place where he ordinarily resides, or to compensate him for the increased cost of living, as the Central Government

may, by notification in the Official Gazette, specify, to the extent specified in the notification;”;

(i) in clause (15), for sub-clauses (i), (ia), (ib), (ii) and (ia), the following sub-clause shall be substituted, namely:—

“(i) income by way of interest, premium on redemption or other payment on such securities, bonds, annuity certificates, savings certificates, other certificates issued by the Central Government and deposits as the Central Government may, by notification in the Official Gazette, specify in this behalf, subject to such conditions and limits as may be specified in the said notification;”;

(j) for clauses (17A), (17B) and (18), the following clause shall be substituted, namely:—

“(17A) any payment made, whether in cash or in kind,—

(i) in pursuance of any award instituted in the public interest by the Central Government or any State Government or instituted by any other body and approved by the Central Government in this behalf; or

(ii) 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;”;

~~(k) clauses (21) and (22) shall be omitted;~~

(l) in clause (23C),—

(i) in sub-clause (iii), the word “or” occurring at the end shall be omitted;

~~(ii) sub-clauses (iv) and (v) and the proviso shall be omitted;~~

(m) after clause (23C), the following clause shall be inserted with effect from the 1st day of April, 1988, namely:—

“(23D) any income from such Mutual Fund set up by a public sector bank or a public financial institution and subject to such conditions, including the condition that at least ninety per cent. of the income from the Mutual Fund shall be distributed to the unit holders every year, as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Explanation.—For the purposes of this clause,—

(a) the expression “public sector bank” means the State Bank of India constituted under the State Bank of India Act, 1955, a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;

23 of 1955.

38 of 1959.

5 of 1970.

40 of 1980.

1/2 omitted by Act 3 of 1989, S. 95 (w.e.f. 1.4.1989).

(b) the expression "public financial institution" shall have the meaning assigned to it in section 4A of the Companies Act, 1956;

7. Sections 11, 12, 12A and 13 of the Income-tax Act shall be omitted.

Omission of sections 11, 12, 12A and 13.

8. In section 15 of the Income-tax Act, the Explanation shall be numbered as Explanation 1, and after Explanation 1 as so numbered, the following Explanation shall be inserted, namely:—

Amendment of section 15.

Explanation 2.—Any salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from the firm shall not be regarded as "salary" for the purposes of this section.

9. In section 28 of the Income-tax Act,—

Amendment of section 28.

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

"(v) any interest, salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from such firm;"

(b) Explanation 1 shall be omitted.

10. Sections 35, 35B, 35C, 35CC, 35CCA and 35CCB of the Income-tax Act shall be omitted.

Omission of sections 35, 35B, 35C, 35CC, 35CCA and 35CCB.

11. In section 36 of the Income-tax Act,—

Amendment of section 36.

(a) in sub-section (1),—

(i) in clause (ii), the provisos shall be omitted;

(ii) in clause (vii), in the opening portion, for the words "any debt or part thereof which is established to have become a bad debt in the previous year", the words "any bad debt or part thereof which is written off as irrecoverable in the accounts of the assessee for the previous year" shall be substituted;

(iii) in clause (viii), in the Explanation, for clause (ii), the following clause shall be substituted, namely:—

(ii) "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955, a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, or under section 3

23 of 1955.

38 of 1959.

5 of 1970.

1/2 omitted and subs. by Act 3 of 1989, S.95 (w.e.f. 1.4.1989).

of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934, but does not include a co-operative bank;'

40 of 1980.

2 of 1934.

(b) in sub-section (2),—

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

“(i) no such deduction shall be allowed unless such debt or part thereof has been taken into account in computing the income of the assessee of the previous year in which the amount of such debt or part thereof is written off or of an earlier previous year, or represents money lent in the ordinary course of the business of banking or money-lending which is carried on by the assessee;”;

(ii) in clause (iii), after the words “earlier previous year”, the brackets, words, figures and letters “(being a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year)” shall be inserted;

(iii) in clause (iv), after the words “accounts of the previous year”, the brackets, words, figures and letters “(being a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year)” shall be inserted.

Omission of section 39.

12. Section 39 of the Income-tax Act shall be omitted.

Amendment of section 40.

13. In section 40 of the Income-tax Act,—

(i) in the opening portion, for the words and figures “sections 30 to 39”, the words and figures “sections 30 to 38” shall be substituted;

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

~~‘(b) in the case of any firm assessable as such,—~~

~~(i) any payment of salary, bonus, commission or remuneration, by whatever name called (hereinafter referred to as remuneration) to any partner who is not a whole-time working partner; or~~

~~(ii) any payment of remuneration to any partner who is a whole-time working partner, or of interest to any partner, which, in either case, is not authorised by, or is not in accordance with, the terms of the partnership deed; or~~

~~(iii) any payment of remuneration to any partner who is a whole-time working partner, or of interest to any partner, which, in either case is authorised by, and is in accordance with, the terms of the partnership deed, but which relates~~

is omitted by Act 3 of 1989, S. 95 (w.e.f. 1.4.89).

to any period (falling prior to the date of such partnership deed) for which such payment was not authorised by, or is not in accordance with, any earlier partnership deed, so, however, that the period of authorisation for such payment by any earlier partnership deed does not cover any period prior to the date of such earlier partnership deed; or

(iv) any payment of interest to any partner which is authorised by, and is in accordance with, the terms of the partnership deed and relates to any period falling after the date of such partnership deed in so far as such amount exceeds the amount calculated at such rate of interest as may be prescribed having regard to the maximum rate of interest payable by a scheduled bank on its deposits; or

(v) any payment of remuneration to any partner who is a whole-time working partner, which is authorised by, and is in accordance with, the terms of the partnership deed and relates to any period falling after the date of such partnership deed in so far as the amount of such payment to all the partners during the previous year exceeds the aggregate amount computed as hereunder:—

(1) in case of a firm carrying on a profession referred to in section 44AA or which is notified for the purpose of that section,—

(a) on the first Rs. 50,000 of the book-profit	at the rate of 90 per cent.;
(b) on the next Rs. 50,000 of the book-profit	at the rate of 65 per cent.;
(c) on the balance of the book-profit	at the rate of 40 per cent.;

(2) in the case of any other firm,—

(a) on the first Rs. 50,000 of the book-profit	at the rate of 75 per cent.;
(b) on the next Rs. 50,000 of the book-profit	at the rate of 50 per cent.;
(c) on the balance of the book-profit	at the rate of 25 per cent.;

Explanation 1.—In this clause,—

(a) “whole-time working partner” means a partner of the firm who is in receipt of any remuneration from the firm for services rendered to that firm and who is not in receipt of any similar remuneration from any other person;

(b) “book-profit” means the profit which would have been computed in accordance with the provisions of Parts II

and III of the Sixth Schedule to the Companies Act, 1956 if those provisions had been applicable to a firm and before making any deduction of any loss brought forward or any unabsorbed depreciation allowance or any other allowance or deduction brought forward from any earlier previous year and without making any deduction under section 32AB or section 33AB or under Chapter VI-A as increased by the following amounts if they have been taken into account in arriving at such profits—

- (1) the aggregate amount of the remuneration and the interest to all the partners of the firm;
- (2) income-tax;
- (3) reserves or provisions of any kind;
- (4) depreciation;

and as reduced by the depreciation computed in accordance with the provisions of sub-section (1) of section 32 and the aggregate amount of interest allowed to all the partners of the firm under this clause;

(c) "scheduled bank" shall have the same meaning as is assigned to it in the *Explanation* to clause (viii) of sub-section (1) of section 36.

Explanation 2.—Where an individual is a partner in a firm on behalf, or for the benefit, of any other person (such partner and the other person being hereinafter referred to as "partner in a representative capacity" and "person so represented", respectively),—

(i) interest paid by the firm to such individual otherwise than as partner in a representative capacity, shall not be taken into account for the purposes of this clause;

(ii) interest paid by the firm to such individual as partner in a representative capacity and interest paid by the firm to the person so represented shall be taken into account for the purposes of this clause.

Explanation 3.—Where an individual is a partner in a firm otherwise than as partner in a representative capacity, interest paid by the firm to such individual shall not be taken into account for the purposes of this clause, if such interest is received by him on behalf, or for the benefit, of any other person;

(ba) in the case of an association of persons or body of individuals [other than a company or a co-operative society or a society registered under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India], any payment of interest, salary, bonus, commission or

remuneration, by whatever name called, made by such association or body to a member of such association or body.

Explanation 1.—Where interest is paid by an association or body to any member thereof who has also paid interest to the association or body, the amount of interest to be disallowed under this clause shall be limited to the amount by which the payment of interest by the association or body to the member exceeds the payment of interest by the member to the association or body.

Explanation 2.—Where an individual is a member of an association or body on behalf, or for the benefit, of any other person (such member and the other person being hereinafter referred to as “member in a representative capacity” and “person so represented”, respectively),—

(i) interest paid by the association or body to such individual or by such individual to the association or body otherwise than as member in a representative capacity, shall not be taken into account for the purposes of this clause;

(ii) interest paid by the association or body to such individual or by such individual to the association or body as member in a representative capacity and interest paid by the association or body to the person so represented or by the person so represented to the association or body, shall be taken into account for the purposes of this clause.

Explanation 3.—Where an individual is a member of an association or body otherwise than as member in a representative capacity, interest paid by the association or body to such individual shall not be taken into account for the purposes of this clause, if such interest is received by him on behalf, or for the benefit, of any other person;

(iii) clause (c) shall be omitted.

14. In section 40A of the Income-tax Act,—

(a) in sub-section (3), for the words “two thousand five hundred rupees”, wherever they occur, the words “ten thousand rupees” shall be substituted;

(b) sub-sections (5) and (6) shall be omitted.

Amendment of section 40A.

15. In section 43B of the Income-tax Act,—

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

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

“(c) any sum referred to in clause (ii) of sub-section (1) of section 36,”;

Amendment of section 43B.

(c) in the first proviso (as inserted by section 10 of the Finance Act, 1987), after the word, brackets and letter "clause (a)", the words, brackets and letter "or clause (c)" shall be inserted;

11 of 1987.

(d) the *Explanation* shall be numbered as *Explanation 1*, and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted, namely:—

"*Explanation 2*.—For the removal of doubts it is hereby declared that where a deduction in respect of any sum referred to in clause (c) of this section is allowed in computing the income referred to in section 28 of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year) in which the liability to pay such sum was incurred by the assessee, the assessee shall not be entitled to any deduction under this section in respect of such sum in computing the income of the previous year in which the sum is actually paid by him."

Insertion
of new
section
54A.

~~16. After section 54 of the Income-tax Act, the following section shall be inserted, namely:—~~

Relief
of tax
on capital
gains on
transfer
of
property
held under
trust for
charitable
or religi-
ous pur-
poses
or by
certain
insti-
tutions.

~~54A. (1) Where the capital gain arises from the transfer of a long term capital asset, being property specified in sub-section (2) (the capital asset so transferred being hereafter in this section referred to as the original asset), and the assessee has, during the previous year in which the transfer took place or within a period of six months after the close of such previous year, acquired another capital asset (such asset being hereafter in this section referred to as the new asset), to be held for the same purposes as those for which the original asset was held, then, the capital gain arising from the transfer shall be dealt with in accordance with the following provisions, that is to say,—~~

~~(a) if the cost of the new asset is not less than the net consideration in respect of the original asset, the whole of such capital gain shall not be charged under section 45;~~

~~(b) if the cost of the new asset is less than the net consideration in respect of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of acquisition of the new asset bears to the net consideration shall not be charged under section 45;~~

~~Provided that in a case where the transfer of the original asset is by way of compulsory acquisition under any law and the full amount of compensation awarded for such acquisition is not received by the assessee on the date of such transfer but is received after the expiry of the previous year, the period of six months referred to in this section shall, in relation to so much of~~

omitted by Act 3 of 1989, S. 95 (W. E. of 1.4.1989).

such compensation as is not received before such expiry, be reckoned from the date immediately following the date on which such compensation is received by the assessee.

(2) The property referred to in sub-section (1) shall be the following, namely:—

(a) property held under trust wholly for charitable or religious purposes in India or by an institution established wholly for such purposes in India;

(b) property held under trust in part only for charitable or religious purposes in India, the trust having been created before the commencement of this Act;

(c) property held under a trust created on or after the 1st day of April, 1952, or by an institution established on or after that date, for a charitable purpose which is for the benefit of citizens of India abroad or which tends to promote international welfare in which India is interested;

(d) property held by a trust or institution of national importance referred to in clause (d) of sub-section (1) of section 80F.

(3) In the case of a capital asset being property failing under clause (b) of sub-section (2), the provisions of sub-section (1) shall apply only to that fraction of the capital gain arising from the transfer of such capital asset which represents the extent to which the income derived from the capital asset transferred was, immediately before such transfer, applicable to charitable or religious purposes.

Explanation.—In this section, “net consideration” shall have the meaning assigned to it in *Explanation 5* below sub-section (1) of section 54E.

17. In section 64 of the Income-tax Act, in sub-section (1),—

(a) clause (i) shall be omitted;

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

“Provided that nothing in this clause shall apply in relation to any such income arising to the spouse from a firm carrying on any such profession as is referred to in sub-section (1) of section 44AA, where the spouse possesses any technical or professional qualification in the nature of a degree or diploma of a university within the meaning of clause (c) of the *Explanation* below sub-section (2B) of section 32A;”

(c) clause (iii) shall be omitted;

(d) in clause (iv), the words, brackets and figure “in a case not falling under clause (i) of this sub-section,” shall be omitted;

(e) in clause (v), the words, brackets and figures "in a case not falling under clause (iii) of this sub-section," and the brackets and words "(not being a married daughter)" shall be omitted;

(f) in clause (vii), the brackets and words "(not being a married daughter)" shall be omitted;

(g) for Explanation 1, the following Explanation shall be substituted, namely:—

"Explanation 1.—For the purposes of clause (ii), the individual, in computing whose total income the income referred to in that clause is to be included, shall be the husband or wife whose total income (excluding the income referred to in that clause) is greater; and where any such income is once included in the total income of either spouse, any such income arising in any succeeding year shall not be included in the total income of the other spouse unless the Assessing Officer is satisfied, after giving that spouse an opportunity of being heard, that it is necessary so to do.";

(h) Explanation 1A and Explanation 2A shall be omitted;

(i) for Explanation 3, the following Explanation shall be substituted, namely:—

"Explanation 3.—For the purposes of clauses (iv), (v) and (vi), where the assets transferred directly or indirectly by an individual to his spouse or minor child or son's wife or son's minor child (hereafter in this Explanation referred to as "the transferee") are invested by the transferee,—

(i) in any business, such investment being not in the nature of contribution of capital as a partner in a firm or, as the case may be, for being admitted to the benefits of partnership in a firm, that part of the income arising out of the business to the transferee in any previous year, which bears the same proportion to the income of the transferee from the business as the value of the assets aforesaid as on the first day of the previous year bears to the total investment in the business by the transferee as on the said day;

(ii) in the nature of contribution of capital as a partner in a firm or, as the case may be, for being admitted to the benefits of partnership in a firm, that part of the interest receivable by the transferee from the firm in any previous year, which bears the same proportion to the interest receivable by the transferee from the firm as the value of the investment aforesaid as on the first day of the previous year bears to the total investment by way of capital contribution as a partner in the firm as on the said day,

shall be included in the total income of the individual in that previous year."

18. For section 67 of the Income-tax Act, the following section shall be substituted, namely: —

Substitution of new section for section 67.

21 of 1860.

67. (1) In computing the total income of an assessee who is a member of an association of persons or a body of individuals wherein the shares of the members are determinate and known [other than a company or a co-operative society or a society registered under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India], whether the net result of the computation of the total income of such association or body is a profit or a loss, his share (whether a net profit or net loss) shall be computed as follows, namely:—

Method of computing a member's share in the income of association of persons or body of individuals.

(a) any interest, salary, bonus, commission or remuneration by whatever name called, paid to any member in respect of the previous year shall be deducted from the total income of the association or body and the balance ascertained and apportioned among the members in the proportions in which they are entitled to share in the income of the association or body;

(b) where the amount apportioned to a member under clause (a) is a profit, any interest, salary, bonus, commission or remuneration aforesaid paid to the member by the association or body in respect of the previous year shall be added to that amount, and the result shall be treated as the member's share in the income of the association or body;

(c) where the amount apportioned to a member under clause (a) is a loss, any interest, salary, bonus, commission or remuneration aforesaid paid to the member by the association or body in respect of the previous year shall be adjusted against that amount, and the result shall be treated as the member's share in the income of the association or body.

(2) The share of a member in the income or loss of the association or body, as computed under sub-section (1), shall, for the purposes of assessment, be apportioned under the various heads of income in the same manner in which the income or loss of the association or body has been determined under each head of income.

(3) Any interest paid by a member on capital borrowed by him for the purposes of investment in the association or body shall, in computing his share chargeable under the head "Profits and gains of business or profession" in respect of his share in the income of the association or body, be deducted from his share.

Explanation.—In this section, "paid" has the same meaning as is assigned to it in clause (2) of section 43.

Omission
of
sections
75, 76
and 77.

19. Sections 75, 76 and 77 of the Income-tax Act shall be omitted.

Amend-
ment of
section
78.

20. In section 78 of the Income-tax Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Where a change has occurred in the constitution of a firm, nothing in this Chapter shall entitle the firm to have carried forward and set off so much of the loss proportionate to the share of a retired or deceased partner as exceeds his share of profits, if any, in the firm in respect of the previous year.”

Amend-
ment of
section
80A.

21. In section 80A of the Income-tax Act, for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Where in computing the total income of an association of persons or a body of individuals, any deduction is admissible under section 80G or section 80HH or section 80HHA or section 80HHB or section 80HHC or section 80-I or section 80J, no deduction under the same section shall be made in computing the total income of a member of the association of persons or body of individuals in relation to the share of such member in the income of the association or body.”

Amend-
ment of
section
80B.

22. In section 80B of the Income-tax Act, clauses (2), (4), (6) and (8) shall be omitted.

Omission
of section
80E.

23. Section 80E of the Income-tax Act shall be omitted.

Insertion
of new
section
80F.

~~24. After section 80E of the Income-tax Act as so omitted, the following section shall be inserted, namely:—~~

Deduction
in respect
of
amounts
applied
for chari-
table or
religious
purposes,
etc.

‘80F. (1) In computing the total income of an assessee, being—

(a) a person in receipt of income derived from property held under trust wholly for charitable or religious purposes in India or by an institution established wholly for such purposes in India; or

(b) a person in receipt of income derived from property held under trust in part only for charitable or religious purposes in India, the trust having been created before the commencement of this Act; or

(c) a person in receipt of income derived from property held under a trust created on or after the 1st day of April, 1952, or by an institution established on or after that date, for a charitable purpose which is for the benefit of citizens of India

↳ omitted by Act 3 of 1989, S. 95 (W. E. F. 14. 1989).

abroad or which tends to promote international welfare in which India is interested; or

(d) a trust or institution declared by the Board, by notification in the Official Gazette, to be a trust or institution of national importance, having regard to the objects set out in the instrument creating the trust or establishing the institution, the opinion of such experts in the respective fields of activity of the trust or institution as the Board may think fit to consult, and other relevant factors,

there shall be deducted, in accordance with and subject to the provisions of this section, the sums specified hereunder, namely:—

(i) any amount applied in India by the person referred to in clause (a), or by the trust or institution referred to in clause (d), during the previous year wholly and exclusively to the purposes of the trust or institution;

(ii) any amount applied in India by the person referred to in clause (b) during the previous year wholly and exclusively to the charitable or religious purposes of the trust;

(iii) any amount applied outside India by the person referred to in clause (c) during the previous year wholly and exclusively for the benefit of citizens of India abroad or for promoting international welfare in which India is interested, where the Board has, by general or special order, directed such amount to be deducted:

Provided that any such amount applied wholly and exclusively for the benefit of citizens of India abroad shall qualify for the deduction under this clause only if such amount is applied in accordance with a scheme framed by such person and approved by the Board and notified in the Official Gazette;

(iv) any amount invested or deposited during the previous year in such form or mode, in such manner and for such period as may be prescribed, where such investment or deposit is held by such person or, as the case may be, trust or institution for a period of not less than six months ending with the due date for furnishing the return of income under sub-section (1) of section 139.

(2) The deduction under sub-section (1) shall not be allowed unless the following conditions are fulfilled, namely:—

(a) the person in receipt of the income or, as the case may be, the trust or institution has made an application for registration of the trust or institution in the prescribed form and in the prescribed manner to the Commissioner or any other authority prescribed in this behalf before the expiry of a period of one year from the date of the creation of the trust or the establishment of the institution:

Provided that the Commissioner or the authority so prescribed may, in his or its discretion, admit an application for the registration of any trust or institution after the period aforesaid.

Explanation.—Where an application for registration of the trust or institution has been made to the Commissioner in accordance with the provisions of section 12A as it stood immediately before the 1st day of April, 1989, the requirements of this clause shall be deemed to have been complied with;

(b) where the gross total income of the trust or institution for the previous year exceeds fifty thousand rupees, the accounts of the trust or institution for the previous year have been audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288 and the person in receipt of the income furnishes along with the return of income for the relevant assessment year the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed;

(c) such other conditions as the Board may, having regard to the interests or quantum of the revenue, by general or special order, impose, and such conditions may include a condition that a nominee of the Board shall, notwithstanding anything contained in any other law for the time being in force or in any instrument constituting the trust or institution concerned or governing the working thereof, be appointed on the Board of trustees of the said trust or, as the case may be, the governing body of the institution.

(3) The deduction under sub-section (1) shall not be allowed where—

(a) any part of the property of the trust or institution is held for a private religious purpose which does not enure for the benefit of the public or any part of the income from such property is applied to any such purpose as aforesaid;

(b) in the case of a trust for charitable purposes or a charitable institution created or established after the commencement of this Act, the trust or institution is created or established for the benefit of any particular religious community or caste;

(c) (i) in the case of a trust or an institution created or established after the commencement of this Act, any part of the income of the trust or institution, under the terms of the trust or the rules governing the institution, enures, or

(ii) in the case of a trust or institution whenever created or established, any part of the income or any property of the trust or institution is, during the previous year, used or applied, in a manner which results directly or indirectly in conferring any benefit, amenity or perquisite (whether convertible into money or not) on any interested person; or

(d) any funds of the trust or institution are invested or deposited, for any period during the previous year, otherwise than in any such form or mode, in such manner and for such period as is prescribed for the purposes of clause (iv) of sub-section (1):

Provided that the Chief Commissioner or the Commissioner may, if he is satisfied, on an application by the trust or institution, that the application of the provisions of sub-clause (i) or sub-clause (ii) of clause (c) would result in grave hardship to the trust or institution, allow the deduction wholly or to such extent as he may deem fit having regard to the extent of the benefit, amenity or perquisite derived or enjoyed by the interested person:

Provided further that in the case of a trust or institution created or established before the commencement of this Act, the provisions of sub-clause (ii) of clause (c) shall not apply to any use or application, whether directly or indirectly, of any part of such income or any property of the trust or institution in the manner specified in that clause, if such use or application is by way of compliance with a mandatory term of the trust or a mandatory rule governing the institution.

(4) Without prejudice to the generality of the provisions of clause (c) of sub-section (3), the income or the property of the trust or institution or any part of such income or property shall, for the purposes of that clause, be deemed to have been used or applied in a manner which results directly or indirectly in conferring any benefit, amenity or perquisite (whether convertible into money or not) on any interested person, if—

(a) any part of the income or property of the trust or institution is, or continues to be, lent to any interested person for any period during the previous year without either adequate security or adequate interest or both;

(b) any land, building or other property of the trust or institution is, or continues to be, made available for the use of any interested person for any period during the previous year without charging adequate rent or other compensation;

(c) any amount is paid by way of salary, allowance or otherwise during the previous year to any interested person out of the resources of the trust or institution for services rendered by that person to such trust or institution and the amount so paid is in excess of what may be reasonably paid for such services;

(d) the services of the trust or institution are made available to any interested person during the previous year without adequate remuneration or other compensation;

(e) any share, security or other property is purchased by or on behalf of the trust or institution from any interested person during the previous year for a consideration which is more than adequate;

(f) any share, security or other property is sold by or on behalf of the trust or institution to any interested person during the previous year for a consideration which is less than adequate;

(g) any income or property of the trust or institution is diverted during the previous year in favour of any interested person:

Provided that this clause shall not apply where the income, or the value of the property or, as the case may be, the aggregate of the income and the value of the property so diverted does not exceed one thousand rupees;

(h) any funds of the trust or institution are, or continue to remain, invested for any period during the previous year in any concern in which any interested person has a substantial interest:

Provided that in a case where the aggregate of the funds of the trust or institution invested in a concern referred to in this clause does not exceed five per cent. of the capital of that concern, the deduction under sub-section (1) in respect of the amount referred to in clause (i) or clause (ii) of that sub-section shall not be denied in relation to the application of any income other than the income arising to the trust or institution from such investment, by reason only of this clause.

(5) Where deduction has been allowed under sub-section (1) for any previous year with reference to any amount referred to in clause (iv) of that sub-section and in any subsequent previous year the whole or any part of the investment or deposit in which such amount is held is realised or converted into cash, the amount so realised or converted into cash shall, notwithstanding anything contained in any other provision of this Act, be deemed to be the income of the assessee of the previous year in which it is so realised or converted and shall be chargeable to tax accordingly.

(6) The deduction under sub-section (1) shall not be allowable in a case where the whole or any part of the income of the person or, as the case may be, trust or institution referred to in that sub-section is chargeable to income-tax, by virtue of the provisions of sections 60 to 63, as the income of the author of the trust or founder of the institution or any other person who has made a transfer of any income or asset to the trust or institution.

(7) Where the property referred to in clause (a) or clause (b) or clause (c) of sub-section (1) consists wholly or partly of a business undertaking, or any person, trust or institution referred to in clause (a) or clause (b) or clause (c) or clause (d) of that sub-section derives income from a business carried on by him or it, the foregoing provisions of this section shall apply subject to the following conditions and with the following modifications, namely:—

(a) separate books of account are maintained by such person, trust or institution in respect of such business; such accounts are maintained on the cash system of accounting and are audited by an accountant as defined in the Explanation below sub-section (2) of section 288, and the person, trust or institution furnishes, along with the return of income for the relevant assessment year, the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed;

(b) in computing the profits and gains of such business, no

results directly or indirectly in the provision of any remuneration, perquisite, benefit or amenity to any interested person, whether for any services rendered or otherwise;

(c) the provisions of sections 71 and 72 shall not be applicable in relation to any loss pertaining to such business;

(d) any amount referred to in clause (i) or clause (ii) or clause (iii) of sub-section (1), in so far as such amount is applied out of the profits and gains of such business, shall qualify for the deduction under that sub-section, if—

(i) such amount is so applied during the previous year;

or

(ii) such amount is so applied during the financial year next following the previous year and, until it is so applied, the amount is kept in deposit in a separate account in any scheduled bank and it is not utilised for any purpose which is not a purpose of the trust or institution,

and any amount which is not so applied out of such deposit during the financial year aforesaid shall be chargeable to tax as the income under the head "Profits and gains of business or profession" of such person, trust or institution of the next following previous year and all the provisions of this Act shall apply accordingly;

(e) any amount referred to in clause (iv) of sub-section (1) shall not be taken into account for the purpose of allowing the deduction under that sub-section, in so far as such amount relates to the profits and gains of such business;

(f) without prejudice to the provisions of sub-section (3), the deduction under sub-section (1) shall not be allowed in a case where—

(i) such business consists, wholly or partly, in—

(A) the purchase and sale of any securities or shares;

or

(B) money-lending or financing in any form; or

(C) speculation in securities or shares or any other commodities; or

(D) engaging in the conduct of, or participating in, any lottery or crossword puzzle, races including horse races, card games or other games of any sort or gambling or betting of any form or nature whatsoever; or

(E) such other activity as may be prescribed; or

(ii) the person, trust or institution aforesaid engages in any business transaction with any interested person or with any concern in which any interested person has a substantial interest; or

(iii) such person, trust or institution enters into any partnership or joint venture or forms any association of

persons or a body of individuals with any interested person or with any concern in which any interested person has a substantial interest.

(8) The Board may, by general or special order, direct that any power or authority conferred upon it under this section may, subject to such conditions and restrictions as it may think fit to impose, be exercised also by such officer not below the rank of a Commissioner as it may specify in the order.

Explanation 1.—For the purposes of this section,—

(a) “interested person” means—

(i) the author of the trust or the founder of the institution;

(ii) any person who has made a substantial contribution to the trust or institution, that is to say, any person whose total contribution up to the end of the relevant previous year exceeds twenty-five thousand rupees;

(iii) where such author, founder or person is a Hindu undivided family, a member of the family or any relative of such member;

(iv) any trustee of the trust or manager (by whatever name called) of the institution;

(v) any relative of any such author, founder, person, member, trustee or manager as aforesaid;

(vi) any concern in which any of the persons referred to in sub-clauses (i), (ii), (iii), (iv) and (v) has a substantial interest;

(b) “relative”, in relation to an individual, means,—

(i) spouse of the individual;

(ii) brother or sister of the individual;

(iii) brother or sister of the spouse of the individual;

(iv) any lineal ascendant or descendant of the individual;

(v) any lineal ascendant or descendant of the spouse of the individual;

(vi) spouse of a person referred to in sub-clause (ii), sub-clause (iii), sub-clause (iv) or sub-clause (v);

(vii) any lineal ascendant or descendant of a brother or sister of either the individual or of the spouse of the individual;

(c) “scheduled bank” shall have the same meaning as in clause (ii) of the Explanation to clause (viii) of sub-section (1) of section 36;

(d) “trust” includes any other legal obligation;

(e) any reference to “institution” shall be construed as including also a reference to “fund”.

Explanation 2.—A trust or institution created or established for the benefit of scheduled castes, backward classes, scheduled tribes or women and children shall not be deemed to be a trust or institution created or established for the benefit of a religious community or caste within the meaning of clause (b) of sub-section (3).

Explanation 3.—For the purposes of this section, a person shall be deemed to have a substantial interest in a concern,—

(i) in a case where the concern is a company, if its shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than twenty per cent. of the voting power are, at any time during the previous year, owned beneficially by such person or partly by such person and partly by one or more of the other persons referred to in clause (a) of *Explanation 1*;

(ii) in the case of any other concern, if such person is entitled, or such person and one or more of the other persons referred to in clause (a) of *Explanation 1* are entitled in the aggregate, at any time during the previous year, to not less than ~~twenty per cent. of the profits of such concern.~~

25. In section 80G of the Income-tax Act,—

(a) in sub-section (1), in clause (i), for the words, brackets, figures and letter "sub-clause (iiiia) or in", the words, brackets, figures and letters "sub-clause (iiiia) or sub-clause (iiid) or sub-clause (iiie) or" shall be substituted;

(b) in sub-section (2), after sub-clause (iiic) of clause (a), the following sub-clauses shall be inserted, namely:—

"(iiid) the rural development fund set up and notified by the Central Government in this behalf; or

"(iiie) a trust or institution of national importance referred to in clause (d) of sub-section (1) of section 80F which has as its main object the undertaking of scientific research or carrying out of any rural development programme or any programme of conservation of natural resources or of afforestation of wasteland, or";

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

"(4) Where the aggregate of the sums referred to in sub-clauses (iv), (v), (vi) and (vii) of clause (a) and in clause (b) of sub-section (2) exceeds ten per cent. of the gross total income (as reduced by any portion thereof on which income-tax is not payable under any provision of this Act and by any amount in respect of which the assessee is entitled to a deduction under any other provision of this Chapter), then the amount in excess of ten per cent. of the gross total income shall be ignored for the purpose of computing the aggregate of the sums in respect of which deduction is to be allowed under sub-section (1).";

2 omitted by Act 3 of 1989, S. 95 (w.e.f. 1.4.1989).

Amend-
ment of
section
80G.

~~(d) in sub-section (5), for clause (i), the following clause shall be substituted, namely:—~~

~~“(i) where the institution or fund derives any income, such income would not be liable to be included in its total income under the provisions of clause (22) or clause (22A) or clause (23AA) or clause (23C) of section 10, or the trust or institution [other than the trust or institution referred to in sub-clause (iie) of clause (a) of sub-section (2)] is eligible for the deduction under section 80F;”;~~

~~(e) in Explanation 2, for clauses (i) and (ii), the following clauses shall be substituted, namely:—~~

~~“(i) that, subsequent to the donation, the trust or institution has become ineligible for the deduction under section 80F due to non-compliance with any of the provisions of that section;~~

~~“(ii) that the deduction under section 80F is denied in relation to the application of any income arising to it from any investment referred to in clause (h) of sub-section (4) of that section where the aggregate of the funds invested by it in a concern referred to in the said clause (h) does not exceed five per cent. of the capital of that concern;”~~

Sub-section 10 (near) notice Def

Omission of section 80GGA.

~~26. Section 80GGA of the Income-tax Act shall be omitted.~~

Amendment of section 80L.

27. In section 80L of the Income-tax Act, in sub-section (1), after clause (v), the following clause shall be inserted with effect from the 1st day of April, 1988, namely:—

“(va) income received in respect of units of a Mutual Fund specified under clause (23D) of section 10;”

Omission of section 80QQ.

28. Section 80QQ of the Income-tax Act shall be omitted.

Substitution of new section for section 86.

~~29. For section 86 of the Income-tax Act, the following section shall be substituted, namely:—~~

“86. Where the assessee is a member of an association of persons or body of individuals [other than a company or a co-operative society or a society registered under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India, income-tax shall not be payable by the assessee in respect of his share in the income of the association or body computed in the manner provided in section 67:

Provided that,—

(a) where the association or body is chargeable to tax on its total income at the maximum marginal rate or any higher rate, under any of the provisions of this Act, the share of a mem-

Share of member of an association of persons or body of individuals in the income of the association or body.

omitted by Act 3 of 1989, S. 95 (w.e.f 1.4.1989).

ber computed as aforesaid shall not be included in his total income;

(b) in any other case, the share of a member computed as aforesaid shall form part of his total income:

Provided further that where no income-tax is chargeable on the total income of the association or body, the share of a member computed as aforesaid shall be chargeable to tax as part of his total income and nothing contained in this section shall apply to the case."

30. For sections 116, 117 and 118 of the Income-tax Act, the following sections shall be substituted with effect from the 1st day of April, 1988, namely:—

"116. There shall be the following classes of income-tax authorities for the purposes of this Act, namely:—

(a) the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963,

(b) Directors-General of Income-tax or Chief Commissioners of Income-tax,

(c) Directors of Income-tax or Commissioners of Income-tax or Commissioners of Income-tax (Appeals),

(d) Deputy Directors of Income-tax or Deputy Commissioners of Income-tax or Deputy Commissioners of Income-tax (Appeals),

(e) Assistant Directors of Income-tax or Assistant Commissioners of Income-tax,

(f) Income-tax Officers,

(g) Tax Recovery Officers,

(h) Inspectors of Income-tax.

117. (1) The Central Government may appoint such persons as it thinks fit to be income-tax authorities.

(2) Without prejudice to the provisions of sub-section (1), and subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, the Central Government may authorise the Board, or a Director-General, a Chief Commissioner or a Director or a Commissioner to appoint income-tax authorities below the rank of an Assistant Commissioner.

(3) Subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, an income-tax authority authorised in this behalf by the Board may appoint such executive or ministerial staff as may be necessary to assist it in the execution of its functions.

Substitution of new sections for sections 116, 117 and 118. Income-tax authorities.

Appointment of income-tax authorities.

of 1963.

Control
of income-
tax au-
thorities.

118. The Board may, by notification in the Official Gazette, direct that any income-tax authority or authorities specified in the notification shall be subordinate to such other income-tax authority or authorities as may be specified in such notification."

Amend-
ment of
section
119.

31. In section 119 of the Income-tax Act, with effect from the 1st day of April, 1988,—

(a) in sub-section (2), in clause (b), for the words "the Commissioner or the Income-tax Officer", the words and brackets "any income-tax authority, not being a Deputy Commissioner (Appeals) or Commissioner (Appeals)" shall be substituted;

(b) sub-section (3) shall be omitted.

Substitu-
tion of
new sec-
tion for
section
120.

32. For section 120 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1988, namely:—

Jurisdiction
of income-
tax
authorities.

"120. (1) Income-tax authorities shall exercise all or any of the powers and perform all or any of the functions conferred on or, as the case may be, assigned to such authorities by or under this Act in accordance with such directions as the Board may issue for the exercise of the powers and performance of the functions by all or any of those authorities.

(2) The directions of the Board under sub-section (1) may authorise any other income-tax authority to issue orders in writing for the exercise of the powers and performance of the functions by all or any of the other income-tax authorities who are subordinate to it.

(3) In issuing the directions or orders referred to in sub-sections (1) and (2), the Board or other income-tax authority authorised by it may have regard to any one or more of the following criteria, namely:—

- (a) territorial area;
- (b) persons or classes of persons;
- (c) incomes or classes of income; and
- (d) cases or classes of cases.

(4) Without prejudice to the provisions of sub-sections (1) and (2), the Board may, by general or special order, and subject to such conditions, restrictions or limitations as may be specified therein,—

(a) authorise any Director-General or Director to perform such functions of any other income-tax authority as may be assigned to him by the Board;

(b) empower the Director-General or Chief Commissioner or Commissioner to issue orders in writing that the powers and functions conferred on, or as the case may be, assigned to, the

Assessing Officer by or under this Act in respect of any specified area or persons or classes of persons or incomes or classes of income or cases or classes of cases, shall be exercised or performed by a Deputy Commissioner, and, where any order is made under this clause, references in any other provision of this Act or in any rule made thereunder to the Assessing Officer shall be deemed to be references to such Deputy Commissioner by whom the powers and functions are to be exercised or performed under such order, and any provision of this Act requiring approval or sanction of the Deputy Commissioner shall not apply.

(5) The directions and orders referred to in sub-sections (1) and (2) may, wherever considered necessary or appropriate for the proper management of the work, require two or more Assessing Officers (whether or not of the same class) to exercise and perform, concurrently, the powers and functions in respect of any area or persons or classes of persons or incomes or classes of income or cases or classes of cases; and, where such powers and functions are exercised and performed concurrently by the Assessing Officers of different classes, any authority lower in rank amongst them shall exercise the powers and perform the functions as any higher authority amongst them may direct, and, further, references in any other provision of this Act or in any rule made thereunder to the Assessing Officer shall be deemed to be references to such higher authority and any provision of this Act requiring approval or sanction of any such authority shall not apply.

(6) Notwithstanding anything contained in any direction or order issued under this section, or in section 124, the Board may, by notification in the Official Gazette, direct that for the purpose of furnishing of the return of income or the doing of any other act or thing under this Act or any rule made thereunder by any person or class of persons, the income-tax authority exercising and performing the powers and functions in relation to the said person or class of persons shall be such authority as may be specified in the notification."

33. Sections 121, 121A, 122, 123, 125, 125A, 126, 128, 130 and 130A of the Income-tax Act shall be omitted with effect from the 1st day of April, 1988.

Omission of sections 121, 121A, 122, 123, 125, 125A, 126, 128, 130 and 130A.

34. For section 124 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1988, namely:—

Substitution of new section for section 124.

"124. (1) Where, by virtue of any direction or order issued under sub-section (1) or sub-section (2) of section 120, the Assessing Officer has been vested with jurisdiction over any area, within the limits of such area, he shall have jurisdiction—

Jurisdiction of Assessing Officers.

(a) in respect of any person carrying on a business or profession, if the place at which he carries on his business or profession is situate within the area, or where his business or profession is carried on in more places than one, if the principal place of his business or profession is situate within the area, and

(b) in respect of any other person residing within the area.

(2) Where a question arises under this section as to whether an Assessing Officer has jurisdiction to assess any person, the question shall be determined by the Director-General or the Chief Commissioner or the Commissioner; or where the question is one relating to areas within the jurisdiction of different Directors General or Chief Commissioners or Commissioners, by the Directors General or Chief Commissioners or Commissioners concerned or, if they are not in agreement, by the Board or by such Director General or Chief Commissioner or Commissioner as the Board may, by notification in the Official Gazette, specify.

(3) No person shall be entitled to call in question the jurisdiction of an Assessing Officer—

(a) where he has made a return under sub-section (1) of section 139, after the expiry of one month from the date on which he was served with a notice under sub-section (1) of section 142 or sub-section (2) of section 143 or after the completion of the assessment, whichever is earlier;

(b) where he has made no such return, after the expiry of the time allowed by the notice under sub-section (1) of section 142 or under section 148 for the making of the return or by the notice under the first proviso to section 144 to show cause why the assessment should not be completed to the best of the judgment of the Assessing Officer, whichever is earlier.

(4) Subject to the provisions of sub-section (3), where an assessee calls in question the jurisdiction of an Assessing Officer, then the Assessing Officer shall, if not satisfied with the correctness of the claim, refer the matter for determination under sub-section (2) before the assessment is made.

(5) Notwithstanding anything contained in this section or in any direction or order issued under section 120, every Assessing Officer shall have all the powers conferred by or under this Act on an Assessing Officer in respect of the income accruing or arising or received within the area, if any, over which he has been vested with jurisdiction by virtue of the directions or orders issued under sub-section (1) or sub-section (2) of section 120."

35. For section 127 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1988, namely:—

Substitution of new section for section 127.

Power to transfer cases.

"127. (1) The Director General or Chief Commissioner or Commissioner may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after

recording his reasons for doing so, transfer any case from one or more Assessing Officers subordinate to him (whether with or without concurrent jurisdiction) to any other Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) also subordinate to him.

(2) Where the Assessing Officer or Assessing Officers from whom the case is to be transferred and the Assessing Officer or Assessing Officers to whom the case is to be transferred are not subordinate to the same Director General or Chief Commissioner or Commissioner,—

(a) where the Directors General or Chief Commissioners or Commissioners to whom such Assessing Officers are subordinate are in agreement, then the Director General or Chief Commissioner or Commissioner from whose jurisdiction the case is to be transferred may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, pass the order;

(b) where the Directors General or Chief Commissioners or Commissioners aforesaid are not in agreement, the order transferring the case may, similarly, be passed by the Board or any such Director General or Chief Commissioner or Commissioner as the Board may, by notification in the Official Gazette, authorise in this behalf.

(3) Nothing in sub-section (1) or sub-section (2) shall be deemed to require any such opportunity to be given where the transfer is from any Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) to any other Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) and the offices of all such officers are situated in the same city, locality or place.

(4) The transfer of a case under sub-section (1) or sub-section (2) may be made at any stage of the proceedings, and shall not render necessary the re-issue of any notice already issued by the Assessing Officer or Assessing Officers from whom the case is transferred.

Explanation.—In section 120 and this section, the word “case”, in relation to any person whose name is specified in any order or direction issued thereunder, means all proceedings under this Act in respect of any year which may be pending on the date of such order or direction or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order or direction in respect of any year.

36. In section 131 of the Income-tax Act.—

~~(a) in sub-section (1A), for the words “If the Assistant Director of Inspection”, the words, brackets and figures “If the Director-General or Director, or the authorised officer referred to in sub-section (1) of section 132, before he takes action under clauses (i) to (v) of that sub-section,” shall be substituted;~~

Amend-
ment of
section
131.

be omitted by Act 26 of 1988, S. 88 (W.L.F. 1.4.1988).

(b) sub-section (2) shall be omitted.

Amend-
ment of
section
132.

37. In section 132 of the Income-tax Act,—

(a) in sub-section (1) ~~—~~ ^[with effect from the 1st day of April, 1988]

(i) for the words “or Income-tax Officer” occurring in clauses (A) and (B), the words “Assistant Commissioner or Income-tax Officer” shall be substituted;

(ii) in the proviso, for the word and figures “section 121”, the word and figures “section 120” shall be substituted;

(b) in sub-section (1A), for the word and figures “section 121”, the word and figures “section 120” shall be substituted ^[with effect from the 1st day of April, 1988]

(c) in sub-section (3), the following *Explanation* shall be inserted at the end, namely:—

“*Explanation.*—For the removal of doubts, it is hereby declared that serving of an order as aforesaid under this sub-section shall not be deemed to be seizure of such books of account, other documents, money, bullion, jewellery or other valuable article or thing under clause (iii) of sub-section (1).”;

(d) in sub-section (4), the following *Explanation* shall be inserted at the end, namely:—

“*Explanation.*—For the removal of doubts, it is hereby declared that the examination of any person under this sub-section may be not merely in respect of any books of account, other documents or assets found as a result of the search, but also in respect of all matters relevant for the purposes of any investigation connected with any proceeding under the Indian Income-tax Act, 1922, or under this Act.”;

11 of 1922.

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

“(8A) An order under sub-section (3) shall not be in force for a period exceeding sixty days from the date of the order, except where the authorised officer, for reasons to be recorded by him in writing, extends the period of operation of the order beyond sixty days, after obtaining the approval of the Commissioner for such extension:

Provided that the Commissioner shall not approve the extension of the period for any period beyond the expiry of thirty days after the completion of all the proceedings under this Act in respect of the years for which the books of account, other documents, money, bullion, jewellery or other valuable articles or things are relevant.”;

(f) in *Explanation* 1, for the words, brackets and figure “the period of one hundred and twenty days for the purposes of sub-section (5)”, the words, brackets and figure “the period referred to in sub-section (5) for the purposes of that sub-section” shall be substituted.

1/2 yrs. by Act 26 of 1988, S. 88 (w.e.f. 1.4.1988).

38. In section 132A of the Income-tax Act, in sub-section (1), for the words "or Income-tax Officer", the words "Assistant Commissioner or Income-tax Officer" shall be substituted.

Amendment of section 132A.

39. In section 133 of the Income-tax Act,—

(a) in clause (4), for the words "four hundred rupees", the words "one thousand rupees, or such higher amount as may be prescribed" shall be substituted;

Amendment of section 133.

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

"Provided that the powers referred to in clause (6), may also be exercised by the Director-General, the Chief Commissioner, the Director and the Commissioner."

40. In section 133A of the Income-tax Act, in the *Explanation*, in clause (a), for the words "if so authorised by the Income-tax Officer", the words "if so authorised by any such authority" shall be substituted.

Amendment of section 133A.

41. In section 138 of the Income-tax Act, in sub-section (1),—

(i) in clause (a), for the words and figures "relating to any assessee in respect of any assessment made under this Act or under the Indian Income-tax Act, 1922", the following shall be substituted, namely:—

Amendment of section 138.

"received or obtained by any income-tax authority in the performance of his functions under this Act";

(ii) in clause (b),—

(1) for the words, figures and letters "in respect of any assessment made under this Act or the Indian Income-tax Act, 1922 on or after the 1st day of April, 1960", the words "received or obtained by any income-tax authority in the performance of his functions under this Act" shall be substituted;

(2) the words "in respect of that assessment only" shall be omitted.

42. In section 139 of the Income-tax Act,—

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

Amendment of section 139.

(1) Every person, if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax, shall, on or before the due date, furnish a return of his income or the income of such other person during the previous year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed.

Explanation.—In this sub-section, "due date" means—

(a) where the assessee is a company, the 31st day of December of the assessment year;

1/2 Ins. by Act 26 of 1988, S. 28 (W.C.F. 1.4.1989).

(b) where the assessee is a person, other than a company,—

(i) in a case where the accounts of the assessee are required under this Act or any other law to be audited, or in the case of a co-operative society, the 31st day of October of the assessment year;

(ii) in a case where the total income referred to in this sub-section includes any income from business or profession, not being a case falling under sub-clause (i), the 31st day of August of the assessment year;

(iii) in any other case, the 30th day of June of the assessment year;

(b) sub-section (2) shall be omitted;

(c) in sub-section (3) [as amended by section 12 of the Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1986],—

46 of 1986.

(i) the words, brackets and figure "has not been served with a notice under sub-section (2)," shall be omitted;

(ii) the words "or by the thirty-first day of July of the assessment year relevant to the previous year during which the loss was sustained" shall be omitted;

(d) for sub-sections (4) and (4A), the following sub-sections shall be substituted, namely:—

"(4) Any person who has not furnished a return within the time allowed to him under sub-section (1), or within the time allowed under a notice issued under sub-section (1) of section 142, may furnish the return for any previous year at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier:

Provided that where the return relates to a previous year relevant to the assessment year commencing on the 1st day of April, 1983, or any earlier assessment year, the reference to one year aforesaid shall be construed as a reference to two years from the end of the relevant assessment year.

(4A) Every person, trust or institution referred to in sub-section (1) of section 80F shall, if the total income in respect of which such person, trust or institution is assessable (the total income for this purpose being computed without giving effect to the provisions of that section) exceeds the maximum amount which is not chargeable to income-tax, furnish a return of such income of the previous year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, and all the provisions of this Act shall, so far as may be, apply as if it were a return required to be furnished under sub-section (1).";

(e) for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) If any person, having furnished a return under sub-section (1), or in pursuance of a notice issued under sub-section (1) of section 142, discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier:

Provided that where the return relates to the previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, the reference to one year aforesaid shall be construed as a reference to two years from the end of the relevant assessment year.”;

(f) in sub-sections (6) and (6A), for the words, brackets and figures “in sub-sections (1), (2) and (3)”, the words, brackets and figures “in sub-sections (1) and (3) of this section, and in clause (i) of sub-section (1) of section 142” shall be substituted;

(g) sub-section (7) shall be omitted;

(h) in sub-section (8), after clause (b), the following clause shall be inserted, namely:—

“(c) The provisions of this sub-section shall apply in respect of the assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, and references therein to the other provisions of this Act shall be construed as references to the said provisions as they were applicable to the relevant assessment year.”;

(i) in sub-section (10), in the proviso, for clauses (c) and (d), the following clauses shall be substituted, namely:—

“(c) a return of loss which has been furnished in accordance with the provisions of sub-section (3);

(d) a return furnished under sub-section (4A), in respect of a person, trust or institution referred to in sub-section (1) of section 80F”;

43. In section 139A of the Income-tax Act,—

(i) in sub-sections (1) and (2), for the words “any accounting year”, the words “any previous year” shall be substituted;

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

“(c) the categories of documents pertaining to business or profession of the persons to whom permanent account numbers have been allotted, in which such numbers shall be quoted by them.”;

(iii) in the *Explanation*, clause (a) shall be omitted.

Amend-
ment of
section
140.

44. In section 140 of the Income-tax Act,—

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

“(a) in the case of an individual,—

(i) by the individual himself;

(ii) where he is absent from India, by the individual himself or by some person duly authorised by him in this behalf;

(iii) where he is mentally incapacitated from attending to his affairs, by his guardian or any other person competent to act on his behalf; and

(iv) where, for any other reason, it is not possible for the individual to sign the return, by any person duly authorised by him in this behalf:

Provided that in a case referred to in sub-clause (ii) or sub-clause (iv), the person signing the return holds a valid power of attorney from the individual to do so, which shall be attached to the return;”;

(ii) to clause (c), the following provisos shall be added, namely:—

“Provided that where the company is not resident in India, the return may be signed and verified by a person who holds a valid power of attorney from such company to do so, which shall be attached to the return:

Provided further that,—

(a) where the company is being wound up, whether under the orders of a court or otherwise, or where any person has been appointed as the receiver of any assets of the company, the return shall be signed and verified by the liquidator referred to in sub-section (1) of section 178;

(b) where the management of the company has been taken over by the Central Government or any State Government under any law, the return of the company shall be signed and verified by the principal officer thereof;”;

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

“(dd) in the case of a political party referred to in sub-section (4B) of section 139, by the chief executive officer of such party (whether such chief executive officer is known as secretary or by any other designation);”.

Amend-
ment of
section
140A.

45. In section 140A of the Income-tax Act,—

(a) in sub-section (1),—

(i) for the words “the assessee shall be liable to pay such tax before furnishing the return and the return shall be accom-

panied by proof of payment of such tax", the following shall be substituted, namely:—

"the assessee shall be liable to pay such tax, together with interest payable under any provision of this Act for any delay in furnishing the return or any default or delay in payment of advance tax, before furnishing the return and the return shall be accompanied by proof of payment of such tax and interest";

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

"*Explanation.*—Where the amount paid by the assessee under this sub-section falls short of the aggregate of the tax and interest as aforesaid, the amount so paid shall first be adjusted towards the interest payable as aforesaid and the balance, if any, shall be adjusted towards the tax payable.";

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

"(3) If any assessee fails to pay the whole or any part of such tax or interest or both in accordance with the provisions of sub-section (1), he shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default in respect of the tax or interest or both remaining unpaid, and all the provisions of this Act shall apply accordingly."

46. Section 141A of the Income-tax Act shall be omitted.

Omission
of section
141A.

47. In section 142 of the Income-tax Act, in sub-section (1),—

Amend-
ment of
section
142.

(a) in the opening paragraph, for the words, brackets and figures "or to whom a notice has been issued under sub-section (2) of section 139 (whether a return has been made or not)", the words, brackets and figure "or in whose case the time allowed under sub-section (1) of that section for furnishing the return has expired" shall be substituted;

(b) clauses (i) and (ii) shall be re-numbered as clauses (ii) and (iii) thereof respectively, and before clause (ii) as so re-numbered, the following clause shall be inserted, namely:—

"(i) where such person has not made a return before the end of the relevant assessment year, to furnish a return of his income or the income of any other person in respect of which he is assessable under this Act, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, or".

Substitution of new section for section 143.

Assessment.

48. For section 143 of the Income-tax Act, the following section shall be substituted, naemly:—

“143. (1) (a) Where a return has been made under section 139, or in response to a notice under sub-section (1) of section 142,—

(i) if any tax or interest is found due on the basis of such return, after adjustment of any tax deducted at source, any advance tax paid and any amount paid otherwise by way of tax or interest, then, without prejudice to the provisions of sub-section (2), an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice of demand issued under section 156 and all the provisions of this Act shall apply accordingly; and

(ii) if any refund is due on the basis of such return, it shall be granted to the assessee:

Provided that in computing the tax or interest payable by, or refundable to, the assessee, the following adjustments shall be made in the income or loss declared in the return, namely:—

(i) any arithmetical errors in the return, accounts or documents accompanying it shall be rectified;

(ii) any loss carried forward, deduction, allowance or relief, which, on the basis of the information available in such return, accounts or documents, is *prima facie* admissible but which is not claimed in the return, shall be allowed;

(iii) any loss carried forward, deduction, allowance or relief claimed in the return, which, on the basis of the information available in such return, accounts or documents, is *prima facie* inadmissible, shall be disallowed.

(b) Where, as a result of an order made under section 147 or section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264, or any order of settlement made under sub-section (4) of section 245D relating to any earlier assessment year and passed subsequent to the filing of the return referred to in clause (a), there is any variation in the carry forward loss, deduction, allowance or relief claimed in the return, and as a result of which,—

(i) if any tax or interest is found due, an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice of demand issued under section 156 and all the provisions of this Act shall apply accordingly, and

(ii) if any refund is due, it shall be granted to the assessee:

Provided that an intimation for any tax or interest due under this clause shall not be sent after the expiry of four years from the end of the financial year in which any such order was passed.

(2) In a case referred to in sub-section (1), if the Assessing Officer considers it necessary or expedient to ensure that the assessee has not understated the income or has not computed excessive loss or has not under-paid the tax in any manner, he shall serve on the assessee a notice requiring him, on a date to be specified therein, either to attend his office or to produce, or cause to be produced there, any evidence on which the assessee may rely in support of the return:

Provided that no notice under this sub-section shall be served on the assessee after the expiry of the financial year in which the return is furnished or the expiry of six months from the end of the month in which the return is furnished, whichever is later.

(3) On the day specified in the notice issued under sub-section (2), or as soon afterwards as may be, after hearing such evidence as the assessee may produce and such other evidence as the Assessing Officer may require on specified points, and after taking into account all relevant material which he has gathered, the Assessing Officer shall, by an order in writing, make an assessment of the total income or loss of the assessee, and determine the sum payable by him on the basis of such assessment.”.

49. In section 144 of the Income-tax Act,—

(a) in clause (a), for the words, brackets and figures “by any notice given under sub-section (2) of section 139”, the words, brackets and figures “under sub-section (1) of section 139” shall be substituted;

(b) for the words “shall make the assessment”, the words “shall, after giving the assessee an opportunity of being heard, make the assessment” shall be substituted;

(c) the words “or refundable to the assessee” shall be omitted;

(d) the following provisos shall be added at the end, namely:—

“Provided that such opportunity shall be given by the Assessing Officer by serving a notice calling upon the assessee to show cause, on a date and time to be specified in the notice, why the assessment should not be completed to the best of his judgment:

Provided further that it shall not be necessary to give such opportunity in a case where a notice under sub-section (1) of section 142 has been issued prior to the making of an assessment under this section.”.

50. In section 144A of the Income-tax Act, sub-section (2) shall be omitted.

51. Section 144B of the Income-tax Act shall be omitted.

Amend-
ment of
section
144.

Amend-
ment of
section
144A.

Omis-
sion of
section
144B.

Amendment of section 145.

52. In section 145 of the Income-tax Act, in sub-section (1), after the proviso, the following proviso shall be inserted, namely:—

“Provided further that where no method of accounting is regularly employed by the assessee, any income by way of interest on securities shall be chargeable to tax as the income of the previous year in which such interest is due to the assessee.”.

Omission of section 146.

53. Section 146 of the Income-tax Act shall be omitted.

Substitution of new sections for sections 147 and 148.

54. For sections 147 and 148 of the Income-tax Act, the following sections shall be substituted, namely:—

Income escaping assessment.

“147. If the Assessing Officer, for reasons to be recorded by him in writing, is of the opinion that any income chargeable to tax has escaped assessment for any assessment year, he may, subject to the provisions of sections 148 to 153, assess or reassess such income and also any other income chargeable to tax which has escaped assessment and which comes to his notice subsequently in the course of the proceedings under this section, or recompute the loss or the depreciation allowance or any other allowance, as the case may be, for the assessment year concerned (hereafter in this section and in sections 148 to 153 referred to as the relevant assessment year):

Provided that where an assessment under sub-section (3) of section 143 or this section has been made for the relevant assessment year, no action shall be taken under this section after the expiry of four years from the end of the relevant assessment year, unless any income chargeable to tax has escaped assessment for such assessment year by reason of the failure on the part of the assessee to make a return under section 139 or in response to a notice issued under sub-section (1) of section 142 or section 148 or to disclose fully and truly all material facts necessary for his assessment for that assessment year.

Explanation 1.—Production before the Assessing Officer of account books or other evidence from which material evidence could with due diligence have been discovered by the Assessing Officer will not necessarily amount to disclosure within the meaning of the foregoing proviso.

Explanation 2.—For the purposes of this section, the following shall also be deemed to be cases where income chargeable to tax has escaped assessment, namely:—

(a) where no return of income has been furnished by the assessee although his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax;

(b) where a return of income has been furnished by the assessee but no assessment has been made and it is noticed by the Assessing Officer that the assessee has understated the income or has claimed excessive loss, deduction, allowance or relief in the return;

(c) where an assessment has been made, but—

(i) income chargeable to tax has been underassessed; or

(ii) such income has been assessed at too low a rate; or

(iii) such income has been made the subject of excessive relief under this Act; or

(iv) excessive loss or depreciation allowance or any other allowance under this Act has been computed.

148. Before making the assessment, reassessment or recomputation under section 147, the Assessing Officer shall serve on the assessee a notice requiring him to furnish within such period, not being less than thirty days, as may be specified in the notice, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed; and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139.”

Issue of notice where income has escaped assessment.

55. In section 149 of the Income-tax Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment of section 149.

“(1) No notice under section 148 shall be issued for the relevant assessment year,—

(a) in a case where an assessment under sub-section (3) of section 143 or section 147 has been made for such assessment year,—

(i) if four years have elapsed from the end of the relevant assessment year, unless the case falls under sub-clause (ii) or sub-clause (iii);

(ii) if four years, but not more than seven years, have elapsed from the end of the relevant assessment year unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to rupees fifty thousand or more for that year;

(iii) if seven years, but not more than ten years, have elapsed from the end of the relevant assessment year, unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to more than rupees one lakh or more for that year;

(b) in any other case,—

(i) if four years have elapsed from the end of the relevant assessment year, unless the case falls under sub-clause (ii) or sub-clause (iii);

(ii) if four years, but not more than seven years, have elapsed from the end of the relevant assessment year, unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to rupees twenty-five thousand or more for that year;

(iii) if seven years, but not more than ten years, have elapsed from the end of the relevant assessment year, unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to rupees fifty thousand or more for that year.

Explanation.—In determining income chargeable to tax which has escaped assessment for the purposes of this sub-section, the provisions of *Explanation 2* of section 147 shall apply as they apply for the purposes of that section.”.

Amend-
ment of
section
150.

56. In section 150 of the Income-tax Act, in sub-section (1), the words “or by a court in any proceeding under any other law” shall be added at the end.

Substitu-
tion of
new sec-
tion for
section
151.

57. For section 151 of the Income-tax Act, the following section shall be substituted, namely:—

Sanction
for issue
of notice.

“151. (1) In a case where an assessment under sub-section (3) of section 143 or section 147 has been made for the relevant assessment year, no notice shall be issued under section 148 except by an Assessing Officer of the rank of Assistant Commissioner or Deputy Commissioner:

Provided that, after the expiry of four years from the end of the relevant assessment year, no such notice shall be issued unless the Chief Commissioner or Commissioner is satisfied, on the reasons recorded by the Assessing Officer aforesaid, that it is a fit case for the issue of such notice.

(2) In a case other than a case falling under sub-section (1), no notice shall be issued under section 148 by an Assessing Officer, who is below the rank of Deputy Commissioner, after the expiry of four years from the end of the relevant assessment year, unless the Deputy Commissioner is satisfied, on the reasons recorded by such Assessing Officer, that it is a fit case for the issue of such notice.”.

Amend-
ment of
section
152.

58. In section 152 of the Income-tax Act, in sub-section (2), for the words, brackets, letter and figures “in circumstances falling under clause (b) of section 147”, the words and figures “under section 147” shall be substituted.

Amend-
ment of
section
153.

59. In section 153 of the Income-tax Act,—

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

“(1) No order of assessment shall be made under section 143 or section 144 at any time after the expiry of two years

from the end of the assessment year in which the income was first assessable.”;

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

“(2) No order of assessment, reassessment or recomputation shall be made under section 147 after the expiry of two years from the end of the financial year in which the notice under section 148 was served:

Provided that where the notice under section 148 was served on or before the 31st day of March, 1987, such assessment, reassessment or recomputation may be made at any time up to the 31st day of March, 1990.”;

(c) clause (iv) of *Explanation 1* shall be omitted.

60. In section 154 of the Income-tax Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment of section 154.

“(1) With a view to rectifying any mistake apparent from the record an income-tax authority referred to in section 116 may—

(a) amend any order passed by it under the provisions of this Act;

(b) amend any intimation sent by it under sub-section (1) of section 143, or enhance or reduce the amount of refund granted by it under that sub-section.”.

61. In section 155 of the Income-tax Act,—

Amendment of section 155.

~~(xxx) (a) in sub-section (1), in the opening paragraph, for the words “Where in respect of any completed assessment of a partner in a firm”, the words, figures and letters “Where, in respect of any completed assessment of a partner in a firm for the assessment year commencing on the 1st day of April, 1989, or any earlier assessment year,” shall be substituted;~~

(b) sub-sections (3) and (13) shall be omitted;

~~(xxx)~~
(c) sub-sections ~~(5B)~~, (6), (7A), (8), (8A), (9), (9A), (10), (10B) and (10C) shall be omitted with effect from the 1st day of April, 1992.

~~(xxx) 62. In section 158 of the Income-tax Act, for the words “Whenever a registered firm is assessed”, the words, figures and letters “Whenever, in respect of the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, a registered firm is assessed” shall be substituted.~~

Amendment of section 158.

1/2 omitted by Act 3 of 1989, S. 95 (W.C. & 1.4.1989).

Insertion
of new
Chapter
XIV-B.

63. After section 158A of the Income-tax Act, the following Chapter shall be inserted, namely:—

“CHAPTER XIV-B

CHARGE OF ADDITIONAL INCOME-TAX IN CERTAIN CASES

Addi-
tional in-
come-tax.

158B. (1) Where, in the case of any person, the total income determined in the regular assessment for any assessment year (hereafter in this section referred to as assessed income) exceeds the total income declared in the return of income furnished by such person for that assessment year (hereafter in this section referred to as returned income) by any amount, the Assessing Officer shall make an order in writing that such person shall, apart from the sum determined as payable by him on the basis of the assessment under section 143 or section 144, be liable to pay, by way of additional income-tax, in respect of the said assessment year, a sum calculated on such excess amount at the rate of thirty per cent.

(2) For the purposes of sub-section (1),—

(a) where such person has furnished two or more returns of income for the same assessment year, the total income declared in the return furnished last before the service of a notice under sub-section (2) of section 143 on such person shall be treated as the returned income;

(b) where such person fails to furnish the return of income in respect of any assessment year and the assessment for that year is made under section 144, the returned income shall be taken to be the total income on which tax, by way of advance tax, deduction of tax at source and otherwise, has been paid, and where no such tax has been paid, the returned income shall be taken to be *nil*;

(c) where such person fails to furnish a return of income for any assessment year under section 139, but furnishes such return after he is served with a notice under section 148, the returned income shall be taken to be the total income on which tax, by way of advance tax, deduction of tax at source and otherwise, has been paid, and where no such tax has been paid, the returned income shall be taken to be *nil*;

(d) where such person has furnished a return of loss under sub-section (3) of section 139 for any assessment year, the additional income-tax under sub-section (1) shall be calculated at the rate specified in that sub-section on the sum or, as the case may be, the aggregate of the sums by which the loss is reduced to a lower amount or, as the case may be, converted into a positive amount of income in the regular assessment.

(3) Where, as a result of an order under section 147 or section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 or an order of settlement passed under sub-section (4) of section 245D, the amount on which the additional income-tax is payable under sub-section (1) has been

increased or reduced, as the case may be, the additional income-tax shall be increased or reduced accordingly, and,—

(i) in a case where the additional income-tax is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 156 and all the provisions of this Act shall apply accordingly;

(ii) in a case where the additional income-tax is reduced, the excess amount paid, if any, shall be refunded.

(4) The Chief Commissioner or Commissioner may, in his discretion, whether on his own motion or otherwise, waive or reduce the amount of additional income-tax payable under sub-section (1) by any person, if he is satisfied that the whole or, as the case may be, any part of the excess amount referred to in that sub-section is attributable to any amount added or disallowed in computing the assessed income or loss as a result of the rejection of any explanation (by way of interpretation of any provision of this Act or otherwise) offered by such person, if such explanation is *bona fide* and all the facts relating to the same and material to the computation of the assessed income or loss have been disclosed by him:

Provided that—

(i) where an appeal before the Deputy Commissioner (Appeals) or the Commissioner (Appeals) has also been filed by the assessee against the order of assessment, the petition for waiver or reduction of the amount of additional income-tax can be filed by the assessee only after the decision on such appeal;

(ii) the petition for waiver or reduction of the amount of additional income-tax shall be accompanied by a fee of one hundred rupees.

(5) Where, in the course of a search under section 132, the assessee is found to be the owner of any money, bullion, jewellery or other valuable article or thing and the assessee claims that such assets have been acquired by him by utilising (wholly or in part) his income,—

(a) for any previous year which has ended before the date of the search, but the return of income for such year has not been furnished before the said date or, where such return has been furnished before the said date, such income has not been declared therein; or

(b) for any previous year which is to end on or after the date of the search,

then, notwithstanding that such income is declared by him in any return of income furnished on or after the date of the search, such income shall not, for the purposes of liability to the additional income-

tax under this section, be treated as forming part of the returned income, unless,—

(i) such income is, or the transactions resulting in such income are, recorded,—

(A) in a case falling under clause (a), before the date of the search; and

(B) in a case falling under clause (b), on or before the date of the search,

in the books of account, if any, maintained by him for any source of income or such income is otherwise disclosed to the Chief Commissioner or Commissioner before the said date; or

(ii) the assessee, in the course of the search, makes a statement under sub-section (4) of section 132 that the money, bullion, jewellery or other valuable article or thing found in his possession or under his control, has been acquired out of his income which has not been disclosed so far in his return of income to be furnished before the expiry of the time specified in sub-section (1) of section 139, and also specifies in the statement the manner in which such income has been derived and pays the tax together with interest, if any, in respect of such income.

(6) The additional income-tax payable under this section shall not be included—

(i) in the amount of the tax payable on the total income as determined on regular assessment, for the purposes of sub-section (1) of section 234A; or

(ii) in the amount of the assessed tax, for the purposes of sub-section (1) of section 234B.

Amendment of section 164.

64. In section 164 of the Income-tax Act,—

~~(a) in sub-section (1),—~~

~~(i) in the opening portion, for the brackets, figures and words “(1) Subject to the provisions of sub-sections (2) and (3), where”, the word “Where” shall be substituted;~~

~~(ii) in the first proviso, for the words “association of persons”, in the two places where they occur, the word “individual” shall be substituted;~~

~~(b) sub-sections (2) and (3), and Explanation 2 shall be omitted.~~

Amendment of section 164A.

65. In section 164A of the Income-tax Act, in the Explanation, clause (i) shall be omitted.

Substitution of new sections for section 167A.

~~66. In Chapter XV of the Income-tax Act, for the sub-heading “DD.—Association of persons—special cases”, and section 167A below it, the following shall be substituted, namely:—~~

~~“DD.—Firms, association of persons and body of individuals~~

~~omitted by Act 3 of 1989, S. 95 (W.E.F. 1.4.89).~~

167A. In the case of a firm which is assessable as a firm, tax shall be charged on its total income at the maximum marginal rate.

Charge of tax in the case of a firm.

167B. (1) Where the individual shares of the members of an association of persons or body of individuals [other than a company or a co-operative society or a society registered under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India] in the whole or any part of the income of such association or body are indeterminate or unknown, tax shall be charged on the total income of the association or body at the maximum marginal rate.

Charge of tax where shares of members in association of persons or body of individuals unknown, etc.

(2) Where, in the case of an association of persons or body of individuals as aforesaid [not being a case falling under sub-section (1)], the total income of any member thereof for the previous year (excluding his share from such association or body) exceeds the maximum amount which is not chargeable to tax in the case of an individual under the Finance Act of the relevant year, tax shall be charged on the total income of the association or body at the maximum marginal rate:

Provided that, where the total income of any member of such association or body (whether or not it exceeds the maximum amount aforesaid) is chargeable to tax at a rate which is higher than the maximum marginal rate, tax shall be charged on the total income of the association or body at such higher rate.

Explanation.—For the purposes of this section, the individual shares of the members of an association of persons or body of individuals in the whole or any part of the income of such association or body shall be deemed to be indeterminate or unknown if such shares (in relation to the whole or any part of such income) are indeterminate or unknown on the date of formation of such association or body or at any time thereafter.”

67. Sub-heading “A.—Assessment of firms” and sections 182 and 183 of the Income-tax Act shall be omitted.

Omission of sections 182 and 183.

68. For the sub-heading “B.—Registration of firms” before section 184, and for sections 184, 185 and 186 of the Income-tax Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 184, 185 and 186.

“184. (1) A firm shall be assessed as a firm for the purposes of this Act, if—

Assessment as a firm.

- (i) the partnership is evidenced by an instrument; and
- (ii) the individual shares of the partner are specified in that instrument.

(2) A certified copy of the instrument of partnership referred to in sub-section (1) shall accompany the return of income of the firm of the previous year for the assessment year in respect of which assessment as a firm is first sought.

Explanation.—For the purposes of this sub-section, the copy of the instrument of partnership shall be certified in writing by all the partners (not being minors) or, where the return is made after the dissolution of the firm, by all persons (not being minors) who were partners in the firm immediately before its dissolution and by the legal representative of any such partner who is deceased.

(3) The return of income referred to in sub-section (2) shall be signed and verified by all the partners, not being minors.

(4) Where a firm is assessed as such for any assessment year, it shall be assessed in the same capacity for every subsequent year if there is no change in the constitution of the firm or the shares of the partners as evidenced by the instrument of partnership on the basis of which the assessment as a firm was first sought.

(5) Where any such change had taken place in the previous year, the firm shall furnish a certified copy of the revised instrument of partnership along with the return of income for the assessment year relevant to such previous year and all the provisions of this section shall apply accordingly.

(6) Notwithstanding anything contained in the foregoing provisions of this section, where, in respect of any assessment year, there is, on the part of a firm any such failure as is mentioned in section 144, the firm shall not be assessed as such for the said assessment year and, thereupon, the firm shall be assessed in the same manner as an association of persons, and all the provisions of this Act shall apply accordingly.

185. Where a firm does not comply with the provisions of section 184 for any assessment year, the firm shall be assessed for that assessment year in the same manner as an association of persons, and all the provisions of this Act shall apply accordingly.”.

Assessment when section 184 not complied with.

Amendment of section 187.

Insertion of new section 188A.

Joint and several liability of partners for tax payable by firm.

69. In section 187 of the ~~Income-tax Act, in sub-section (1), the proviso shall be omitted.~~

70. After section 188 of the Income-tax Act, the following section shall be inserted, namely:—

“188A. Every person who was, during the previous year, a partner of a firm, and the legal representative of any such person who is deceased, shall be jointly and severally liable along with the firm for the amount of tax, penalty or other sum payable by the firm for the assessment year to which such previous year is relevant, and all the provisions of this Act, so far as may be, shall apply to the assessment of such tax or imposition or levy of such penalty or other sum.”.

xxx)

~~71. In section 189 of the Income-tax Act, the Explanation below sub-section (3) shall be omitted.~~

~~Amendment of section 189.~~

72. In Chapter XVI of the Income-tax Act, after section 189, the following section shall be inserted, namely:—

Insertion of new section 189A.

~~“189A. In relation to the assessment of any firm and its partners for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, the provisions of this Chapter as they stood immediately before the date of commencement of the Direct Tax Laws (Amendment) Act, 1987, shall continue to apply.”.~~

~~Provisions applicable to past assessments of firms.~~

73. In section 194A of the Income-tax Act, in sub-section (3), clause (iv) shall be omitted with effect from the 1st day of April, 1988.

Amendment of section 194A.

74. After section 194D of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1988, namely:—

Insertion of new section 194E.

“194E. (1) Any person assessable as a firm who is responsible for paying to a partner any income by way of,—

Interest, salary, bonus, commission or remuneration to partners.

(a) interest on capital or any other sum borrowed by it from the partner;

(b) salary, bonus, commission or remuneration, by whatever name called,

shall at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax on the estimated amount of the interest or, as the case may be, salary, bonus, commission or remuneration aforesaid due to the partner during the financial year at the average rate of income-tax computed on the basis of the rates in force for that financial year in which such income is credited or paid to the partner.

(2) Where, during the financial year, an assessee derives such income simultaneously from more than one firm or where he was successively a partner in more than one firm, he may furnish to the firm responsible for making the payment referred to in sub-section (1) (being one of the said firms as the assessee may, having regard to the circumstances of his case, choose), such details of the payments referred to in sub-section (1) due or received by him from the other firm or firms, the tax deducted at source therefrom and such other particulars, in such form and verified in such manner as may be prescribed, and thereupon the firm responsible for making the payment referred to above shall take into account the details so furnished for the purposes of making the deduction under sub-section (1).

(3) Where an assessee who receives the payments referred to in sub-section (1) has, in addition, any income other than the income

omitted by Act 3 of 1989, S. 95 (W. 2. 8. 1. 4. 1989).

referred to in sub-section (1) (not being a loss under any head of income) for the same financial year, he may send to the firm responsible for making the payment referred to in sub-section (1) the particulars of such other income and of any tax deducted thereon under any other provision of this Chapter, in such form and verified in such manner as may be prescribed and thereupon the firm responsible as aforesaid shall take such other income and the tax, if any, deducted thereon also into account for the purposes of making the deduction under sub-section (1):

Provided that this sub-section shall not in any case have the effect of reducing the tax deductible from the payments referred to in sub-section (1) below the amount that would be so deductible if the other income and the tax deducted thereon had not been taken into account.

(4) The firm responsible for making the payment referred to in sub-section (1) may, at the time of making any deduction, increase or reduce the amount to be deducted under this section for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct during the financial year."

Substitution of new sections for section 196.

75. For section 196 of the Income-tax Act, the following sections shall be substituted with effect from the 1st day of April, 1988, namely:—

Interest or dividend or other sums payable to Government, Reserve Bank or certain corporations.

"196. Notwithstanding anything contained in the foregoing provisions of this Chapter, no deduction of tax shall be made by any person from any sums payable to—

(i) the Government, or

(ii) the Reserve Bank of India, or

(iii) a corporation established by or under a Central Act which is, under any law for the time being in force, exempt from income-tax on its income, or

(iv) a Mutual Fund specified under clause (23D) of section 10,

where such sum is payable to it by way of interest or dividend in respect of any securities or shares owned by it or in which it has full beneficial interest, or any other income accruing or arising to it.

Tax not to be deducted from any sums payable to unit-holders of Mutual Fund.

196A. Notwithstanding anything contained in the foregoing provisions of this Chapter, no deduction of tax shall be made by a public sector bank or a public financial institution referred to in clause (23D) of section 10 from any sums payable to unit-holders of a Mutual Fund specified under that clause."

76. For sections 207 and 208 of the Income-tax Act, the following sections shall be substituted with effect from the 1st day of April, 1988, namely:—

Substitution of new sections for sections 207 and 208.

207. Tax shall be payable in advance during any financial year, in accordance with the provisions of sections 208 to 219 (both inclusive), in respect of the total income of the assessee which would be chargeable to tax for the assessment year immediately following that financial year, such income being hereafter in this Chapter referred to as "current income".

Liability for payment of advance tax.

208. Advance tax shall be payable during a financial year in every case where the amount of such tax payable by the assessee during that year, as computed in accordance with the provisions of this Chapter, is one thousand five hundred rupees or more.

Conditions of liability to pay advance tax.

77. In section 209 of the Income-tax Act, with effect from the 1st day of April, 1988,—

Amendment of section 209.

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

"(1) 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, namely:—

(a) where the calculation is made by the assessee for the purposes of payment of advance tax under sub-section (1) or sub-section (2) or sub-section (5) or sub-section (6) of section 210, he shall first estimate his current income and income-tax thereon shall be calculated at the rates in force in the financial year;

(b) where the calculation is made by the Assessing Officer for the purpose of making an order under sub-section (3) of section 210, the total income of the latest previous year in respect of which the assessee has been assessed by way of regular assessment or the total income returned by the assessee in any return of income furnished by him for any subsequent previous year, whichever is higher, shall be taken and income-tax thereon shall be calculated at the rates in force in the financial year;

(c) where the calculation is made by the Assessing Officer for the purpose of making an amended order under sub-section (4) of section 210, the total income declared in the return furnished by the assessee for the later previous year, or, as the case may be, the total income in respect of which the regular assessment, referred to in that sub-section has been made, shall be taken and income-tax thereon shall be calculated at the rates in force in the financial year;

(d) the income-tax calculated under clause (a) or clause (b) or clause (c) shall, in each case, be reduced by the amount of income-tax which would be deductible at

source during the said financial year under any provision of this Act from any income (as computed before allowing any deductions admissible under this Act) which has been taken into account in computing the current income or, as the case may be, the total income aforesaid; and the amount of income-tax as so reduced shall be the advance tax payable.”;

(b) in sub-section (2),—

(i) in clause (a),—

(A) in the opening portion, for the words, brackets, figures and letter “where the assessee sends a statement under sub-section (1) of section 209A or where the Income-tax Officer makes an order under sub-section (1) or sub-section (3) of section 210”, the words, brackets and figures “where the Assessing Officer makes an order under sub-section (3) or sub-section (4) of section 210” shall be substituted;

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

“(ii) if the total income declared by the assessee for the later previous year referred to in sub-section (4) of section 210 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 such later previous year;”;

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

“(b) in cases where the advance tax is paid by the assessee on the basis of his estimate of his current income under sub-section (1) or sub-section (2) or sub-section (5) or sub-section (6) of section 210, the net agricultural income, as estimated by him, of the period which would be the previous year for the immediately following assessment year;”;

(c) in sub-section (3),—

(i) in the opening portion, for the words and figures “under section 210”, the words, brackets and figures “under sub-section (3) or sub-section (4) of section 210” shall be substituted;

(ii) in clause (b), for the words, figures and letter “on the basis of which tax has been paid by the Hindu undivided family under section 140A”, the words, figures and brackets “in respect of which a return of income is furnished by the Hindu undivided family under section 139 or in response to a notice under sub-section (1) of section 142” shall be substituted.

Omission
of
section
209A.

78. Section 209A of the Income-tax Act shall be omitted with effect from the 1st day of April, 1988.

79. For section 210 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1988, namely:—

Substitution of new section for section 210.

"210. (1) Every person who is liable to pay advance tax under section 208 (whether or not he has been previously assessed by way of regular assessment) shall, of his own accord, pay, on or before each of the due dates specified in section 211, the appropriate percentage, specified in that section, of the advance tax on his current income, calculated in the manner laid down in section 209.

Payment of advance tax by the assessee of his own accord or in pursuance of order of Assessing Officer.

(2) A person who pays any instalment or instalments of advance tax under sub-section (1), may increase or reduce the amount of advance tax payable in the remaining instalment or instalments to accord with his estimate of his current income and the advance tax payable thereon, and make payment of the said amount in the remaining instalment or instalments accordingly.

(3) In the case of a person who has been already assessed by way of regular assessment in respect of the total income of any previous year and who has not paid any advance tax under sub-section (1), the Assessing Officer, if he is of opinion that such person is liable to pay advance tax, may, at any time during the financial year but not later than the last day of February, by order in writing, require such person to pay advance tax calculated in the manner laid down in section 209, and issue to such person a notice of demand under section 156 specifying the instalment or instalments in which such tax is to be paid.

(4) If, after the making of an order by the Assessing Officer under sub-section (3) and at any time before the 1st day of March, a return of income is furnished by the assessee under section 139 or in response to a notice under sub-section (1) of section 142, or a regular assessment of the assessee is made, in respect of a previous year later than that referred to in sub-section (3), the Assessing Officer may make an amended order and issue to such assessee a notice of demand under section 156 requiring the assessee to pay, on or before the due date or each of the due dates specified in section 211 falling after the date of the amended order, the appropriate percentage, specified in section 211, of the advance tax computed on the basis of the total income declared in such return or in respect of which the regular assessment aforesaid has been made.

(5) A person who is served with an order of the Assessing Officer under sub-section (3) or an amended order under sub-section (4) may, if in his estimation the advance tax payable on his current income would be less than the amount of the advance tax specified in such order or amended order, send an intimation in the prescribed form to the Assessing Officer to that effect and pay such advance tax as accords with his estimate, calculated in the manner laid down in section 209, at the appropriate percentage thereof specified in section 211, on or before the due date or each of the due dates specified in section 211 falling after the date of such intimation.

(6) A person who is served with an order of the Assessing Officer under sub-section (3) or amended order under sub-section (4) shall, if in his estimation the advance tax payable on his current income would exceed the amount of advance tax specified in such order or amended order or intimated by him under sub-section (5), pay on or before the due date of the last instalment specified in section 211, the appropriate part or, as the case may be, the whole of such higher amount of advance tax as accords with his estimate, calculated in the manner laid down in section 209."

Substi-
tution of
new
section
for section
211.

80. For section 211 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1988, namely:—

Instal-
ments of
advance
tax and
due
dates.

"211. (1) Advance tax on the current income, calculated in the manner laid down in section 209 shall be payable by all the assesseees who are liable to pay the same in three instalments during each financial year, the due date of, and the amount payable in, each such instalment being as specified in the following Table:

TABLE

Due date of instalment	Amount payable
On or before the 15th September	Not less than twenty per cent. of such advance tax.
On or before the 15th December	Not less than fifty per cent. of such advance tax, as reduced by the amount, if any, paid in the earlier instalment.
On or before the 15th March.	The whole amount of such advance tax as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments:

Provided that any amount paid by way of advance tax on or before the 31st day of March shall also be treated as advance tax paid during the financial year ending on that day for all the purposes of this Act.

(2) If the notice of demand issued under section 156 in pursuance of an order of the Assessing Officer under sub-section (3) or sub-section (4) of section 210 is served after any of the due dates specified in sub-section (1), the appropriate part or, as the case may be, the whole of the amount of the advance tax specified in such notice shall be payable on or before each of such of those dates as fall after the date of service of the notice of demand."

Omission
of
sections
212 and
213.

81. Sections 212 and 213 of the Income-tax Act shall be omitted with effect from the 1st day of April, 1988.

82. In section 214 of the Income-tax Act,—

Amend-
ment of
section
214.

(a) in sub-section (1AA), after the word and figures "section 264", the words, brackets, figures and letter "or an order of the Settlement Commission under sub-section (4) of section 245D" shall be inserted;

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

"(3) This section and sections 215, 216 and 217 shall not apply in respect of any assessment for the assessment year commencing on the 1st day of April, 1989 or any subsequent assessment year and, in the application of the said sections to the assessment for any earlier assessment year, references therein [except in sub-section (1A) and sub-section (3) of section 215] to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year."

83. In section 215 of the Income-tax Act, in sub-section (3), after the word and figures "section 264", the words, brackets, figures and letter "or an order of the Settlement Commission under sub-section (4) of section 245D" shall be inserted.

Amend-
ment of
section
215.

84. For section 218 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1988, namely:—

Substi-
tution of
new
section
for
section
218.

"218. If any assessee does not pay on the date specified in sub-section (1) of section 211, any instalment of advance tax that he is required to pay by an order of the Assessing Officer under sub-section (3) or sub-section (4) of section 210 and does not, on or before the date on which any such instalment as is not paid becomes due, send to the Assessing Officer an intimation under sub-section (5) of section 210 or does not pay on the basis of his estimate of his current income the advance tax payable by him under sub-section (6) of section 210, he shall be deemed to be an assessee in default in respect of such instalment or instalments."

When
assessee
deemed
to be in
default.

85. In section 220 of the Income-tax Act,—

Amend-
ment of
section
220.

(a) in sub-section (1), for the words "thirty-five days", wherever they occur, the words "thirty days" shall be substituted;

(b) in sub-section (2),—

(i) for the words, brackets and figures "fifteen per cent. per annum from the day commencing after the end of the period mentioned in sub-section (1)", the words, brackets and figure "one and one-half per cent. for every month or part of a month comprised in the period commencing from the day immediately following the end of the period mentioned in sub-section (1) and ending with the day on which the amount is paid" shall be substituted;

(ii) in the proviso, after the word and figures "section 264", the words, brackets, figures and letter "or an order of the Settlement Commission under sub-section (4) of section 245D" shall be inserted;

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

"Provided further that in respect of any period commencing on or before the 31st day of March, 1989 and ending after that date, such interest shall, in respect of so much of such period as falls after that date, be calculated at the rate of one and one-half per cent. for every month or part of a month."

Amendment of section 222. 86. In section 222 of the Income-tax Act,—

(a) in sub-section (1), for the portion beginning with the words "When an assessee is in default" and ending with the words "in accordance with the rules laid down in the Second Schedule—", the following shall be substituted, namely:—

"When an assessee is in default or is deemed to be in default in making a payment of tax, the Tax Recovery Officer may draw up under his signature a statement in the prescribed form specifying the amount of arrears due from the assessee (such statement being hereafter in this Chapter and in the Second Schedule referred to as "certificate") and shall proceed to recover from such assessee the amount specified in the certificate by one or more of the modes mentioned below, in accordance with the rules laid down in the Second Schedule—";

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

"(2) The Tax Recovery Officer may take action under sub-section (1), notwithstanding that proceedings for recovery of the arrears by any other mode have been taken."

Substitution of new sections for sections 223, 224 and 225.

87. For sections 223, 224 and 225 of the Income-tax Act, the following sections shall be substituted, namely:—

Tax Recovery Officer by whom recovery is to be effected.

"223. (1) The Tax Recovery Officer competent to take action under section 222 shall be—

(a) the Tax Recovery Officer within whose jurisdiction the assessee carries on his business or profession or within whose jurisdiction the principal place of his business or profession is situate, or

(b) the Tax Recovery Officer within whose jurisdiction the assessee resides or any movable or immovable property of the assessee is situate,

the jurisdiction for this purpose being the jurisdiction assigned to the Tax Recovery Officer under the orders or directions issued by the Board, or by the Chief Commissioner or Commissioner who is authorised in this behalf by the Board in pursuance of section 120.

(2) Where an assessee has property within the jurisdiction of more than one Tax Recovery Officer and the Tax Recovery Officer by whom the certificate is drawn up—

(a) is not able to recover the entire amount by sale of the property, movable or immovable, within his jurisdiction, or

(b) is of the opinion that, for the purpose of expediting or securing the recovery of the whole or any part of the amount under this Chapter, it is necessary so to do, he may send the certificate or, where only a part of the amount is to be recovered, a copy of the certificate certified in the prescribed manner and specifying the amount to be recovered to a Tax Recovery Officer within whose jurisdiction the assessee resides or has property and, thereupon, that Tax Recovery Officer shall also proceed to recover the amount under this Chapter as if the certificate or copy thereof had been drawn up by him.

224. It shall not be open to the assessee to dispute the correctness of any certificate drawn up by the Tax Recovery Officer on any ground whatsoever, but it shall be lawful for the Tax Recovery Officer to cancel the certificate if, for any reason, he thinks it necessary so to do, or to correct any clerical or arithmetical mistake therein.

225. (1) It shall be lawful for the Tax Recovery Officer to grant time for the payment of any tax and when he does so, he shall stay the proceedings for the recovery of such tax until the expiry of the time so granted.

(2) Where the order giving rise to a demand of tax for which a certificate has been drawn up is modified in appeal or other proceeding under this Act, and, as a consequence thereof, the demand is reduced but the order is the subject-matter of further proceeding under this Act, the Tax Recovery Officer shall stay the recovery of such part of the amount specified in the certificate as pertains to the said reduction for the period for which the appeal or other proceeding remains pending.

(3) Where a certificate has been drawn up and subsequently the amount of the outstanding demand is reduced as a result of an appeal or other proceeding under this Act, the Tax Recovery Officer shall, when the order which was the subject-matter of such appeal or other proceeding has become final and conclusive, amend the certificate, or cancel it, as the case may be."

88. In section 226 of the Income-tax Act,—

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

"(1) Where no certificate has been drawn up under section 222, the Assessing Officer may recover the tax by any one or more of the modes provided in this section.

Validity of certificate and cancellation or amendment thereof.

Stay of proceedings in pursuance of certificate and amendment or cancellation thereof.

Amendment of section 226.

(1A) Where a certificate has been drawn up under section

222, the Tax Recovery Officer may, without prejudice to the modes of recovery specified in that section, recover the tax by any one or more of the modes provided in this section.”;

~~(b) in sub-sections (2), (3), (4) and (5), for the words “Income-tax Officer”, wherever they occur, the words “Assessing Officer or Tax Recovery Officer” shall be substituted.~~

Omission of section 228.

89. Section 228 of the Income-tax Act shall be omitted.

Amendment of section 228A.

90. In section 228A of the Income-tax Act,—

(a) in sub-section (1), in clause (a), for the words “specified in a certificate received from an Income-tax Officer”, the words and figures “specified in a certificate drawn up by him under section 222” shall be substituted;

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

“(2) Where an assessee is in default or is deemed to be in default in making a payment of tax, the Tax Recovery Officer may, if the assessee has property in a country outside India (being a country with which the Central Government has entered into an agreement for the recovery of income-tax under this Act and the corresponding law in force in that country), forward to the Board a certificate drawn up by him under section 222 and the Board may take such action thereon as it may deem appropriate having regard to the terms of the agreement with such country.”.

Amendment of section 230.

91. In section 230 of the Income-tax Act, in sub-section (1), for the portion beginning with the words “no person who is not domiciled in India”, and ending with the words “shall leave the territory of India”, the following shall be substituted, namely:—

“no person—

(a) who is not domiciled in India; or

(b) who is domiciled in India at the time of his departure, but—

(i) intends to leave India as an emigrant; or

(ii) intends to proceed to another country on a work permit with the object of taking up any employment or other occupation in that country; or

(iii) in respect of whom circumstances exist which in the opinion of an income-tax authority, render it necessary for him to obtain a certificate under this section,

shall leave the territory of India”.

↳ omitted by Act 3 of 1989, S. 95 (w.e.f. 1.4.1989).

92. ~~In section 230A of the Income-tax Act, in sub-section (1), for the words "fifty thousand rupees", the words "one lakh rupees" shall be substituted.~~

Amendment of section 230A.

93. Section 231 of the Income-tax Act shall be omitted.

Omission of section 231.

94. In Chapter XVII of the Income-tax Act, after section 234, the following heading and sections shall be inserted, namely:—

Insertion of new sections 234A, 234B and 234C.

F.—Interest chargeable in certain cases

234A. (1) Where the return of income for any assessment year under sub-section (1) or sub-section (4) of section 139, or in response to a notice under sub-section (1) of section 142, is furnished after the due date, or is not furnished, the assessee shall be liable to pay simple interest at the rate of two per cent. for every month or part of a month comprised in the period commencing on the date immediately following the due date, and,—

Interest for defaults in furnishing return of income.

(a) where the return is furnished after the due date, ending on the date of furnishing of the return; or

(b) where no return has been furnished, ending on the date of completion of the assessment under section 144,

on the amount of the tax on the total income as determined on regular assessment as reduced by the advance tax, if any, paid and any tax deducted at source.

Explanation 1.—In this section, "due date" means the date specified in sub-section (1) of section 139 as applicable in the case of the assessee.

Explanation 2.—In this sub-section and sub-section (3), "tax on the total income as determined on regular assessment" shall not include the additional income-tax, if any, payable under section 158B.

Explanation 3.—Where, in relation to an assessment year, an assessment is made for the first time under section 147, the assessment so made shall be regarded as a regular assessment for the purposes of this section.

(2) The interest payable under sub-section (1) shall be reduced by the interest, if any, paid under section 140A towards the interest chargeable under this section.

(3) Where the return of income for any assessment year, required by a notice under section 148 issued after the completion of an assessment under sub-section (3) of section 143 or section 144 or section 147, is furnished after the expiry of the time allowed under such notice, or is not furnished, the assessee shall be liable to pay simple interest at the rate of two per cent., for every month or part

& omitted by Act 26 of 1988, S. 88 (W.C.F. 1.4.1988).

of a month comprised in the period commencing on the day immediately following the expiry of the time allowed as aforesaid, and,—

(a) where the return is furnished after the expiry of the time aforesaid, ending on the date of furnishing the return; or

(b) where no return has been furnished, ending on the date of completion of the re-assessment or re-computation under section 147,

on the amount by which the tax on the total income determined on the basis of such re-assessment or re-computation exceeds the tax on the total income determined on the basis of the earlier assessment aforesaid.

Explanation.—In this sub-section, “tax on the total income determined on the basis of the re-assessment or re-computation under section 147” shall not include the additional income-tax, if any, payable under section 158B.

(4) Where, as a result of an order under section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 or an order of the Settlement Commission under sub-section (4) of section 245D, the amount of tax on which interest was payable under sub-section (1) or sub-section (3) of this section has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and—

(i) in a case where the interest is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly;

(ii) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.

(5) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years.

Inter-
est for
defaults
in pay-
ment of
advance
tax.

234B. (1) Subject to the other provisions of this section, where, in any financial year, an assessee who is liable to pay advance tax under section 208 has failed to pay such tax or, where the advance tax paid by such assessee under the provisions of section 210 is less than ninety per cent. of the assessed tax, the assessee shall be liable to pay simple interest at the rate of two per cent. for every month or part of a month comprised in the period from the 1st day of April next following such financial year to the date of the regular assessment, on an amount equal to the assessed tax or, as the case may be, on the amount by which the advance tax paid as aforesaid falls short of the assessed tax.

Explanation 1.—In this section, “assessed tax” means the tax on the total income determined on the basis of the regular assessment, as reduced by the amount of tax deducted at source in accordance with the provisions of Chapter XVIII on any income

which is subject to such deduction and which is taken into account in computing such total income.

Explanation 2.—Where in relation to an assessment year, an assessment is made for the first time under section 147, the assessment so made shall be regarded as a regular assessment for the purposes of this section.

Explanation 3.—In *Explanation 1* and in sub-section (3), “tax on the total income determined on the basis of the regular assessment” shall not include the additional income-tax, if any, payable under section 158B.

(2) Where, before the date of completion of a regular assessment, tax is paid by the assessee under section 140A or otherwise,—

(i) interest shall be calculated in accordance with the foregoing provisions of this section up to the date on which the tax is so paid, and reduced by the interest, if any, paid under section 140A towards the interest chargeable under this section;

(ii) thereafter, interest shall be calculated at the rate aforesaid on the amount by which the tax so paid together with the advance tax paid falls short of the assessed tax.

(3) Where, as a result of an order of re-assessment or re-computation under section 147, the amount on which interest was payable under sub-section (1) is increased, the assessee shall be liable to pay simple interest at the rate of two per cent. for every month or part of a month comprised in the period commencing on the day following the date of the regular assessment referred to in sub-section (1) and ending on the date of the re-assessment or re-computation under section 147, on the amount by which the tax on the total income determined on the basis of the re-assessment or re-computation exceeds the tax on the total income determined on the basis of the regular assessment aforesaid.

Explanation.—In this sub-section “tax on the total income determined on the basis of the re-assessment or re-computation under section 147” shall not include the additional income-tax, if any, payable under section 158B.

(4) Where, as a result of an order under section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 or an order of the Settlement Commission under sub-section (4) of section 245D, the amount on which interest was payable under sub-section (1) or sub-section (3) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and—

(i) in a case where the interest is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly;

(ii) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.

(5) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years.

Interest
for defer-
ment of
advance
tax.

234C. (1) Where in any financial year, the advance tax paid by the assessee on his current income on or before the 15th day of September is less than twenty per cent. of the tax due on the returned income or the amount of such advance tax paid on or before the 15th day of December is less than fifty per cent. of the tax due on the returned income, then, the assessee shall be liable to pay simple interest at the rate of one and one-half per cent. per month of the shortfall from for a period of three months on the amount of the shortfall from twenty per cent. or, as the case may be, fifty per cent. of the tax due on the returned income.

Explanation.—In this section, “tax due on the returned income” means the tax chargeable on the total income declared in the return of income furnished by the assessee for the assessment year commencing on the 1st day of April immediately following the financial year in which the advance tax is paid, as reduced by the amount of tax deductible at source in accordance with the provisions of Chapter XVIIB on any income which is subject to such deduction and which is taken into account in computing such total income.

(2) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years.

Amend-
ment of
section
240.

95. To section 240 of the Income-tax Act, the following proviso shall be added, namely:—

“Provided that where, by the order aforesaid,—

(a) an assessment is set aside or cancelled and an order of fresh assessment is directed to be made, the refund, if any, shall become due only on the making of such fresh assessment;

(b) the assessment is annulled, the refund shall become due only of the amount, if any, of the tax paid in excess of the tax chargeable on the total income returned by the assessee.”

Amend-
ment of
section
243.

96. In section 243 of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) The provisions of this section shall not apply in respect of any assessment for the assessment year commencing on the 1st day of April, 1989 or any subsequent assessment years.”

Amend-
ment of
section
244.

97. In section 244 of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) The provisions of this section shall not apply in respect of any assessment for the assessment year commencing on the 1st day of April, 1989 or any subsequent assessment years.”

98. After section 244 of the Income-tax Act, the following section shall be inserted, namely:—

Insertion
of new
section
244A.

“244A. (1) Where, in pursuance of any order passed under this Act, refund of any amount becomes due to the assessee, he shall, subject to the provisions of this section, be entitled to receive, in addition to the said amount, simple interest thereon calculated in the following manner, namely:—

Interest
on re-
funds.

(a) where the refund is out of any tax paid by way of advance tax or treated as paid under section 199, during the financial year immediately preceding the assessment year, such interest shall be calculated at the rate of one and one-half per cent. for every month or part of a month comprised in the period from the 1st day of April of the assessment year to the date on which the refund is granted:

Provided that no interest shall be payable if the amount of refund is less than ten per cent. of the tax as determined on regular assessment;

(b) in any other case, such interest shall be calculated at the rate of one and one-half per cent. for every month or part of a month comprised in the period or periods from the date or, as the case may be, dates of payment of the tax or penalty to the date on which the refund is granted.

Explanation.—For the purposes of this clause, “date of payment of tax or penalty” means the date on and from which the amount of tax or penalty specified in the notice of demand issued under section 156 is paid in excess of such demand.

(2) If the proceedings resulting in the refund are delayed for reasons attributable to the assessee, whether wholly or in part, the period of the delay so attributable to him shall be excluded from the period for which interest is payable, and where any question arises as to the period to be excluded, it shall be decided by the Chief Commissioner or Commissioner whose decision thereon shall be final.

(3) Where, as a result of an order under section 147, or section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 or an order of the Settlement Commission under sub-section (4) of section 245D, the amount on which interest was payable under sub-section (1) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and in a case where the interest is reduced, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the amount of the excess interest paid and requiring him to pay such amount; and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly.

(4) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989, and subsequent assessment years.”.

Amendment of sub-heading and substitution of new sections for section 246.

99. In Chapter XX of the Income-tax Act, for the sub-heading “A.— Appeals to the Appellate Assistant Commissioner and Commissioner (Appeals)” and section 246, the following sub-heading and sections shall be substituted, namely:—

‘A.—Appeals or applications to the Deputy Commissioner (Appeals) and Commissioner (Appeals).

Appealable orders.

246. (1) Subject to the provisions of sub-section (2), any assessee aggrieved by any of the following orders of an Assessing Officer (other than the Deputy Commissioner) may appeal to the Deputy Commissioner (Appeals) against such order—

(a) an order against the assessee, where the assessee denies his liability to be assessed under this Act or any order of assessment under sub-section (3) of section 143 or section 144, where the assessee objects to the amount of income assessed, or to the amount of tax determined, or to the amount of loss computed, or to the status under which he is assessed;

(b) an order of assessment, re-assessment or re-computation under section 147 or section 150;

(c) an order under section 154 or section 155 having the effect of enhancing the assessment or reducing a refund or an order refusing to allow the claim made by the assessee under either of the said sections;

(d) an order made under section 163 treating the assessee as the agent of a non-resident;

(e) an order under sub-section (2) or sub-section (3) of section 170;

(f) an order under section 171;

(g) any order under clause (b) of sub-section (1) or under sub-section (2) or sub-section (3) or sub-section (5) of section 185 in respect of any assessment for the assessment year commencing on the 1st day of April, 1988 or any earlier assessment year;

(h) an order cancelling the registration of a firm under sub-section (1) or under sub-section (2) of section 186 in respect of any assessment for the assessment year commencing on the 1st day of April, 1988 or any earlier assessment year;

(i) an order under section 201;

(j) an order under section 216 in respect of any assessment for the assessment year commencing on the 1st day of April, 1988 or any earlier assessment year;

(k) an order under section 237;

(l) an order imposing a penalty under—

(i) section 221, or

(ii) section 271, section 271A, section 271B, section 271C, section 271D, section 271E or section 272A;

(iii) sub-section (1) of section 271, section 272, section 272B or section 273, as they stood immediately before the 1st day of April, 1989, in respect of any assessment for the assessment year commencing on the 1st day of April, 1988 or any earlier assessment years.

(2) Notwithstanding anything contained in sub-section (1), any assessee aggrieved by any of the following orders (whether made before or after the appointed day) may appeal to the Commissioner (Appeals) against such order—

(a) an order specified in sub-section (1) where such order is made by the Deputy Commissioner in exercise of the powers or functions conferred on or assigned to him under section 120 or section 124;

(b) an order specified in clauses (a) to (e) (both inclusive) and clauses (i) to (l) (both inclusive) of sub-section (1) made against the assessee, being a company;

(c) an order of assessment made after the 30th day of September, 1984 on the basis of the directions issued by the Deputy Commissioner under section 144A;

(d) an order made by the Deputy Commissioner under section 154;

(e) an order imposing a penalty under section 271B;

(f) an order made by a Deputy Commissioner or a Deputy Director imposing a penalty under section 272A;

(g) an order imposing a penalty under clause (c) of sub-section (1) of section 271, as it stood immediately before the 1st day of April, 1989, in respect of any assessment for the assessment year commencing on the 1st day of April, 1988 or any earlier assessment years, where such penalty has been imposed with the previous approval of the Deputy Commissioner under the proviso to clause (iii) of sub-section (1) of that section;

(h) an order made by an Assessing Officer (other than Deputy Commissioner) under the provisions of this Act in the case of such person or classes of persons as the Board may, having regard to the nature of the cases, the complexities involved and other relevant considerations, direct.

(3) Notwithstanding anything contained in sub-section (1), the Board or the Director General, or Chief Commissioner or Commis-

sioner if so authorised by the Board, may, by order in writing, transfer any appeal which is pending before a Deputy Commissioner (Appeals) and any matter arising out of or connected with such appeal and which is so pending, to the Commissioner (Appeals) if the Board or, as the case may be, the Director General, or Chief Commissioner or Commissioner (at the request of the appellant or otherwise) is satisfied that it is necessary or expedient so to do having regard to the nature of the case, the complexities involved and other relevant considerations and the Commissioner (Appeals) may proceed with such appeal or matter from the stage at which it was before it was so transferred:

Provided that the appellant may demand that before proceeding further with the appeal or matter, the previous proceeding or any part thereof be re-opened or that he be reheard.

Explanation.—For the purposes of this section,—

(a) “appointed day” means the 10th day of July, 1978, being the day appointed under section 39 of the Finance (No. 2) Act, 1977;

29 of 1977.

(b) “status” means the category under which the assessee is assessed as “individual”, “Hindu undivided family” and so on.

Applica-
tion
by the
assessee
in certain
cases.

246A. (1) Where, before furnishing a return of income under section 139 or, as the case may be, sub-section (1) of section 142 for any assessment year, any question arises as to whether,—

(a) any income is includible or not in computing the total income (hereafter in this section referred to as the disputed income), or

(b) any deduction, allowance or other relief is admissible or not in computing the total income (hereafter in this section referred to as the disputed deduction),

the assessee shall, after furnishing such return, make an application under sub-section (2):

Provided that the assessee,—

(i) shall include in such return the disputed income and shall not claim the disputed deduction; and

(ii) shall also pay thirty per cent. of the tax due on the disputed income and in respect of the amount of disputed deduction.

(2) The application under sub-section (1) may be made within thirty days of furnishing the aforesaid return to the Deputy Commissioner (Appeals) or, as the case may be, to the Commissioner (Appeals).

(3) For the purposes of disposing of an application under sub-section (1), the Deputy Commissioner (Appeals) or, as the case may be, the Commissioner (Appeals) may—

(a) conduct such inquiry, or call for such books of accounts, other documents or information which he deems necessary; or

(b) direct the Assessing Officer concerned to conduct such inquiry and furnish the report thereon,

and thereafter decide the question raised in the application and pass such orders thereon as he thinks fit.

(4) The provision relating to filing of appeals under this Act shall, so far as may be, apply to the making of an application under this section as if such application were an appeal.

~~100. Section 247 of the Income-tax Act shall be omitted.~~

Omission of section 247.

101. For section 267 of the Income-tax Act, the following section shall be substituted, namely:—

Substitution of new section for section 267.

~~“267. Where as the result of an appeal under section 246 or section 253, any change is made in the assessment of a body of individuals or an association of persons or a new assessment of a body of individuals or an association of persons is ordered to be made, the Deputy Commissioner (Appeals) or the Commissioner (Appeals) or the Appellate Tribunal, as the case may be, shall pass an order authorising the Assessing Officer either to amend the assessment made on any member of the body or association or make a fresh assessment on any member of the body or association.”~~

Amendment of assessment on appeal.

102. In section 268 of the Income-tax Act, the words “or an application” shall be omitted.

Amendment of section 268.

103. In section 269SS of the Income-tax Act,—

Amendment of section 269SS.

(a) for the words “ten thousand rupees”, the words “twenty thousand rupees” shall be substituted;

(b) after the proviso and before the *Explanation*, the following proviso shall be inserted, namely:—

“Provided further that the provisions of this section shall not apply to any loan or deposit where the person from whom the loan or deposit is taken or accepted and the person by whom the loan or deposit is taken or accepted are both having agricultural income and neither of them has any income chargeable to tax under this Act.”

104. In section 269T of the Income-tax Act,—

Amendment of section 269T.

(a) in sub-section (2),—

(i) after the words “no firm”, the words “or other person” shall be inserted;

(ii) for the words “ten thousand rupees”, the words “twenty thousand rupees” shall be substituted;

1 omitted by Act 3 of 1989, S. 95 (w.e.f. 1.4.1989).

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

‘(ii) “deposit” means any deposit of money which is repayable after notice or repayable after a period and, in the case of a person other than a company, includes deposit of any nature.’

Omission
of
section 270.

105. Section 270 of the Income-tax Act shall be omitted.

Substitution
of new
section
for
section
271.

~~106. For section 271 of the Income-tax Act, the following section shall be substituted, namely:—~~

Failure to
comply
with
notices.

~~“271. If the Assessing Officer, in the course of any proceedings under this Act, is satisfied that any person has failed to comply with a notice under sub-section (1) of section 142 or sub-section (2) of section 143 or with a direction issued under sub-section (2A) of section 142, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum which shall not be less than one thousand rupees but which may extend to twenty-five thousand rupees for each such failure.”~~

Amend-
ment of
section
271A.

107. In section 271A of the Income-tax Act, for the words “a sum which shall not be less than ten per cent. but which shall not exceed fifty per cent. of the amount of tax, if any, which would have been avoided if the income returned by such person had been accepted as the correct income”, the words “a sum which shall not be less than two thousand rupees but which may extend to one hundred thousand rupees” shall be substituted.

Insertion
of new
sections
271C,
271D
and
271E.

108. After section 271B of the Income-tax Act, the following sections shall be inserted, namely:—

Penalty
for
failure
to deduct
tax at
source.

“271C. If any person fails to deduct the whole or any part of the tax as required by or under the provisions of Chapter XVII-B, he shall be liable to pay, by way of penalty, a sum equal to the amount of the tax which he failed to deduct, as aforesaid.

Penalty
for
failure
to comply
with the
provi-
sions
of section
269SS.

271D. If a person takes or accepts any loan or deposit in contravention of the provisions of section 269SS, he shall be liable to pay, by way of penalty, a sum equal to the amount of the loan or deposit so taken or accepted.

1 omitted by Act 3 of 1989, S. 95 (w.e.f. 1.4.1989).

271E. If a person repays any deposit referred to in section 269T otherwise than in accordance with the provisions of that section, he shall be liable to pay, by way of penalty, a sum equal to the amount of the deposit so repaid."

Penalty for failure to comply with the provisions of section 269T.

109. Section 272 of the Income-tax Act shall be omitted.

Omission of section 272.

110. For section 272A of the Income-tax Act, the following section shall be substituted, namely:—

Substitution of new section for section 272A.

272A. (1) If any person,—

Penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections, etc.

(a) being legally bound to state the truth of any matter touching the subject of his assessment, refuses to answer any question put to him by an income-tax authority in the exercise of its powers under this Act; or

(b) refuses to sign any statement made by him in the course of any proceedings under this Act, which an income-tax authority may legally require him to sign; or

(c) to whom a summons is issued under sub-section (1) of section 131 either to attend to give evidence or produce books of account or other documents at a certain place and time omits to attend or produce books of account or documents at the place or time; or

(d) fails to comply with the provisions of section 139A, he shall pay, by way of penalty, a sum which shall not be less than five hundred rupees but which may extend to ten thousand rupees for each such default or failure.

(2) If any person fails—

(a) to comply with a notice issued under sub-section (6) of section 94; or

(b) to give the notice of discontinuance of his business or profession as required by sub-section (3) of section 176; or

(c) to furnish in due time any of the returns, statements or particulars mentioned in section 133 or section 206 or section 206A or section 206B or section 285B; or

(d) to allow inspection of any register referred to in section 134 or of any entry in such register or to allow copies of such register or of any entry therein to be taken; or

(e) to furnish the return of income which he is required to furnish under sub-section (4A) of section 139 or to furnish it within the time allowed and in the manner required under that sub-section; or

(f) to deliver or cause to be delivered in due time a copy of the declaration mentioned in section 197A; or

(g) to furnish a certificate as required by section 203; or

(h) to deduct and pay tax as required by sub-section (2) of section 226;

he shall pay, by way of penalty, a sum which shall not be less than one hundred rupees, but which may extend to two hundred rupees, for every day during which the failure continues.

(3) Any penalty imposable under sub-section (1) or sub-section (2) shall be imposed—

(a) in a case where the contravention, failure or default in respect of which such penalty is imposable occurs in the course of any proceeding before an income-tax authority not lower in rank than a Deputy Director or a Deputy Commissioner, by such income-tax authority;

(b) in a case falling under clause (f) of sub-section (2), by the Chief Commissioner or Commissioner; and

(c) in any other case, by the Deputy Director or the Deputy Commissioner.

(4) No order under this section shall be passed by any income-tax authority referred to in sub-section (3) unless the person on whom the penalty is proposed to be imposed is given an opportunity of being heard in the matter by such authority.

Explanation.—In this section, “income-tax authority” includes a Director General, Director, Deputy Director and an Assistant Director while exercising the powers vested in a court under the Code of Civil Procedure, 1908 when trying a suit in respect of the matters specified in sub-section (1) of section 131.

5 of 1908.

Omission
of section
272B.

111. Section 272B of the Income-tax Act shall be omitted.

Amend-
ment of
section
273.

112. In section 273 of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) The provisions of this section shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, and references in

this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.”.

113. In section 273A of the Income-tax Act, after sub-section (5), the following sub-section shall be inserted, namely:—

Amend-
ment of
section
273A.

“(6) The provisions of this section shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.”.

114. In section 273B of the Income-tax Act, for the words, figures, brackets and letters “section 270, clause (a) or clause (b) of sub-section (1) of section 271, section 271A, section 271B, sub-section (2) of section 272A, sub-section (1) of section 272AA, sub-section (1) of section 272B”, the words, figures, letters and brackets “section 271, section 271A, section 271B, section 271C, section 271D, section 271E, clause (c) or clause (d) of sub-section (1) or sub-section (2) of section 272A, sub-section (1) of section 272AA” shall be substituted.

Amend-
ment of
section
273B.

115. In section 274 of the Income-tax Act,—

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

Amend-
ment of
section
274.

“(2) No order imposing a penalty under this Chapter shall be made—

(a) by the Income-tax Officer, where the penalty exceeds ten thousand rupees;

(b) by the Assistant Commissioner, where the penalty exceeds twenty thousand rupees,

except with the prior approval of the Deputy Commissioner.”;

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

“(3) An income-tax authority on making an order under this Chapter imposing a penalty, unless he is himself the Assessing Officer, shall forthwith send a copy of such order to the Assessing Officer.”.

116. In section 275 of the Income-tax Act, for clauses (a) and (b) excluding the *Explanation*, the following clauses shall be substituted, namely:—

Amend-
ment of
section
275.

“(a) in a case where the relevant assessment or other order is the subject-matter of an appeal to the Deputy Commissioner (Appeals) or the Commissioner (Appeals) under section 246 or an appeal to the Appellate Tribunal under section 253, after the expiry of the financial year in which the proceedings, in the course of which action

for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which the order of the Commissioner (Appeals) or, as the case may be, the Appellate Tribunal is received by the Chief Commissioner or Commissioner whichever period expires later;

(b) in a case where the relevant assessment or other order is the subject-matter of revision under section 263, after the expiry of six months from the end of the month in which such order of revision is passed;

(c) in any other case, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later.”.

Insertion
of new
section
276.

117. After section 275A of the Income-tax Act, the following section shall be inserted, namely:—

Removal,
conceal-
ment,
transfer
or deli-
very of
property
to
thwart
tax
recovery.

“276. Whoever fraudulently removes, conceals, transfers or delivers to any person any property or any interest therein, intending thereby to prevent that property or interest therein from being taken in execution of a certificate under the provisions of the Second Schedule shall be punishable with rigorous imprisonment for a term which may extend to two years and shall also be liable to fine.”.

Substi-
tution
of new
section
for
section
276B.

118. For section 276B of the Income-tax Act, the following section shall be substituted, namely:—

Failure
to pay
the tax
deduct-
ed at

“276B. If a person fails to pay to the credit of the Central Government, the tax deducted at source by him as required by or under the provisions of Chapter XVII-B, he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and with fine.”.

Omission
of
sections
276DD
and 276E.

119. Sections 276DD and 276E of the Income-tax Act shall be omitted.

Amend-
ment of
section
278AA

120. In section 278AA of the Income-tax Act, for the words, figures and letters “section 276B, section 276DD or section 276E,” the words figures and letter “or section 276B,” shall be substituted.

121. After section 293A of the Income-tax Act, the following section shall be inserted, namely:—

Insertion of new section 293B.

“293B. Where, under any provision of this Act the approval of the Central Government or the Board is required to be obtained before a specified date, it shall be open to the Central Government or, as the case may be, the Board to condone, for sufficient cause, any delay in obtaining such approval.”

Power of Central Government or Board to condone delays in obtaining approval.

~~122. For section 296 of the Income-tax Act, the following section shall be substituted, namely:—~~

~~Substitution of new section for section 296.~~

~~“296. The Central Government shall cause every rule made under this Act to be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two 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.”~~

~~Rules to be laid before Parliament.~~

123. In section 298 of the Income-tax Act, after sub-section (2), the following sub-sections shall be added with effect from the 1st day of April, 1988, namely:—

Amendment of section 298.

“(3) If any difficulty arises in giving effect to the provisions of this Act as amended by the Direct Tax Laws (Amendment) Act, 1987, the Central Government may, by order, do anything not inconsistent with such provisions for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiration of three years from the 1st day of April, 1988.

(4) Every order made under sub-section (3) shall be laid before each House of Parliament.”

124. In the Second Schedule to the Income-tax Act,—

Amendment of the Second Schedule.

(1) for the words and figures “See section 222” occurring under the heading, the words and figures “See sections 222 and 276” shall be substituted;

(2) in rule 1, for clause (a), the following clause shall be substituted, namely:—

(a) “certificate”, except in rules 7, 44, 65 and sub-rule (2) of rule 66, means the certificate drawn up by the Tax Recovery

& omitted by Act 3 of 1989, S. 95 (W.L.F. 1.4.1989).

Officer under section 222 in respect of any assessee referred to in that section;";

~~1/xxx) (3) in rule 2, for the words "When a certificate has been received by the Tax Recovery Officer from the Income-tax Officer", the words "When a certificate has been drawn up by the Tax Recovery Officer" shall be substituted;~~

(4) for rule 8, the following rule shall be substituted, namely:—

Disposal
of pro-
ceeds of
execution.

"8. (1) Whenever assets are realised by sale or otherwise in execution of a certificate, the proceeds shall be disposed of in the following manner, namely:—

(a) they shall first be adjusted towards the amount due under the certificate in execution of which the assets were realised and the costs incurred in the course of such execution;

(b) if there remains a balance after the adjustment referred to in clause (a), the same shall be utilised for satisfaction of any other amount recoverable from the assessee under this Act which may be due on the date on which the assets were realised; and

(c) the balance, if any remaining after the adjustments under clauses (a) and (b) shall be paid to the defaulter.

(2) If the defaulter disputes any adjustment under clause (b) of sub-rule (1), the Tax Recovery Officer shall determine the dispute.";

(5) in rule 9,—

~~1/xxx) (i) for the words "Income-tax Officer", the words "Tax Recovery Officer" shall be substituted;~~

(ii) the words "duly filed under this Act" shall be omitted;

~~1/xxx) (6) in rule 14, for the words "Income-tax Officer", the words "Tax Recovery Officer" shall be substituted;~~

(7) for rule 19A, the following rule shall be substituted, namely:—

Entrust-
ment of
certain
functions
by Tax
Recovery
Officer.

"19A. A Tax Recovery Officer may, with the previous approval of the Deputy Commissioner, entrust any of his functions as the Tax Recovery Officer to any other officer lower than him in rank (not being lower in rank than an Inspector of Income-tax) and such officer shall, in relation to the functions so entrusted to him, be deemed to be a Tax Recovery Officer.";

~~1/xxx) (8) in rule 25, in sub-rule (1), for the words "and the Income-tax Officer shall bear such sum as the Tax Recovery Officer shall require in order to defray the cost of such arrangements", the words "and he shall have power to defray the cost of such arrangements" shall be substituted;~~

(9) in rule 27, for the words "Income-tax Officer" wherever they occur, the words "Tax Recovery Officer" shall be substituted;

(10) in rule 31, for the words "Income-tax Officer" occurring in the proviso, the words "Tax Recovery Officer" shall be substituted;

~~1/ omitted by Act 3 of 1989, S. 95 (W.E.F. 1.4.1989)~~

(11) in rule 47, for the words "direct that such coins or notes, or a part thereof sufficient to satisfy the certificate, be paid over to the Income-tax Officer", the words and figure "direct that such coins or notes shall be credited to the Central Government and the amount so credited shall be dealt with in the manner specified in rule 3" shall be substituted;

(12) in rule 59, after sub-rule (2), the following sub-rule shall be inserted, namely:—

[Assessing officer]

"(3) Where the ~~Income-tax Officer~~ referred to in sub-rule (1) is declared to be the purchaser of the property at any subsequent sale, nothing contained in rule 57 shall apply to the case and the amount of the purchase price shall be adjusted towards the amount specified in the certificate.";

~~(13) in rule 60, in sub-rule (1), in clause (a), the words "for payment to the Income-tax Officer" shall be omitted;~~ *C-1 x x x*

(14) in rule 61, for the words "Income-tax Officer", the words "such Income-tax Officer as may be authorised by the Chief Commissioner or Commissioner in this behalf" shall be substituted;

(15) in rule 73, in sub-rule (1), in clauses (a) and (b), for the words "the receipt of the certificate in the office of the Tax Recovery Officer", the words "the drawing up of the certificate by the Tax Recovery Officer" shall be substituted;

~~(16) in rule 74, for the words "the Tax Recovery Officer shall proceed to hear the Income-tax Officer and take all such evidence as may be produced by him in support of execution by arrest, and shall then give the defaulter", the words "the Tax Recovery Officer shall give the defaulter" shall be substituted;~~ *C-1 x x x*

(17) in rule 77, in sub-rule (1),—

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

"(ii) on the request of the Tax Recovery Officer on any ground other than the grounds mentioned in rules 78 and 79.";

(b) the second proviso shall be omitted;

(18) in rules 82, 83 and 87, for the words "Tax Recovery Commissioner", the words "Chief Commissioner or Commissioner" shall be substituted;

~~(19) in rule 85, for the words "If at any time after the issue of the certificate by the Income-tax Officer to the Tax Recovery Officer", the words "If at any time after the certificate is drawn up by the Tax Recovery Officer" shall be substituted;~~ *C-1 x x x*

(20) in rule 86,—

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

"(1) An appeal from any original order passed by the Tax Recovery Officer under this Schedule, not being an

and subs.
~~is omitted~~ by Act 3 of 1989, S. 95 (W.L.F. 1.4.1989).

order which is conclusive, shall lie to the Chief Commissioner or Commissioner.”;

(b) for sub-rule (4), the following sub-rule shall be substituted, namely:—

“(4) Notwithstanding anything contained in sub-rule (1), where a Chief Commissioner or Commissioner is authorised to exercise powers as such in respect of any area, then, all appeals against the orders passed before the date of such authorisation by any Tax Recovery Officer authorised to exercise powers as such in respect of that area, or an area which is included in that area, shall lie to such Chief Commissioner or Commissioner.”;

(21) rule 89 shall be omitted;

~~(22) in rule 90, in sub-rule (1), for the words “Income-tax Officer”, the words “Tax Recovery Officer” shall be substituted;~~

(23) in rule 92, for the words “Tax Recovery Commissioners”, in two places where they occur, the words “Chief Commissioners, Commissioners” shall be substituted;

(24) after rule 93, the following rule shall be inserted, namely:—

Continuance of certain pending proceedings and power to remove difficulties.

“94. All proceedings for the recovery of tax pending immediately before the coming into force of the amendments to this Schedule by the Direct Tax Laws (Amendment) Act, 1987 shall be continued under this Schedule as amended by that Act from the stage they had reached, and, for this purpose, every certificate, issued by the ~~Income-tax Officer~~ ^[Assessing Officer] under section 222 before such amendment shall be deemed to be a certificate drawn up by the Tax Recovery Officer under that section after such amendment, and, if any difficulty arises in continuing the said proceedings, the Board may issue (whether by way of modification, not affecting the substance, of any rule in this Schedule or otherwise) general or special orders which appear to it to be necessary or expedient for the purpose of removing the difficulty.”.

Insertion of Tenth Schedule.

125. In the Income-tax Act, after the Ninth Schedule, the following Schedule shall be inserted, namely:—

“THE TENTH SCHEDULE

[See section 3(3)]

MODIFICATIONS SUBJECT TO WHICH THE PROVISIONS OF THIS ACT SHALL APPLY IN CASES WHERE THE PREVIOUS YEAR IN RELATION TO THE ASSESSMENT YEAR COMMENCING ON THE 1ST APRIL, 1989, REFERRED TO IN SECTION 3(2), EXCEEDS TWELVE MONTHS

Definition.

1. In this Schedule, “transitional previous year” means the period reckoned as the previous year for the assessment year commencing on the 1st day of April, 1989, in the manner specified in

omitted & subs. by Act 3 of 1989, s. 95 (w.r.f. 1.4.1989).

sub-section (2) of section 3 and, in a case where the proviso to that sub-section applies, the longer or, as the case may be, the longest of the periods reckoned in the manner laid down in the said proviso.

2. In a case where the transitional previous year is longer than twelve months, the provisions of this Act and the Finance Act of the relevant year shall apply subject to the modifications specified in rules 3, 4, 5 and 6 of this Schedule.

3. The provisions of this Act specified in column (1) of the Table below shall be subject to the modification that the reference therein to the amount or amounts specified in the corresponding entry in column (2) of the said Table, shall be construed as a reference to the said amount or amounts as increased by multiplying each such amount by a fraction of which the numerator is the number of months in the transitional previous year and the denominator is twelve:

Provided that for the purposes of this rule and rules 5 and 6, where the transitional previous year includes a part of a month, then, if such part is fifteen days or more, it shall be increased to one complete month and if such part is less than fifteen days, it shall be ignored.

TABLE

Provision of the Act (1)	Amount (2)
	Rs.
Section 10(3)	5,000
Section 16	10,000
Section 24(r)(ii)	3,600
Section 37(2A)	10,000
Section 44AA(2)(i) and (iii)	25,000 and 2,50,000
Section 44AB	40,00,000 and 10,00,000
Section 48(2)	10,000
Section 80C(r)	6,000, 9,000 and 12,000
Section 80C(2)(d)	10,000
Section 80C(4)	60,000 and 40,000
Section 80F(2) b)	50,000
Section 80L(r)	7,000
	(occurring in two places)
Section 80L(r)—1st proviso	3,000
Section 80L(r)—2nd proviso	2,000
Section 80U	15,000
Section 139A	50,000

Special provisions in a case where the transitional previous year is longer than twelve months.

Modifications pertaining to monetary limits, etc.

Modifi-
cation in
section 6.

4. Where the transitional previous year comprises a period of eighteen months or more, then, sub-section (1) of section 6 shall be subject to the modification that references therein to the periods of one hundred and eighty-two days and ninety days shall be construed as references, respectively, to the periods of two hundred and seventy-three days and one hundred and thirty-five days.

Modifi-
cation in
respect of
deprecia-
tion allo-
wance.

5. Where the assessee's income under the head "Profits and gains of business or profession" for a period of thirteen months or more is included in his total income for the transitional previous year, the allowance under clause (ii) of sub-section (1) of section 32 in respect of depreciation of buildings, machinery, plant or furniture calculated in the manner stated therein, shall be increased by multiplying it by a fraction of which the numerator is the number of months in the transitional previous year and the denominator is twelve.

Modifi-
cation
in respect
of rate
of tax.

6. The tax chargeable on the total income of the transitional previous year shall be calculated at the average rate of tax on the amount obtained by multiplying such total income by a fraction of which the numerator is twelve and the denominator is the number of months in the transitional previous year, as if the resultant amount were the total income.

Power of
Board to
grant
relief
in case
of hard-
ship.

7. The Board may, if it considers it desirable or expedient so to do for avoiding genuine hardship, by general or special order, grant appropriate relief in any case or class of cases where the transitional previous year is longer than twelve months.

Conse-
quential
amend-
ments.

126. The following amendments (being amendments of a consequential nature) shall be made in the Income-tax Act, save as otherwise provided, with effect from the 1st day of April, 1989, namely:—

(1) in section 2, clause (3) shall be omitted with effect from the 1st day of April, 1988;

(2) in section 10, in clause (15), in sub-clause (iii), in the *Explanation*, for the words, brackets and figures "the *Explanation* to clause (iii) of sub-section (6) of section 11", the words, brackets and figures "clause (ii) of the *Explanation* to clause (vii) of sub-section (1) of section 36" shall be substituted;

(3) in section 10A, after sub-section (7) and before the *Explanation*, the following sub-section shall be inserted, namely:—

"(8) References in this section to any other provision of this Act which has been amended or omitted by the Direct Tax Laws (Amendment) Act, 1987 shall, notwithstanding such amendment or omission, be construed, for the purposes of this section, as if such amendment or omission had not been made.";

(4) in section 29, for the words, figures and letter "sections 30 to 43A", the words, figures and letter "sections 30 to 43B" shall be substituted;

~~(5) in section 32, in sub-section (2), the brackets and words "or, if the assessee is a registered firm or an unregistered firm assessed as a registered firm, in the assessment of its partners" shall be omitted;~~ C-XXXX

(6) in section 40A, in sub-section (2), in clause (a), the proviso shall be omitted;

(7) in section 41, after sub-section (5), the following sub-section shall be inserted, namely:—

"(6) References in sub-section (3) to any other provision of this Act which has been amended or omitted by the Direct Tax Laws (Amendment) Act, 1987 shall, notwithstanding such amendment or omission, be construed, for the purposes of that sub-section, as if such amendment or omission had not been made.";

~~(8) in section 43A, in sub-section (1), for the words, brackets, figures and letter "in clause (b) of sub-section (1) of section 35 or in section 35A", the words, figures and letter "in section 35A" shall be substituted;~~ C-XXXX

(9) in section 44, for the words, figures and letter "sections 28 to 43A", the words, figures and letter "sections 28 to 43B" shall be substituted;

(10) in section 80, for the words, brackets and figures "within the time allowed under sub-section (1) of section 139 or within such further time as may be allowed by the Income-tax Officer," the words, brackets and figures "in accordance with the provisions of sub-section (3) of section 139" shall be substituted;

~~(11) in section 80G,~~ C-XXXX

~~(a) in sub-section (5), in clause (v), the words, brackets and figures "or is an institution approved by the Central Government for the purposes of clause (23) of section 10," shall be omitted;~~

~~(b) Explanation 4 shall be omitted;~~

(12) in section 80HHA, in the Explanation, for clause (a), the following clause shall be substituted, namely:—

'(a) "rural area" means any area other than—

(i) an area which is comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee or by any other name) or a cantonment board and which has a population of not less than ten thousand according to the last preceding census of which the relevant figures have been published before the first day of the previous year; or

is omitted by Act 3 of 1989, § 95 (W.E.F. 1.4.1989).

(ii) an area within such distance, not being more than fifteen kilometres from the local limits of any municipality or cantonment board referred to in sub-clause (i), as the Central Government may, having regard to the stage of development of such area (including the extent of, and scope for, urbanisation of such area) and other relevant considerations specify in this behalf by notification in the Official Gazette;";

~~(13) in section 132, in sub-section (1), in the proviso and in sub-section (1A), the words and figures "notwithstanding anything contained in section 121" shall be omitted with effect from the 1st day of April, 1988;~~

(14) in section 132B, in sub-section (1), in clause (iii), for the words "the Income-tax Officer", wherever they occur, the words "the Assessing Officer or, as the case may be, Tax Recovery Officer" shall be substituted;

(15) in section 133A, in sub-section (6), for the words, brackets and figures "sub-sections (1) and (2) of section 131", the words, brackets and figures "sub-section (1) of section 131" shall be substituted;

(16) in section 139, in sub-section (8), in clause (b), after the word and figures "section 264", the words, brackets, figures and letter "or an order of the Settlement Commission under sub-section (4) of section 245D" shall be inserted;

(17) in section 144A,—

(a) in sub-section (1), the brackets and figure "(1)" shall be omitted;

(b) sub-section (2) shall be omitted;

(18) in section 174,—

(a) in sub-section (4),—

(i) for the words, brackets and figures "as a return under sub-section (2) of section 139", the words, brackets and figures "as a return under clause (i) of sub-section (1) of section 142" shall be substituted;

(ii) for the words, brackets and figures "a notice issued under sub-section (2) of section 139", the words, brackets and figures "a notice issued under clause (i) of sub-section (1) of section 142" shall be substituted;

(b) in sub-section (6), for the words, brackets and figures "sub-section (2) of section 139 or sub-section (1) of", wherever they occur, the words, brackets and figures "clause (i) of sub-section (1) of section 142 or" shall be substituted;

to be omitted by Act 3 of 1989, S. 95 (W.E.F. 1.4.1989).

(19) in section 176,—

(a) in sub-section (5), for the words, brackets and figures "under sub-section (2) of section 139", wherever they occur, the words, brackets and figures "under clause (i) of sub-section (1) of section 142" shall be substituted;

(b) in sub-section (7), for the words, brackets and figures "sub-section (2) of section 139 or sub-section (1) of", wherever they occur, the words, brackets and figures "clause (i) of sub-section (1) of section 142 or" shall be substituted;

(20) in section 199, the brackets, words, figures and letter "(including a provisional assessment under section 141A), if any," shall be omitted;

(21) in section 219, the proviso shall be omitted;

(22) section 234 shall be omitted;

~~(23) in section 253, in sub-section (1), in clause (a), after the word and figures "section 154," the word figures and letter "section 246A" shall be inserted,~~ CXXXX

(24) in section 276CC, for the words, brackets and figures "sub-section (2) of section 139", the words, brackets and figures "clause (i) of sub-section (1) of section 142" shall be substituted;

(25) in section 279, in sub-section (3), for the words, brackets and letters "clauses (a), (b), (c), (d) and (e)", the words, brackets and letters "clauses (a) to (g)" shall be substituted with effect from the 1st day of April, 1988;

(26) in section 288, in sub-section (4), in clause (b), the words, brackets and figures "clauses (i) and (ii) of sub-section (1) of" shall be omitted;

(27) in the First Schedule, in rule 5, in clause (a), for the words, figures and letter "sections 30 to 43A", the words, figures and letter "sections 30 to 43B" shall be substituted;

~~(28) in the Third Schedule, for the words "Income-tax Officer", the words "Assessing Officer or Tax Recovery Officer" shall be substituted,~~ CXXXX

CHAPTER III

AMENDMENTS TO THE WEALTH-TAX ACT, 1957

27 of 1957.

127. In the Wealth-tax Act, 1957 (hereafter in this Chapter referred to as the Wealth-tax Act), save as otherwise expressly provided in this Act, and unless the context otherwise requires, references to any authority specified in column (1) of the Table below shall be substituted with effect from the 1st day of April, 1988 by references, to the authority or authorities specified in the corresponding entry in column (2) of the said

Substi-
tion
of new
authori-
ties.

is omitted by Act 3 of 1989, S. 95 (W.E.F. 14.1.1989).

Table, and such consequential changes as the rules of grammar may require, shall also be made:

TABLE

(1)	(2)
Director of Inspection	Director General or Director
Deputy Director of Inspection	Deputy Director
Assistant Director of Inspection	Assistant Director
Commissioner or Commissioner of Wealth-tax	Chief Commissioner or Commissioner
Inspecting Assistant Commissioner or Inspecting Assistant Commissioner of Wealth-tax	Deputy Commissioner
Appellate Assistant Commissioner	Deputy Commissioner (Appeals)
Wealth-tax Officer	Assessing Officer
Inspector of Wealth-tax	Inspector of Income-tax

Provided that nothing contained in this section shall apply to the references to "Commissioner" occurring in sections 22D, 24 and 25.

Amend-
ment of
section 2.

128. In section 2 of the Wealth-tax Act,—

(i) clause (a) shall be omitted,

[with effect from the 1st day of April, 1988]

(ii) clause (ca) shall be re-lettered as clause (cb) and before that clause as so re-lettered, the following clause shall be inserted, namely:—

[with effect from the 1st day of April, 1988]

'(ca) "Assessing Officer" means the Assistant Commissioner or the Income-tax Officer who is vested with the relevant jurisdiction by virtue of directions or orders issued under sub-section (1) or sub-section (2) of section 120 or any other provision of the Income-tax Act which apply for the purposes of Wealth-tax under section 8 of this Act, and also the Deputy Commissioner who is directed under clause (b) of sub-section (4) of the said section 120 to exercise or perform all or any of the powers and functions conferred on or assigned to the Assessing Officer under that Act;'

(iii) clauses (g), (gg), (hb), (k), (l) and (la) shall be omitted,

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

'(h) "company" shall have the meaning assigned to it in clause (17) of section 2 of the Income-tax Act;'

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

'(lc) "maximum marginal rate" means the rate of wealth-tax applicable in relation to the highest slab of wealth in the case of an individual as specified in Part I of Schedule I;'

In Cons. by Act 26 of 1988, S. 88 (w. e. f. 1.4.1988).

(vi) in clause (q), clause (i) of the proviso shall be omitted;

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

with effect from the 1st day of April, 1988.

‘(s) the expressions “Chief Commissioner”, “Director General”, “Commissioner”, “Commissioner (Appeals)”, “Director”, “Deputy Commissioner”, “Deputy Commissioner (Appeals)”, “Assistant Commissioner”, “Income-tax Officer”, “Inspector of Income-tax” and “Tax Recovery Officer” shall have the meanings respectively assigned to them under section 2 of the Income-tax Act.’

129. In section 3 of the Wealth-tax Act, for the words “Subject to the other provisions contained in this Act”, the words and brackets “Subject to the other provisions (including provisions for the levy of additional wealth-tax) contained in this Act” shall be substituted.

Amendment of section 3.

130. In section 5 of the Wealth-tax Act, with effect from the 1st day of April, 1988,—

Amendment of section 5.

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

“(xxiva) units of a Mutual Fund specified under clause (23D) of section 10 of the Income-tax Act;”;

(ii) in sub-section (IA), after the brackets and figures “(xxiv)”, the brackets, figures and letter “(xxiva)” shall be inserted.

131. For sections 8, 9, 10 and 11 of the Wealth-tax Act, the following sections shall be substituted with effect from the 1st day of April, 1988, namely:—

Substitution of new sections for sections 8, 9, 10 and 11.

“8. The income-tax authorities specified in section 116 of the Income-tax Act shall be the wealth-tax authorities for the purposes of this Act and every such authority shall exercise the powers and perform the functions of a wealth-tax authority under this Act in respect of any individual, Hindu undivided family or company, and for this purpose his jurisdiction under this Act shall be the same as he has under the Income-tax Act by virtue of orders or directions issued under section 120 of that Act (including orders or directions assigning concurrent jurisdiction) or under any other provision of that Act.

Wealth-tax authorities and their jurisdiction.

Explanation.—For the purposes of this section, the wealth-tax authority having jurisdiction in relation to a person who is not an assessee within the meaning of the Income-tax Act shall be the wealth-tax authority having jurisdiction in respect of the area in which that person resides.

9. Section 118 of the Income-tax Act and any notification issued thereunder shall apply in relation to the control of wealth-tax authorities as they apply in relation to the control of the corresponding income-tax authorities, except to the extent to which the Board may, by notification in the Official Gazette, otherwise direct in respect of any wealth-tax authority.

Control of wealth-tax authorities.

Ins. by Act 26 of 1988, S. 88 (w.e.f. 1.4.1988).

Instructions to subordinate authorities.

10. (1) The Board may, from time to time, issue such orders, instructions and directions to other wealth-tax authorities as it may deem fit for the proper administration of this Act, and such authorities and all other persons employed in the execution of this Act shall observe and follow such orders, instructions and directions of the Board:

Provided that no such orders, instructions or directions shall be issued—

(a) so as to require any wealth-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 Deputy Commissioner (Appeals) or Commissioner (Appeals) in the exercise of his appellate functions.

(2) Without prejudice to the generality of the foregoing power,—

(a) the Board may, if it considers it necessary or expedient so to do, for the purpose of proper and efficient management of the work of assessment and collection of revenue, issue, from time to time (whether by way of relaxation of any of the provisions of sections 16, 17, 18 and 35 or otherwise), general or special orders in respect of any class of cases, setting forth directions or instructions (not being prejudicial to assessées) as to the guidelines, principles or procedures to be followed by other wealth-tax authorities in the work relating to assessment or collection of revenue or the initiation of proceedings for the imposition of penalties and any such order may, if the Board is of opinion that it is necessary in the public interest so to do, be published and circulated in the prescribed manner for general information;

(b) the Board may, if it considers it desirable or expedient so to do for avoiding genuine hardship in any case or class of cases, by general or special order, authorise any wealth-tax authority, not being a Deputy Commissioner (Appeals) or Commissioner (Appeals), to admit an application or claim for any exemption, deduction, refund or any other relief under this Act after the expiry of the period specified by or under this Act for making such application or claim and deal with the same on merits in accordance with law.

11. (1) The provisions of sections 124 and 127 of the Income-tax Act shall, so far as may be, apply for the purposes of this Act as they apply for the purposes of the Income-tax Act, subject to the modifications specified in sub-section (2).

(2) The modifications referred to in sub-section (1) shall be the following, namely:—

(a) in section 124 of the Income-tax Act,—

(i) in sub-section (3), references to the provisions of the Income-tax Act shall be construed as references to the corresponding provisions of the Wealth-tax Act;

Jurisdiction of Assessing Officers and power to transfer cases.

(ii) sub-section (5) shall be omitted;

(b) in section 127 of the Income-tax Act, in the *Explanation* below sub-section (5), references to proceedings under the Income-tax Act shall be construed as including references to proceedings under the Wealth-tax Act."

132. Sections 8A, 8AA, 8B, 9A, 10A, 11A, 11AA, 11B, 12 and 13 of the Wealth-tax Act shall be omitted with effect from the 1st day of April, 1988.

Omission of sections 8A, 8AA, 8B, 9A, 10A, 11A, 11AA, 11B, 12 and 13.

133. In section 14 of the Wealth-tax Act,—

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

Amendment of section 14.

'(1) Every person, if his net wealth or the net wealth of any other person in respect of which he is assessable under this Act on the valuation date exceeded the maximum amount which is not chargeable to wealth-tax, shall, on or before the due date, furnish a return of his net wealth or the net wealth of such other person as on that valuation date in the prescribed form and verified in the prescribed manner setting forth particulars of such net wealth and such other particulars as may be prescribed.

Explanation.—In this sub-section, "due date" in relation to an assessee under this Act shall be the same date as that applicable to an assessee under the Income-tax Act under the *Explanation* to sub-section (1) of section 139 of the Income-tax Act.

(2) Notwithstanding anything contained in any other provision of this Act, a return of net wealth which shows the net wealth below the maximum amount which is not chargeable to tax shall be deemed never to have been furnished:

Provided that this sub-section shall not apply to a return furnished in response to a notice under section 17;

(b) sub-section (3) shall be omitted.

134. For section 15 of the Wealth-tax Act, the following section shall be substituted, namely:—

Substitution of new section for section 15.

"15. If any person has not furnished a return within the time allowed under sub-section (1) of section 14 or under a notice issued under clause (i) of sub-section (4) of section 16, or having furnished a return discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier;

Return after due date and amendment of return.

Provided that—

(a) where such return or revised return relates to the assessment year commencing on the 1st day of April, 1987, or any earlier assessment year, it may be furnished at any time up to and inclusive of the 31st day of March, 1990 or before the completion of the assessment, whichever is earlier;

(b) where such return or revised return relates to the assessment year commencing on the 1st day of April, 1988, it may be furnished at any time up to and inclusive of the 31st day of March, 1991 or before the completion of the assessment, whichever is earlier.”

Amend-
ment of
section
15A.

135. In section 15A of the Wealth-tax Act,—

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

“(a) in the case of an individual,—

(i) by the individual himself;

(ii) where he is absent from India, by the individual himself or by some person duly authorised by him in this behalf;

(iii) where he is mentally incapacitated from attending to his affairs, by his guardian or any other person competent to act on his behalf; and

(iv) where, for any other reason, it is not possible for the individual to sign the return, by any person duly authorised by him in this behalf:

Provided that in a case referred to in sub-clause (ii) or sub-clause (iv), the person signing the return holds a valid power of attorney from the individual to do so, which shall be attached to the return;”;

(ii) to clause (c), the following provisos shall be added, namely:—

“Provided that where the company is not resident in India, the return may be signed and verified by a person who holds a valid power of attorney from such company to do so, which shall be attached to the return:

Provided further that,—

(a) where the company is being wound up, whether under the orders of the court or otherwise, or where any person has been appointed as the receiver of any assets of the company, the return shall be signed and verified by the liquidator referred to in sub-section (1) of section 178 of the Income-tax Act;

(b) where the management of the company has been taken over by the Central Government or any State Government under any law, the return of the company shall be signed and verified by the principal officer thereof.”;

136. For section 15B of the Wealth-tax Act, the following section shall be substituted, namely:—

Substitution of new section for section 15B.

“15B. (1) Where any tax is payable on the basis of any return furnished under section 14 or section 15 or in response to a notice under clause (i) of sub-section (4) of section 16 or under section 17, after taking into account the amount of tax, if any, already paid under any provision of this Act, the assessee shall be liable to pay such tax, together with interest payable under any provision of this Act for any delay in furnishing the return, before furnishing the return and the return shall be accompanied by proof of payment of such tax and interest.

Self-assessment.

Explanation.—Where the amount paid by the assessee under this sub-section falls short of the aggregate of the tax and interest as aforesaid, the amount so paid shall first be adjusted towards the interest payable as aforesaid and the balance, if any, shall be adjusted towards the tax payable.

(2) After the regular assessment under section 16 has been made, any amount paid under sub-section (1) shall be deemed to have been paid towards such regular assessment.

(3) If any assessee fails to pay the whole or any part of such tax or interest or both in accordance with the provisions of sub-section (1), he shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default in respect of the tax or interest or both remaining unpaid and all the provisions of this Act shall apply accordingly.”

137. Section 15C of the Wealth-tax Act shall be omitted.

Omission of section 15C.

138. For section 16 of the Wealth-tax Act, the following section shall be substituted, namely:—

Substitution of new section for section 16.

“16. (1) (a) Where a return has been made under section 14 or section 15 or in response to a notice under clause (i) of sub-section (4),—

Assessment.

(i) if any tax or interest is found due on the basis of such return after adjustment of any amount paid by way of tax or interest, an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice issued under section 30 and all the provisions of this Act shall apply accordingly; and

(ii) if any refund is due on the basis of such return, it shall be granted to the assessee:

Provided that in computing the tax or interest payable by, or refundable to, the assessee, the following adjustments shall be made in the net wealth declared in the return, namely:—

(i) any arithmetical errors in the return, accounts or documents accompanying it shall be rectified;

(ii) any exemption or deduction, which, on the basis of the information available in such return, accounts or documents, is *prima facie* admissible but which is not claimed or made in the return, shall be allowed;

(iii) any exemption or deduction claimed or made in the return, which, on the basis of the information available in such return, accounts or documents, is *prima facie* inadmissible, shall be disallowed;

(b) Where, as a result of an order made under section 17 or section 23 or section 24 or section 25 or section 27 or section 29 or section 35 or any order of the Wealth-tax Settlement Commission under sub-section (4) of section 22D relating to any earlier assessment year and passed subsequent to the filing of the return referred to in clause (a), there is any variation in the exemption or deduction claimed or made in the return, and as a result of which,—

(i) if any tax or interest is found due, an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice of demand issued under section 30 and all the provisions of this Act shall apply accordingly, and

(ii) if any refund is due, it shall be granted to the assessee:

Provided that an intimation for any tax or interest due under this clause shall not be sent after the expiry of four years from the end of the financial year in which any such order was passed.

(2) In a case referred to in sub-section (1), if the Assessing Officer considers it necessary or expedient to ensure that the assessee has not understated the net wealth or has not under-paid the tax in any manner, he shall serve on the assessee a notice requiring him, on a date to be specified therein, either to attend at the office of the Assessing Officer or to produce, or cause to be produced there, any evidence on which the assessee may rely in support of the return:

Provided that no notice under this sub-section shall be served on the assessee after the expiry of the financial year in which the return is furnished or the expiry of six months from the end of the month in which the return is furnished, whichever is later.

(3) On the day specified in the notice issued under sub-section (2) or as soon afterwards as may be, after hearing such evidence as the assessee may produce and such other evidence as the Assessing Officer may require on specified points, and after taking into account all relevant material which he has gathered, the Assessing Officer shall, by order in writing, assess the net wealth of the assessee and determine the sum payable by him on the basis of such assessment.

(4) For the purposes of making an assessment under this Act, the Assessing Officer may serve, on any person who has made a return under section 14 or section 15 or in whose case the time allowed under sub-section (1) of section 14 for furnishing the return has expired, a notice requiring him, on a date to be specified therein,—

(i) where such person has not made a return before the end of the relevant assessment year to furnish a return of his net wealth or the net wealth of any other person in respect of which he is assessable under this Act on the valuation date, in the prescribed form and verified in the prescribed manner, setting forth the particulars of such net wealth and such other particulars as may be prescribed; or

(ii) to produce or cause to be produced such accounts, records or other documents as the Assessing Officer may require.

(5) If any person—

(a) fails to make the return required under sub-section (1) of section 14 and has not made a return or a revised return under section 15, or

(b) fails to comply with all the terms of a notice issued under sub-section (2) or sub-section (4),

the Assessing Officer, after taking into account, all relevant material which he has gathered, shall, after giving such person an opportunity of being heard, estimate the net wealth to the best of his judgment and determine the sum payable by the person on the basis of such assessment:

Provided that such opportunity shall be given by the Assessing Officer by serving a notice calling upon the person to show cause, on a date and time to be specified in the notice, why the assessment should not be completed to the best of his judgment:

Provided further that it shall not be necessary to give such opportunity in a case where a notice under sub-section (4) has been issued prior to the making of the assessment under this sub-section.”

139. In section 17 of the Wealth-tax Act,—

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

“(1) If the Assessing Officer, for reasons to be recorded by him in writing, is of the opinion that the net wealth chargeable to tax in respect of which any person is assessable under this Act has escaped assessment for any assessment year (whether by reason of under-assessment or assessment at too low a rate or otherwise), he may, subject to the other provisions of this section and section 17A, serve on such person a notice requiring

Amend-
ment
of sec-
tion 17.

him to furnish within such period, not being less than thirty days, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner setting forth the net wealth in respect of which such person is assessable as on the valuation date mentioned in the notice, along with such other particulars as may be required by the notice, and may proceed to assess or re-assess such net wealth and also any other net wealth chargeable to tax in respect of which such person is assessable, which has escaped assessment and which comes to his notice subsequently in the course of the proceedings under this section for the assessment year concerned (hereafter in this section referred to as the relevant assessment year), and the provisions of this Act shall, so far as may be, apply as if the return were a return required to be furnished under section 14:

Provided that where an assessment under sub-section (3) of section 16 or this section has been made for the relevant assessment year, no action shall be taken under this section after the expiry of four years from the end of the relevant assessment year, unless any net wealth chargeable to tax has escaped assessment for such assessment year by reason of the failure on the part of the assessee to make a return under section 14 or section 15 or in response to a notice issued under sub-section (4) of section 16 or this section or to disclose fully and truly all material facts necessary for his assessment for that assessment year.

Explanation.—Production before the Assessing Officer of account books or other evidence from which material evidence could with due diligence have been discovered by the Assessing Officer will not necessarily amount to disclosure within the meaning of the foregoing proviso.

(1A) No notice under sub-section (1) shall be issued for the relevant assessment year,—

(a) in a case where an assessment under sub-section (3) of section 16 or sub-section (1) of this section has been made for such assessment year,—

(i) if four years have elapsed from the end of the relevant assessment year, unless the case falls under sub-clause (ii) or sub-clause (iii);

(ii) if four years, but not more than seven years, have elapsed from the end of the relevant assessment year, unless the net wealth chargeable to tax which has escaped assessment amounts to or is likely to amount to rupees five lakhs or more for that year;

(iii) if seven years, but not more than ten years, have elapsed from the end of the relevant assessment year, unless the net wealth chargeable to tax which has escaped assessment amounts to or is likely to amount to rupees ten lakhs or more for that year;

(b) in any other case,—

(i) if four years have elapsed from the end of the relevant assessment year, unless the case falls under sub-clause (ii) or sub-clause (iii);

(ii) if four years, but not more than seven years, have elapsed from the end of the relevant assessment year, unless the net wealth chargeable to tax which has escaped assessment amounts to or is likely to amount to rupees two lakhs and fifty thousand or more for that year;

(iii) if seven years, but not more than ten years, have elapsed from the end of the relevant assessment year, unless the net wealth chargeable to tax which has escaped assessment amounts to or is likely to amount to rupees five lakhs or more for that year.

Explanation.—For the purposes of sub-section (1) and sub-section (1A), the following shall also be deemed to be cases where net wealth chargeable to tax has escaped assessment, namely:—

(a) where no return of net wealth has been furnished by the assessee although his net wealth or the net wealth of any other person in respect of which he is assessable under this Act on the valuation date exceeded the maximum amount which is not chargeable to wealth-tax;

(b) where a return of net wealth has been furnished by the assessee but no assessment has been made and it is noticed by the Assessing Officer that the assessee has understated the net wealth or has claimed excessive exemption or deduction in the return.

(1B) (a) In a case where an assessment under sub-section (3) of section 16 or sub-section (1) of this section has been made for the relevant assessment year, no notice shall be issued under sub-section (1) except by an Assessing Officer of the rank of Assistant Commissioner or Deputy Commissioner:

Provided that, after the expiry of four years from the end of the relevant assessment year, no such notice shall be issued unless the Chief Commissioner or Commissioner is satisfied, on the reasons recorded by the Assessing Officer aforesaid, that it is a fit case for the issue of such notice.

(b) In a case other than a case falling under clause (a), no notice shall be issued under sub-section (1) by an Assessing Officer, who is below the rank of Deputy Commissioner, after the expiry of four years from the end of the relevant assessment year, unless the Deputy Commissioner is satisfied, on the reasons recorded by such Assessing Officer, that it is a fit case for the issue of such notice.”;

(b) in sub-section (2), in the opening paragraph, the words "or by a court in any proceedings under any other law" shall be added at the end.

Amend-
ment of
section
17A.

140. In section 17A of the Wealth-tax Act,—

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

"(1) No order of assessment shall be made under section 16 at any time after the expiry of two years from the end of the assessment year in which the net wealth was first assessable:

Provided that where the net wealth was first assessable in the assessment year commencing on the 1st day of April, 1985, or the 1st day of April, 1986, such assessment may be made on or before the 31st day of March, 1990.

(2) No order of assessment or reassessment shall be made under section 17 after the expiry of two years from the end of the financial year in which the notice under sub-section (1) of that section was served:

Provided that,—

(i) where the notice under clause (a) of sub-section (1) of section 17 was served during the financial year commencing on the 1st day of April, 1985, or the 1st day of April, 1986, such assessment or reassessment may be completed on or before the 31st day of March, 1990;

(ii) where the notice under clause (b) of sub-section (1) of section 17 relates to the assessment for the assessment year commencing on the 1st day of April, 1985, or the 1st day of April, 1986, such assessment or reassessment may be completed on or before the 31st day of March, 1990, or the expiry of two years from the end of the financial year in which such notice was served, whichever is later.

Explanation.—References to section 17 in the proviso shall be construed as references to that section as it stood before amendment by the Direct Tax Laws (Amendment) Act, 1987.;

(b) in sub-section (3),—

(i) for the words "four years", the words "two years" shall be substituted;

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

"Provided that where the order setting aside or cancelling an assessment was passed during the financial year commencing on the 1st day of April, 1985, or the 1st day of April, 1986, the order of fresh assessment may be made on or before the 31st day of March, 1990."

141. After section 17A of the Wealth-tax Act, the following section shall be inserted, namely:—

Insertion of new section 17B.

'17B. (1) Where the return of net wealth for any assessment year under sub-section (1) of section 14 or section 15, or in response to a notice under clause (i) of sub-section (4) of section 16, is furnished after the due date, or is not furnished, the assessee shall be liable to pay simple interest at the rate of two per cent. for every month or part of a month comprised in the period commencing on the date immediately following the due date, and,—

Interest for defaults in furnishing return of net wealth.

(a) where the return is furnished after the due date, ending on the date of furnishing of the return, or

(b) where no return has been furnished, ending on the date of completion of the assessment under sub-section (5) of section 16,

on the amount of tax payable on the net wealth as determined on regular assessment.

Explanation 1.—In this section, "due date" means the date specified in sub-section (1) of section 14 as applicable in the case of the assessee.

Explanation 2.—In this sub-section and sub-section (3), "tax payable on the net wealth as determined on regular assessment" shall not include the additional wealth-tax, if any, payable under section 18D.

Explanation 3.—Where, in relation to an assessment year, an assessment is made for the first time under section 17, the assessment so made shall be regarded as a regular assessment for the purposes of this section.

(2) The interest payable under sub-section (1) shall be reduced by the interest, if any, paid under section 15B towards the interest chargeable under this section.

(3) Where the return of net wealth for any assessment year, required by a notice under sub-section (1) of section 17 issued after the completion of an assessment under sub-section (3) or sub-section (5) of section 16 or section 17, is furnished after the expiry of the time allowed under such notice, or is not furnished, the assessee shall be liable to pay simple interest at the rate of two per cent. for every month or part of a month comprised in the period commencing on the day immediately following the expiry of the time allowed as aforesaid, and,—

(a) where the return is furnished after the expiry of the time aforesaid, ending on the date of furnishing the return; or

(b) where no return has been furnished, ending on the date of completion of the reassessment under section 17,

on the amount by which the tax on the net wealth determined on the basis of such reassessment exceeds the tax on the net wealth as determined on the basis of the earlier assessment aforesaid.

Explanation.—In this sub-section, “tax on the net wealth determined on the basis of the reassessment under section 17” shall not include the additional wealth-tax, if any, payable under section 18D.

(4) Where, as a result of an order under section 23 or section 24 or section 25 or section 27 or section 29 or section 35 or any order of the Wealth-tax Settlement Commission under sub-section (4) of section 22D, the amount of tax on which interest was payable under this section has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and—

(i) in a case where the interest is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 30 and the provisions of this Act shall apply accordingly, and

(ii) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.

(5) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years.

Substitution of new sections for sections 18 and 18A.

Penalty for failure to comply with notices.

~~142. For sections 18 and 18A of the Wealth-tax Act, the following sections shall be substituted, namely:—~~

~~18. (1) If the Assessing Officer, in the course of any proceedings under this Act, is satisfied that any person has failed to comply with the notice under sub-section (2) or sub-section (4) of section 16, the Assessing Officer may, by order in writing, direct that such person shall pay, by way of penalty, a sum which shall not be less than one thousand rupees but which may extend to twenty-five thousand rupees for each such failure:~~

~~Provided that—~~

~~(a) no penalty shall be imposable under this section, if the person proves that there was reasonable cause for the failure referred to in this sub-section;~~

~~(b) no order imposing a penalty under this section shall be made—~~

~~(i) by the Income-tax Officer, where the penalty exceeds ten thousand rupees;~~

~~(ii) by the Assistant Commissioner, where the penalty exceeds twenty thousand rupees,~~

~~except with the prior approval of the Deputy Commissioner.~~

~~(2) No order shall be made under sub-section (1) unless the person concerned has been heard, or has been given a reasonable opportunity of being heard.~~

~~(3) No order imposing a penalty under sub-section (1) shall be passed after the expiry of the financial year in which the proceedings.~~

2 omitted by Act 3 of 1989, S.95 (w.e.f. 1.4.1989).

in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later.

Explanation.—In computing the period of limitation for the purposes of this section,—

(i) any period during which the immunity granted under section 22H remained in force;

(ii) the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 39; and

(iii) any period during which a proceeding under this section for the levy of penalty is stayed by an order or injunction of any court,

shall be excluded.

18A. (1) If any person,—

(a) being legally bound to state the truth of any matter touching the subject of his assessment, refuses to answer any question put to him by a wealth-tax authority in the exercise of his powers under this Act; or

(b) refuses to sign any statement made by him in the course of any proceedings under this Act, which a wealth-tax authority may legally require him to sign; or

(c) to whom a summons is issued under sub-section (1) of section 37 either to attend to give evidence or produce books of account or other documents at a certain place and time, omits to attend or produce the books of account or documents at the place and time,

he shall pay, by way of penalty, a sum which shall not be less than five hundred rupees but which may extend to ten thousand rupees for each such default or failure:

Provided that no penalty shall be imposable under clause (c) if the person proves that there was reasonable cause for the said failure.

(2) If a person fails to furnish in due time any statement or information which such person is bound to furnish to the Assessing Officer under section 38, he shall pay, by way of penalty, a sum which shall not be less than one hundred rupees but which may extend to two hundred rupees for every day during which the failure continues:

Provided that no penalty shall be imposable under this sub-section if the person proves that there was reasonable cause for the said failure.

(3) Any penalty imposable under sub-section (1) or sub-section (2) shall be imposed—

(a) in a case where the contravention, failure or default in respect of which such penalty is imposable occurs in the course of any proceeding before a wealth-tax authority not lower in rank

Penalty for failure to answer questions, sign statements, furnish information, allow inspections, etc.

than a Deputy Director or a Deputy Commissioner, by such wealth-tax authority;

(b) in any other case, by the Deputy Director or the Deputy Commissioner.

(4) No order under this section shall be passed by any wealth-tax authority referred to in sub-section (3) unless the person on whom the penalty is proposed to be imposed has been heard, or has been given a reasonable opportunity of being heard in the matter, by such authority.

Explanation.—In this section, “wealth-tax authority” includes a Director General, Director, Deputy Director, Assistant Director and a Valuation Officer while exercising the powers vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the matters specified in sub-section (1) of section 37.

5 of 1908.

Inter-
tion of
new Chap.
ter IVB.

143. In the Wealth-tax Act, after section 18C, the following Chapter shall be inserted, namely:—

“CHAPTER IVB

CHARGE OF ADDITIONAL WEALTH-TAX IN CERTAIN CASES

Addi-
tional
wealth-
tax.

18D. (1) Where, in the case of any person, the net wealth determined in the regular assessment for any assessment year (hereafter in this section referred to as assessed net wealth) exceeds the net wealth declared in the return of net wealth furnished by such person for that assessment year (hereafter in this section referred to as returned net wealth) by any amount, the Assessing Officer shall make an order in writing that such person shall, apart from the sum determined as payable by him on the basis of the assessment under section 16, be liable to pay, by way of additional wealth-tax, in respect of the said assessment year, a sum calculated on such excess amount at the rate of three per cent.

(2) For the purposes of sub-section (1),—

(a) where such person has furnished two or more returns of net wealth for the same assessment year, the net wealth declared in the return furnished last before the service of a notice under sub-section (2) of section 16 on such person shall be treated as the returned net wealth;

(b) where such person fails to furnish the return of net wealth in respect of any assessment year and the assessment for that year is made under sub-section (5) of section 16, the returned net wealth shall be taken to be *nil*;

(c) where such person fails to furnish a return of net wealth for any assessment year under section 14 or section 15, but furnishes such return after he is served with a notice under section 17, the returned net wealth shall be taken to be *nil*.

(3) Where, as a result of an order under section 17 or section 23 or section 24 or section 25 or section 27 or section 29 or section 35 or

any order of the Wealth-tax Settlement Commission under sub-section (4) of section 22D, the amount on which the additional wealth-tax is payable under sub-section (1) has been increased or reduced, as the case may be, the additional wealth-tax shall be increased or reduced accordingly, and,—

(i) in a case where the additional wealth-tax is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 30 and the provisions of this Act shall apply accordingly;

(ii) in a case where the additional wealth-tax is reduced, the excess amount paid, if any, shall be refunded.

(4) The Chief Commissioner or Commissioner may, in his discretion, whether on his own motion or otherwise, waive or reduce the amount of additional wealth-tax payable under sub-section (1) by any person, if he is satisfied that the whole or, as the case may be, any part of the excess amount referred to in that sub-section is attributable to any amount added or disallowed in computing the assessed net wealth, as a result of the rejection of any explanation (by way of interpretation of any provision of this Act or otherwise) offered by such person, if such explanation is *bona fide* and all the facts relating to the same and material to the computation of the assessed net wealth have been disclosed by him:

Provided that—

(i) where an appeal before the Deputy Commissioner (Appeals) or Commissioner (Appeals) or the Appellate Tribunal has also been filed by the assessee against the order of assessment, the petition for waiver or reduction of the amount of additional wealth-tax can be filed by the assessee only after the decision on such appeal;

(ii) the petition for waiver or reduction of the amount of additional wealth-tax shall be accompanied by a fee of one hundred rupees.

(5) Where in the course of a search under section 37A, the assessee is found to be the owner of any money, bullion, jewellery or other valuable article or thing (hereinafter referred to as assets) and the assessee claims that such assets represent or form part of his net wealth—

(a) on any valuation date falling before the date of the search, but the return in respect of the net wealth on such date has not been furnished before the date of the search or where such return has been furnished before the said date, such assets have not been declared in such return; or

(b) on any valuation date falling on or after the date of the search,

then, notwithstanding that such assets are declared by him in any return of net wealth furnished on or after the date of the search, the value of such assets shall not for the purposes of liability to the

additional wealth-tax under sub-section (1), be treated as forming part of the returned net wealth, unless—

(i) such assets are recorded—

(A) in a case falling under clause (a), before the date of the search; and

(B) in a case falling under clause (b), on or before the date of the search,

in the books of account, if any, maintained by him or such assets are otherwise disclosed to the Chief Commissioner or Commissioner before the said date; or

(ii) the assessee, in the course of the search, makes a statement under sub-section (4) of section 37A that any money, bullion, jewellery or other valuable article or thing found in his possession or under his control forms part of his net wealth which has not been disclosed so far in his return of net wealth to be furnished before the expiry of the time specified in sub-section (1) of section 14, and also specifies in the statement the manner in which such net wealth has been acquired and pays the tax together with interest, if any, in respect of such net wealth.

(6) The additional wealth-tax payable under this section shall not be included in the amount of tax payable on the net wealth as determined on regular assessment, for the purposes of section 17B.”.

Amend-
ment of
section
21A.

144. In section 21A of the Wealth-tax Act,—

(a) in clause (i), for the words, brackets and figures “any person referred to in sub-section (3) of section 13 of the Income-tax Act”, the words “any interested person,” shall be substituted;

(b) in clause (ii), for the words, brackets and figures “any person referred to in sub-section (3) of section 13 of the said Act, or”, the words “any interested person,” shall be substituted;

(c) clause (iii) shall be omitted;

(d) in the first proviso, for the words, brackets and figures “any person referred to in sub-section (3) of section 13 of the Income-tax Act”, the words “any interested person” shall be substituted;

(e) in the second proviso,—

(i) for the words, brackets and figures “any person referred to in sub-section (3) of section 13 of the Income-tax Act has a substantial interest as provided in *Explanation 3* to that section”, the words, figures, brackets and letter “any interested person has a substantial interest as provided in *Explanation 3* below sub-section (4) of section 80F of the Income-tax Act” shall be substituted;

(ii) for the words, brackets and figure “any person referred to in the aforesaid sub-section (3)”, the words “any interested person” shall be substituted;

(f) in the third proviso,—

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

‘(a) in the case of any trust or institution of national importance notified under clause (d) of sub-section (1) of section 80F of the Income-tax Act,—

(i) the provisions of clause (i) and clause (ii) shall not apply; and

(ii) the other provisions of this section shall apply with the modification that for the words “at the maximum marginal rate”, the words and figures “at the rates specified in Part I of Schedule I in the case of an individual” shall be substituted;’

(ii) in clause (b), for the words, brackets and figures “clauses (i) to (iii)”, the words, brackets and figures “clauses (i) and (ii)” shall be substituted;

(g) in the *Explanation*, for clauses (a) and (aa), the following clauses shall be substituted, namely:—

‘(a) the expression “interested person” shall have the meaning assigned to it in clause (a) of *Explanation 1* below sub-section (4) of section 80F of the Income-tax Act;

(ab) any part of the property or income of a trust shall be deemed to have been used or applied for the benefit of any interested person in every case in which it can be so deemed to have been used or applied within the meaning of clause (c) of sub-section (3) of section 80F of the Income-tax Act at any time during the period of twelve months ending with the relevant valuation date.’

145. In section 21AA of the Wealth-tax Act, in sub-section (1), for the portion beginning with the words “purposes of this Act” and ending with the words “beneficial to the revenue”, the words “purposes of this Act, and at the maximum marginal rate” shall be substituted.

146. In section 23 of the Wealth-tax Act,—

(a) in sub-section (1),—

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

“(d) objecting to any penalty imposed by the Assessing Officer under section 18 as it stood immediately before the 1st day of April, 1989 or under section 18 as amended by the Direct Tax Laws (Amendment) Act, 1987;”;

(ii) clause (i) shall be omitted;

(b) in sub-section (1A), for clauses (b), (c) and (d), the following clauses shall be substituted, namely:—

“(b) objecting to any penalty imposed under clause (c) of sub-section (1) of section 18 as it stood immediately before the 1st day of April, 1989 in respect of any assessment

Amendment of section 21AA.

Amendment of section 23.

year commencing on the 1st day of April, 1988 or any earlier assessment year where such penalty has been imposed with the previous approval of the Deputy Commissioner under sub-section (3) of that section; or

(c) objecting to any assessment or order referred to in clauses (a) to (h) (both inclusive) of sub-section (1), where such assessment or order has been made by the Deputy Commissioner in exercise of the powers or functions conferred on or assigned to him under section 8 or section 11; or

(d) objecting to any penalty imposed by the Deputy Director or the Deputy Commissioner under section 18A.”;

(c) for sub-sections (1B), and (1C), the following sub-section shall be substituted, namely:—

“(1B) Notwithstanding anything contained in sub-section (1), the Board or the Director General or Chief Commissioner or Commissioner if so authorised by the Board, may, by order in writing, transfer any appeal which is pending before a Deputy Commissioner (Appeals) and any matter arising out of or connected with such appeal and which is so pending, to the Commissioner (Appeals) if the Board or, as the case may be, the Director General, Chief Commissioner or Commissioner (at the request of the appellant or otherwise) is satisfied that it is necessary or expedient so to do having regard to the nature of the case, the complexities involved and other relevant considerations and the Commissioner (Appeals) may proceed with such appeal or matter from the stage at which it was before it was so transferred:

Provided that the appellant may demand that before proceeding further with the appeal or matter, the previous proceeding or any part thereof be re-opened or that he be re-heard;”;

(d) in sub-section (2A), the proviso shall be omitted.

Insertion
of new
section
23A.

Applica-
tion by
the
assessee
in
certain
cases.

~~147. After section 23 of the Wealth tax Act, the following section shall be inserted, namely:—~~

“23A. (1) Where before furnishing a return of net wealth under sub-section (1) of section 14 or section 15 or sub-section (4) of section 16 for any assessment year, any question arises as to whether,—

(a) any wealth is includible or not in computing the net wealth (hereafter in this section referred to as the disputed wealth), or

(b) any exemption or deduction is admissible or not in computing the net wealth (hereafter in this section referred to as the disputed deduction),

the assessee shall, after furnishing such return, make an application under sub-section (2):

Provided that the assessee,—

(i) shall include in such return the disputed wealth and shall not claim the disputed deduction; and

(ii) shall also pay thirty per cent. of the tax due on the disputed wealth and in respect of the amount of disputed deduction.

(2) The application under sub-section (1) may be made within thirty days of furnishing the aforesaid return, to the Deputy Commissioner (Appeals) or, as the case may be, to the Commissioner (Appeals).

(3) For the purpose of disposing of an application under sub-section (1), the Deputy Commissioner (Appeals) or, as the case may be, the Commissioner (Appeals) may—

(a) conduct such inquiry or call for such books of account, other documents or information which he deems necessary; or

(b) direct the Assessing Officer to conduct such inquiry and furnish the report thereon,

and thereafter decide the question raised in the application and pass such orders thereon as he thinks fit.

(4) The provisions relating to filing of appeals under this Act shall, so far as may be, apply to the making of an application under this section as if such application were an appeal."

148. In section 31 of the Wealth-tax Act,—

(a) in sub-section (1) and the proviso to that sub-section, for the words "thirty-five days", in the three places where they occur, the words "thirty days" shall be substituted;

(b) in sub-section (2),—

(i) for the words brackets and figure "fifteen per cent. per annum from the day commencing after the end of the period mentioned in sub-section (1)", the words, brackets and figure "one and one-half per cent. for every month or part of a month comprised in the period commencing from the day immediately following the end of the period mentioned in sub-section (1) and ending with the day on which the amount is paid" shall be substituted;

(ii) in the proviso, after the words and figures "or section 35", the words, brackets, figures and letter "or any order of the Wealth-tax Settlement Commission under sub-section (4) of section 22D" shall be inserted;

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

"Provided further that in respect of any period commencing on or before the 31st day of March, 1989, and ending after that date, such interest shall, in respect of so much of such period as falls after that date, be calculated at the rate of one and one-half per cent. for every month or part of a month."

Amendment of section 31.

Amend-
ment of
section
32.

149. In section 32 of the Wealth-tax Act,—

(a) for the words “and to Wealth-tax Officer and Commissioner of Wealth-tax instead of to Income-tax Officer and Commissioner of Income-tax”, the words “and to the corresponding wealth-tax authorities instead of to the income-tax authorities specified therein” shall be substituted

[and shall be deemed to have been substituted with effect from 1st day of April, 1988]

(b) for *Explanation II*, the following *Explanation* shall be substituted, namely:—

“*Explanation II*.—The Chief Commissioner or Commissioner and the Tax Recovery Officer referred to in the Income-tax Act shall be deemed to be the corresponding wealth-tax authorities for the purpose of recovery of wealth-tax and sums imposed by way of penalty, fine and interest under this Act.”

Amend-
ment of
section
34A.

150. In section 34A of the Wealth-tax Act,—

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

“Provided that where, by the order aforesaid,—

(a) an assessment is set aside or cancelled and an order of fresh assessment is directed to be made, the refund, if any, shall become due only on the making of such fresh assessment;

(b) the assessment is annulled, the refund shall become due only of the amount, if any, of the tax paid in excess of the tax chargeable on the total income returned by the assessee.”;

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

“(4A) The provisions of sub-sections (3), (3A) and (4) shall not apply in respect of any assessment for the assessment year commencing on the 1st day of April, 1989, or any subsequent assessment year.

(4B) (a) Where, in pursuance of any order passed under this Act, the refund of any amount becomes due to the assessee he shall, subject to the provisions of this sub-section, be entitled to receive, in addition to the said amount, simple interest thereon calculated at the rate of one and a half per cent. for every month or part of a month comprised in the period or periods from the date or, as the case may be, dates of payment of the tax or penalty to the date on which the refund is granted.

Explanation.—For the purposes of this clause, “date of payment of the tax or penalty” means the date on and from which the amount of tax or penalty specified in the notice of demand issued under section 30 is paid in excess of such demand.

(b) If the proceedings resulting in the refund are delayed for reasons attributable to the assessee, whether wholly or in part, period of the delay so attributable to him shall be excluded from the period for which interest is payable and where any

1 ins. by Act 3 of 1989, S. 95 (w.e.f. 1.4.1989).

question arises as to the period to be excluded, it shall be decided by the Chief Commissioner or Commissioner whose decision thereon shall be final.

(c) Where, as a result of an order under section 17 or section 23 or section 24 or section 25 or section 27 or section 29 or section 35 or any order of the Wealth-tax Settlement Commission under sub-section (4) of section 22D, the amount on which interest was payable under clause (a) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and in a case where the interest is reduced, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the amount of the excess interest paid and requiring him to pay such amount; and such notice of demand shall be deemed to be a notice under section 30 and the provisions of this Act shall apply accordingly.

(d) The provisions of this sub-section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989, and subsequent assessment years."

151. In section 35 of the Wealth-tax Act, in sub-section (1), clause (aa) shall be renumbered as clause (aaa) and before clause (aaa) as so renumbered, the following clause shall be inserted, namely:--

Amendment of section 35.

"(aa) a wealth-tax authority may amend any intimation sent by it under sub-section (1) of section 16 or enhance or reduce the amount of refund granted by it under that sub-section."

152. In section 35K of the Wealth-tax Act,—

Amendment of section 35K.

(a) in sub-section (1), for the words "an assessment year", the words, figures and letters "the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year" shall be substituted;

(b) in sub-section (2), for the words, figures and letters "any of the Wealth-tax authorities specified in sections 8, 9, 9A, 10, 10A and 11" the words and brackets "any Wealth-tax authority (not being an Inspector of Income-tax)" shall be substituted.

153. In section 37 of the Wealth-tax Act,—

Amendment of section 37.

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

"(1A) If the Director General or Director or the authorised officer referred to in sub-section (1) of section 37A, before he takes action under clauses (i) to (vi) of that sub-section, has reason to suspect that any net wealth has been concealed, or is likely to be concealed, by any person or class of persons within his jurisdiction, then, for the purposes of making any inquiry or investigation relating thereto, it shall be competent for him to exercise the powers conferred under sub-section (1) on the wealth-tax authorities referred to in that section, notwithstanding that no proceedings with respect to such person or class of persons are pending before him or any other wealth-tax authority."

is omitted by Act 26 of 1988, S. 88 (W. & F. 14. 1988).

(b) sub-section (2) shall be omitted;

(c) in sub-section (3),—

(i) after the words, brackets and figure “in sub-section (1)”, the words, brackets, figure and letter “or sub-section (1A)” shall be inserted;

(ii) in the proviso, after the words “Valuation Officer”, the words “or an Assistant Director” shall be inserted.

Amend-
ment of
section
37A.

154. In section 37A of the Wealth-tax Act,—

(1) in sub-section (1),—

(a) in clause (c), for the words “any articles or things including money”, the words “any money, bullion, jewellery or other valuable article or thing” shall be substituted;

(b) in clauses (A) and (B), for the words “or Wealth-tax Officer” the words “Assistant Commissioner or Income-tax Officer” shall be substituted; *[with effect from the 1st day of April, 1988]*

(c) in clauses (i) and (ii), for the words “articles or things including money”, the words “money, bullion, jewellery or other valuable article or thing” shall be substituted;

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

“(iv) seize any such books of account, other documents, money, bullion, jewellery or other valuable article or thing found as a result of such search;”;

(e) in clause (vi), for the words “any articles or things including money”, the words “any money, bullion, jewellery or other valuable article or thing” shall be substituted;

(f) in the proviso, for the word and figures “section 10”, the word and figure “section 8” shall be substituted; *[with effect from the 1st day of April, 1988]*

(g) after the proviso, the following proviso shall be inserted, namely:—

“Provided further that where it is not possible or practicable to take physical possession of any valuable article or thing and remove it to a safe place due to its volume, weight or other physical characteristics or due to its being of a dangerous nature, the authorised officer may serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of such authorised officer and such action of the authorised officer shall be deemed to be seizure of such valuable article or thing under clause (iv) of this sub-section.”;

(2) in sub-section (2),—

(a) for the words “articles or things including money”, the words “money, bullion, jewellery or other valuable article or thing” shall be substituted;

29th Nov. by Act 26 of 1988, S. 88 (W.E. 14.1988).

(b) for the word and figures "section 10", the word and figure "section 8" shall be substituted *with effect from the 1st day of April, 1988*

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

"(3A) The authorised officer may, where it is not practicable to seize any books of account, other documents, money, bullion, jewellery or other valuable article or thing, for reasons other than those mentioned in the second proviso to sub-section (1), serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of such officer and such officer may take such steps as may be necessary for ensuring compliance with this sub-section.

Explanation.—For the removal of doubts, it is hereby declared that serving of an order as aforesaid under this sub-section shall not be deemed to be seizure of such books of account, other documents, money, bullion, jewellery or other valuable article or thing under clause (iv) of sub-section (1).";

(4) in sub-section (4), the following *Explanation* shall be inserted at the end, namely:—

"*Explanation.*—For the removal of doubts, it is hereby declared that the examination of any person under this sub-section may be not merely in respect of any books of account, other documents or assets found as a result of the search, but also in respect of matters relevant for the purposes of any investigation connected with any proceedings under this Act.";

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

"(5A) Where any money, bullion, jewellery or other valuable article or thing (hereafter in this section and in sections 37B and 37C referred to as the assets) is seized under sub-section (1) or sub-section (2), the Assessing Officer, after affording a reasonable opportunity to the person concerned of being heard and making such inquiry as may be prescribed, shall, within one hundred and twenty days of the seizure, make an order, with the previous approval of the Deputy Commissioner,—

(i) estimating the undisclosed net wealth in a summary manner to the best of his judgment on the basis of such materials as are available with him;

(ii) calculating the amount of tax on the net wealth so estimated in accordance with the provisions of this Act;

(iii) determining the amount of interest payable and the amount of any penalty imposable in accordance with the provisions of this Act, as if the order had been the order of regular assessment;

(iv) specifying the amount that will be required to satisfy any existing liability under this Act in respect of which such person is in default or is deemed to be in default,

Ins. by Act 26 of 1988, s. 88 (w.e.f. 1.4.1988).

and retain in his custody such assets or part thereof as are in his opinion sufficient to satisfy the aggregate of the amounts referred to in clauses (ii), (iii) and (iv) and forthwith release the remaining portion, if any, of the assets to the person from whose custody they were seized:

Provided that where a person has paid or made satisfactory arrangements for payment of all the amounts referred to in clauses (ii), (iii) and (iv) or any part thereof the Assessing Officer, may with the previous approval of the Chief Commissioner or Commissioner release the assets or such part thereof as he may deem fit in the circumstances of the case.

(5B) The assets retained under sub-section (5A) may be dealt with in accordance with the provisions of section 37C.

(5C) If the Assessing Officer is satisfied that the seized assets or any part thereof were held by such person for or on behalf of any other person, the Assessing Officer may proceed under sub-section (5A) against such other person and all the provisions of this section shall apply accordingly.”;

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

“(6A) An order under sub-section (3A) shall not be in force for a period exceeding sixty days from the date of the order, except where the authorised officer, for reasons to be recorded in writing by him, extends the period of operation of the order beyond sixty days, after obtaining the approval of the Chief Commissioner or Commissioner for such extension:

Provided that the Chief Commissioner or Commissioner shall not approve the extension of the period for any period beyond the expiry of thirty days after the completion of the proceedings under this Act in respect of the years for which the books of account, other documents, money, bullion, jewellery or other valuable articles or things are relevant.”;

(7) after sub-section (9), the following sub-section shall be inserted, namely:—

“(9A) If any person objects for any reason to an order made under sub-section (5A), he may, within thirty days from the date of such order, make an application to the Chief Commissioner or Commissioner stating therein the reasons for such objection and requesting for appropriate relief in the matter.”;

(8) for sub-section (10), the following sub-section shall be substituted, namely:—

“(10) On receipt of the application under sub-section (9), the Board, or on receipt of the application under sub-section (9A), the Chief Commissioner or Commissioner, may, after giving the applicant an opportunity of being heard, pass such orders as it or he thinks fit.”;

(9) after sub-section (12), the following Explanations shall be inserted, namely:—

Explanation 1.—In computing the period referred to in sub-section (5A) for the purposes of that sub-section, any period during

which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.

Explanation 2.—In this section, the word “proceeding” means any proceeding in respect of any year under this Act which may be pending on the date on which a search is authorised under this section or which may have been completed on or before such date and includes also proceedings under this Act which may be commenced after such date in respect of any year.’

155. In section 37B of the Wealth-tax Act,—

(a) in sub-section (1),—

(i) in clause (c), for the words “any articles or things including money”, the words “any assets” shall be substituted;

(ii) for the words “or Wealth-tax Officer”, the words “, Assistant Commissioner or Income-tax Officer” shall be substituted; *[with effect from the 1st day of April, 1988]*

(iii) for clauses (i) and (ii), the words “to deliver such books of account, other documents, or assets to the requisitioning officer” shall be substituted;

(b) in sub-section (2), for clauses (i) and (ii), the following shall be substituted, namely:—

“the officer or authority referred to in clause (a) or clause (b) or clause (c), as the case may be, of that sub-section shall deliver the books of account, other documents, or assets to the requisitioning officer either forthwith or when such officer or authority is of the opinion that it is no longer necessary to retain the same in his or its custody.”;

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

‘(3) Where any books of account, other documents, or assets have been delivered to the requisitioning officer, the provisions of sub-sections (5) to (12) (both inclusive) of section 37A and section 37C shall, so far as may be, apply as if such books of account, other documents, or assets had been seized under sub-section (1) of section 37A by the requisitioning officer from the custody of the person referred to in clause (a) or clause (b) or clause (c) of sub-section (1) of this section and as if for the words “the authorised officer” occurring in sub-sections (5) to (12) aforesaid, the words “the requisitioning officer” were substituted.’

156. After section 37B of the Wealth-tax Act, the following section shall be inserted, namely:—

“37C. (1) The assets retained under sub-section (5A) of section 37A may be dealt with in the following manner, namely:—

(i) the amount of the existing liability referred to in clause (iv) of the said sub-section and the amount of the liability deter-

Amend-
ment of
section
37B.

Insertion
of new
section
37C.

Applica-
tion of
retained
assets.

See Gns. by Act 26 of 1988, S. 88 (W.E.F. 1.4.1988)

mined on completion of the regular assessment or re-assessment for all the assessment years for which the net wealth referred to in clause (i) of that sub-section is assessable to tax (including any penalty levied or interest payable, in connection with such assessment or re-assessment) and in respect of which the assessee is in default or is deemed to be in default may be recovered out of such assets;

(ii) if the assets consist solely of money, or partly of money and partly of other assets, the Assessing Officer may apply such money in the discharge of the liabilities referred to in clause (i) and the assessee shall be discharged of such liabilities to the extent of the money so applied;

(iii) the assets other than money may also be applied for the discharge of any such liability referred to in clause (i) as remains undischarged and for this purpose such assets shall be deemed to be under distraint as if such distraint was effected by the Assessing Officer under authorisation from the Chief Commissioner or Commissioner under sub-section (5) of section 226 of the Income-tax Act as made applicable to this Act by section 32, and the Assessing Officer may recover the amount of such liabilities by the sale of such assets and such sale shall be effected in the manner laid down in the Third Schedule to the Income-tax Act as made applicable to this Act by section 32.

(2) Nothing contained in sub-section (1) shall preclude the recovery of the amount of liabilities aforesaid by any other mode laid down in this Act.

(3) Any assets or proceeds thereof which remain after the liabilities referred to in clause (i) of sub-section (1) are discharged shall be forthwith made over or paid to the persons from whose custody the assets were seized.

(4) (a) The Central Government shall pay simple interest at the rate of fifteen per cent per annum on the amount by which the aggregate of the money retained under section 37A and of the proceeds, if any, of the assets sold towards the discharge of the existing liability referred to in clause (iv) of sub-section (5A) of that section exceeds the aggregate of the amounts required to meet the liabilities referred to in clause (i) of sub-section (1) of this section.

(b) Such interest shall run from the date immediately following the expiry of the period of six months from the date of the order under sub-section (5A) of section 37A to the date of the regular assessment or re-assessment referred to in clause (i) of sub-section (1) or, as the case may be, to the date of the last of such assessments or re-assessments."

Amend-
ment of
section 38

157. In section 38 of the Wealth-tax Act,—

(a) for the words "Where, for the purposes of determining the wealth-tax payable by any person", the words "Where, for the purposes of this Act" shall be substituted;

(b) for the words "the Wealth-tax Officer", in the first place where they occur, the words "any wealth-tax authority" and, in the second and third places where they occur, the words "such wealth-tax authority" shall be substituted;

(c) after the words "from any individual, company", the brackets and words "(including a banking company)" shall be inserted.

158. In section 45 of the Wealth-tax Act, after clause (i) and the Explanation thereto, the following clause shall be inserted, namely:—

[with effect from the 1st day of April, 1988]
 "(j) a Mutual Fund specified under clause (23D) of section 10 of the Income-tax Act."

Amendment of section 45.

159. After section 46A of the Wealth-tax Act, the following section shall be inserted with effect from the 1st day of April, 1988, namely:—

Insertion of new section 47.

"47. (1) If any difficulty arises in giving effect to the provisions of this Act as amended by the Direct Tax Laws (Amendment) Act, 1987, the Central Government may, by order, do anything not inconsistent with such provisions for the purpose of removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiration of three years from the 1st day of April, 1988.

(2) Every order made under sub-section (1) shall be laid before each House of Parliament."

160. The following amendments (being amendments of a consequential nature) shall be made in the Wealth-tax Act with effect from the 1st day of April, 1989, namely:—

Consequential amendments.

~~(1) In section 5, in sub-section (1), in clause (i), for the proviso, the following proviso shall be substituted, namely:—~~

~~"Provided that nothing contained in this clause shall apply to any property forming part of any business, not being a business,—~~

~~(a) the income whereof qualifies for deduction under section 80F of the Income-tax Act; or~~

~~(b) a business carried on by an institution, fund or trust referred to in clause (22) or clause (22A) or clause (23B) or clause (23C) of section 10 of that Act;";~~

~~(2) in section 24, in sub-section (1), after the word and figures "section 23" the words, figures and letter "or section 23A" shall be inserted;~~

~~(3) in section 35, in sub-section (1),—~~

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

~~"(b) the Deputy Director or Deputy Commissioner or Director or Commissioner or Deputy Commissioner (Appeals)~~

*1 Ins. by Act 26 of 1988, S. 82 (W.T.A. 1.4.1988).
 2 omitted by Act 3 of 1989, S. 95 (W.T.A. 1.4.1989).*

or Commissioner (Appeals) may amend any order passed by him under section 18A;"

(b) for clauses (d) and (e), the following clauses shall be substituted, namely:—

“(c) the Deputy Commissioner (Appeals) or Commissioner (Appeals) may amend any order passed by him under section 23 or section 23A;

(d) the Commissioner may amend any order passed by him under section 25;

(e) the Appellate Tribunal may amend any order passed by it under section 24.”

CHAPTER IV

AMENDMENTS TO THE GIFT-TAX ACT, 1958

Substitution of new authorities.

161. In the Gift-tax Act, 1958 (hereafter in this Chapter referred to as the Gift-tax Act), save as otherwise expressly provided in this Act, and unless the context otherwise requires, references to any authority specified in column (1) of the Table below shall be substituted with effect from the 1st day of April, 1988 by references to the authority or authorities specified in the corresponding entry in column (2) of the said Table, and such consequential changes as the rules of grammar may require, shall also be made:

18 of 1958.

TABLE

(1)	(2)
Director of Inspection	Director General or Director
Deputy Director of Inspection	Deputy Director
Assistant Director of Inspection	Assistant Director
Commissioner or Commissioner of Gift-tax	Chief Commissioner or Commissioner
Inspecting Assistant Commissioner or Inspecting Assistant Commissioner of Gift-tax	Deputy Commissioner
Appellate Assistant Commissioner	Deputy Commissioner (Appeals)
Gift-tax Officer	Assessing Officer
Inspector of Gift-tax	Inspector of Income-tax

Provided that nothing contained in this section shall apply to the references to “Commissioner” occurring in sections 23 and 24.

Amendment of section 2.

162. In section 2 of the Gift-tax Act,—
 (a) clause (i) shall be omitted *with effect from the 1st day of April, 1988*

to Ins. by Act 26 of 1988, S. 88 (w. e. f. 1.4.1988).

(b) after clause (iii), the following clause shall be inserted, *[with effect from the 1st day of 1988]*
 namely:—

‘(iiia) “Assessing Officer” means the Assistant Commissioner or the Income-tax Officer who is vested with the relevant jurisdiction by virtue of directions or orders issued under sub-section (1) or sub-section (2) of section 120 or any other provision of the Income-tax Act which apply for the purposes of gift-tax under section 7 of this Act, and also the Deputy Commissioner who is directed under clause (b) of sub-section (4) of the said section 120 to exercise or perform all or any of the powers and functions conferred on or assigned to the Assessing Officer under that Act;’;

~~(a) clauses (vi), (vii), (viii), (xiii), (xv), (xvi), (xvii) and (xviii) shall be omitted;~~

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

‘(vii) the expressions “company”, “Indian company” and “company in which the public are substantially interested” shall have the meanings respectively assigned to them under section 2 of the Income-tax Act;’;

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

‘(xi) the expressions “firm”, “partner” and “partnership” shall have the meanings respectively assigned to them under section 2 of the Income-tax Act;’;

(f) in clause (xx),—

(i) sub-clause (b) shall be omitted;

(ii) in the first proviso, the words, brackets and letter “or sub-clause (b)” shall be omitted;

(iii) the second proviso shall be omitted;

(g) after clause (xxiv), the following clause shall be inserted, *[with effect from 1st day of 1988]*
 namely:—

‘(xxv) the expressions “Chief Commissioner”, “Director General”, “Commissioner”, “Commissioner (Appeals)”, “Director”, “Deputy Commissioner”, “Deputy Commissioner (Appeals)”, “Assistant Commissioner”, “Income-tax Officer”, “Tax Recovery Officer” and “Inspector of Income-tax” shall have the meanings respectively assigned to them under section 2 of the Income-tax Act.’

163. In section 3 of the Gift-tax Act, in sub-section (2), for the words “Subject to the other provisions contained in this Act”, the words and brackets “Subject to the other provisions (including provisions for the levy of additional gift-tax) contained in this Act” shall be substituted.

Amend-
ment of
section
3.

Ins. and subs. by Act 26 of 1988, S. 88 (w.e.f. 1.4.1988).

Substitu-
tion of
new
sections
for
sections
7, 8, 9
and 10.

Gift-tax
authori-
ties and
their
jurisdic-
tion.

Control
of gift-
tax
authori-
ties.

Instruc-
tions to
subordi-
nate
authori-
ties.

164. For sections 7, 8, 9 and 10 of the Gift-tax Act, the following sections shall be substituted with effect from the 1st day of April, 1988, namely:—

"7. The income-tax authorities specified in section 116 of the Income-tax Act shall be the gift-tax authorities for the purposes of this Act and every such authority shall exercise the powers and perform the functions of a gift-tax authority under this Act in respect of any person within his jurisdiction, and for this purpose his jurisdiction under this Act shall be the same as he has under the Income-tax Act by virtue of orders or directions issued under section 120 of that Act (including orders or directions assigning concurrent jurisdiction) or under any other provision of that Act.

Explanation.—For the purposes of this section, the gift-tax authority having jurisdiction in relation to a person who has no income assessable to income-tax under the Income-tax Act shall be the gift-tax authority having jurisdiction in respect of the area in which that person resides.

8. Section 118 of the Income-tax Act and any notification issued thereunder shall apply in relation to the control of gift-tax authorities as they apply in relation to the control of the corresponding income-tax authorities, except to the extent to which the Board may, by notification in the Official Gazette, otherwise direct in respect of any gift-tax authority.

9. (1) The Board may, from time to time, issue such orders, instructions and directions to other gift-tax authorities as it may deem fit for the proper administration of this Act, and such authorities and all other persons employed in the execution of this Act shall observe and follow such orders, instructions and directions of the Board:

Provided that no such orders, instructions or directions shall be issued—

(a) so as to require any gift-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 Deputy Commissioner (Appeals) or Commissioner (Appeals) in the exercise of his appellate functions.

(2) Without prejudice to the generality of the foregoing power,—

(a) the Board may, if it considers it necessary or expedient so to do, for the purpose of proper and efficient management of the work of assessment and collection of revenue, issue, from time to time (whether by way of relaxation of any of the provisions of sections 15, 16, 17 and 34 or otherwise) general or special orders in respect of any class of cases, setting forth

directions or instructions (not being prejudicial to assessee) as to the guidelines, principles or procedures to be followed by other gift-tax authorities in the work relating to assessment or collection of revenue or the initiation of proceedings for the imposition of penalties and any such order may, if the Board is of opinion that it is necessary in the public interest so to do, be published and circulated in the prescribed manner for general information;

(b) the Board may, if it considers it desirable or expedient so to do for avoiding genuine hardship in any case or class of cases, by general or special order, authorise any gift-tax authority, not being a Deputy Commissioner (Appeals) or Commissioner (Appeals) to admit an application or claim for any exemption, deduction, refund or any other relief under this Act after the expiry of the period specified by or under this Act for making such application or claim and deal with the same on merits in accordance with law.

10. (1) The provisions of sections 124 and 127 of the Income-tax Act shall, so far as may be, apply for the purposes of this Act as they apply for the purposes of the Income-tax Act, subject to the modifications specified in sub-section (2).

(2) The modifications referred to in sub-section (1) shall be the following, namely:—

(a) in section 124 of the Income-tax Act,—

(i) in sub-section (3), references to the provisions of the Income-tax Act shall be construed as references to the corresponding provisions of the Gift-tax Act;

(ii) sub-section (5) shall be omitted;

(b) in section 127 of the Income-tax Act, in the *Explanation* below sub-section (5), references to proceedings under the Income-tax Act shall be construed as including references to proceedings under the Gift-tax Act."

165. Sections 7A, 7AA, 7B, 8A, 9A, 11, 11A, 11AA, 11B and 12 of the Gift-tax Act shall be omitted with effect from the 1st day of April, 1988.

166. In section 13 of the Gift-tax Act,—

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

"(1) Every person who during a previous year has made any taxable gifts, or is assessable in respect of the taxable gifts made by any other person under this Act, which, in either case, exceeded the maximum amount not chargeable to gift-tax, shall, on or before the 30th day of June of the corresponding assessment

Jurisdiction of Assessing Officers and power to transfer cases.

Omission of sections 7A, 7AA, 7B, 8A, 9A, 11, 11A, 11AA, 11B and 12.

Amendment of section 13.

year, furnish a return of such gifts in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed.

(2) Notwithstanding anything contained in any other provision of this Act, a return which shows the amount of taxable gifts below the maximum amount which is not chargeable to tax shall be deemed never to have been furnished:

Provided that this sub-section shall not apply to a return furnished in response to a notice under section 16.”;

(b) sub-section (3) shall be omitted.

Substitution of new section for section 14.

167. For section 14 of the Gift-tax Act, the following section shall be substituted, namely:—

Return after due date and amendment of return.

“14. If any person has not furnished a return within the time allowed under sub-section (1) of section 13 or by a notice issued under clause (i) of sub-section (4) of section 15, or having furnished a return discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier:

Provided that—

(a) where such return or revised return relates to the assessment year commencing on the 1st day of April, 1987, or any earlier assessment year, it may be furnished at any time up to and inclusive of the 31st day of March, 1990 or before the completion of the assessment, whichever is earlier;

(b) where such return or revised return relates to the assessment year commencing on the 1st day of April, 1988, it may be furnished at any time up to and inclusive of the 31st day of March, 1991, or before the completion of the assessment, whichever is earlier.”.

Amendment of section 14A.

168. In section 14A of the Gift-tax Act,—

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

“(a) in the case of an individual,—

(i) by the individual himself;

(ii) where he is absent from India, by the individual himself or by some person duly authorised by him in this behalf;

(iii) where he is mentally incapacitated from attending to his affairs, by his guardian or any other person competent to act on his behalf; and

(iv) where, for any other reason, it is not possible for the individual to sign the return, by any person duly authorised by him in this behalf:

Provided that in a case referred to in sub-clause (ii) or sub-clause (iv), the person signing the return holds a valid power of attorney from the individual to do so, which shall be attached to the return;";

(ii) to clause (c), the following provisos shall be added, namely:—

"Provided that where the company is not resident in India, the return may be signed and verified by a person who holds a valid power of attorney from such company to do so, which shall be attached to the return:

Provided further that,—

(a) where the company is being wound up, whether under the orders of the court or otherwise, or where any person has been appointed as the receiver of any assets of the company, the return shall be signed and verified by the liquidator referred to in sub-section (1) of section 178 of the Income-tax Act;

(b) where the management of the company has been taken over by the Central Government or any State Government under any law, the return of the company shall be signed and verified by the principal officer thereof."

169. After section 14A of the Gift-tax Act, the following section shall be inserted, namely:—

"14B. (1) Where any tax is payable on the basis of any return furnished under section 13 or under section 14 or in response to a notice under clause (i) of sub-section (4) of section 15 or under section 16, after taking into account the amount of tax, if any, already paid under any provision of this Act, the assessee shall be liable to pay such tax, together with interest payable under any provision of this Act for any delay in furnishing the return, before furnishing the return and the return shall be accompanied by proof of payment of such tax and interest.

Explanation.—Where the amount paid by the assessee under this sub-section falls short of the aggregate of the tax and interest as aforesaid, the amount so paid shall first be adjusted towards the interest payable as aforesaid and the balance, if any, shall be adjusted towards the tax payable.

(2) After the regular assessment under section 15 has been made, any amount paid under sub-section (1) shall be deemed to have been paid towards such regular assessment.

(3) If any assessee fails to pay the whole or any part of such tax or interest or both in accordance with the provisions of sub-section (1), he shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default in respect of the tax or interest or both remaining unpaid and all the provisions of this Act shall apply accordingly."

Insertion of new section 14B.

Self-assessment.

Substitution
of new
section
for
section 15.

170. For section 15 of the Gift-tax Act, the following section shall be substituted, namely:—

Assessment.

'15. (1) (a) Where a return has been made under section 13 or section 14 or in response to a notice under clause (i) of sub-section (4),—

(i) if any tax or interest is found due on the basis of such return after adjustment of any amount paid by way of tax or interest, an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice issued under section 31 and all the provisions of this Act shall apply accordingly; and

(ii) if any refund is due on the basis of such return, it shall be granted to the assessee:

Provided that in computing the tax or interest payable by, or refundable to, the assessee the following adjustments shall be made in the taxable gifts declared in the return, namely:—

(i) any arithmetical errors in the return, accounts or documents accompanying it shall be rectified;

(ii) any exemption or deduction, which, on the basis of the information available in such return, accounts or documents, is *prima facie* admissible but which is not claimed or made in the return, shall be allowed;

(iii) any exemption or deduction claimed or made in the return, which, on the basis of the information available in such return, accounts or documents, is *prima facie* inadmissible, shall be disallowed.

(b) Where, as a result of an order made under section 16 or section 22 or section 23 or section 24 or section 26 or section 28 or section 34 relating to any earlier assessment year and passed subsequent to the filing of the return referred to in clause (a), there is any variation in the exemption or deduction claimed or made in the return, and as a result of which,—

(i) if any tax or interest is found due, an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice of demand issued under section 31 and all the provisions of this Act shall apply accordingly; and

(ii) if any refund is due, it shall be granted to the assessee:

Provided that an intimation for any tax or interest due under this clause shall not be sent after the expiry of four years from the end of the financial year in which any such order was passed.

(2) In a case referred to in sub-section (1), if the Assessing Officer considers it necessary or expedient to ensure that the assessee has not omitted to disclose any taxable gift or has not understated

the amount or value of any such gift or has not under-paid the tax in any manner he shall serve on the assessee a notice requiring him, on a date to be specified therein, either to attend at the office of the Assessing Officer or to produce, or cause to be produced there, any evidence on which the assessee may rely in support of the return:

Provided that no notice under this sub-section shall be served on the assessee after the expiry of the financial year in which the return is furnished or on the expiry of six months from the end of the month in which the return is furnished, whichever is later.

(3) On the date specified in the notice issued under sub-section (2) or, as soon afterwards as may be, after hearing such evidence as the assessee may produce and such other evidence as the Assessing Officer may require on specified points, and after taking into account all relevant material which he has gathered, the Assessing Officer shall, by order in writing, assess the value of taxable gifts made by the assessee and determine the sum payable by him on the basis of such assessment.

(4) For the purposes of making an assessment under this Act, the Assessing Officer may serve, on any person who has made a return under section 13 or section 14 or in whose case the time allowed under sub-section (1) of section 13 for furnishing the return has expired, a notice requiring him, on a date to be specified therein,—

(i) where such person has not made a return before the end of the relevant assessment year, to furnish a return of the taxable gifts made by him or of the taxable gifts made by any other person in respect of which he is assessable under this Act during the previous year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, or

(ii) to produce or cause to be produced such accounts, records or other documents as the Assessing Officer may require.

(5) If any person—

(a) fails to make the return required under sub-section (1) of section 13 and has not made a return or a revised return under section 14, or

(b) fails to comply with all the terms of a notice issued under sub-section (2) or sub-section (4),

the Assessing Officer, after taking into account all relevant material which he has gathered, shall, after giving such person an opportunity of being heard, estimate the value of taxable gifts to the best of his judgment and determine the sum payable by such person on the basis of such assessment:

Provided that such opportunity shall be given by the Assessing Officer by serving a notice calling upon the person to show cause on a date and time to be specified in the notice, why the assessment should not be completed to the best of his judgment.

Provided further that it shall not be necessary to give such opportunity in a case where a notice under sub-section (4) has been issued prior to the making of the assessment under this sub-section.

(6) Notwithstanding anything contained in section 6, for the purpose of making an assessment under this Act, the Assessing Officer may refer the valuation of such property to the Valuation Officer,—

(a) in a case where the value of the property as returned is in accordance with the estimate made by a registered valuer, if the Assessing Officer is of opinion that the value so returned is less than its fair market value;

(b) in any other case, if the Assessing Officer is of opinion—

(i) that the fair market value of the property exceeds the value of the property as returned by more than such percentage of the value of the property as returned or by more than such amount as may be prescribed in this behalf; or

(ii) that having regard to the nature of the property and other relevant circumstances, it is necessary so to do,

and where any such reference is made, the provisions of sub-sections (2), (3), (4), (5) and (6) of section 16A, clauses (ha) and (i) of sub-section (1) and sub-sections (3A) and (4) of section 23, sub-section (5) of section 24, section 34AA, section 35 and section 37 of the Wealth-tax Act, 1957, shall, with the necessary modifications, apply in relation to such reference as they apply in relation to a reference made by the Assessing Officer under sub-section (1) of section 16A of that Act.

27 of 1957

Explanation.—In this sub-section, “Valuation Officer” has the same meaning as in clause (r) of section 2 of the Wealth-tax Act, 1957.

27 of 1957

Amend-
ment of
section 16.

171. In section 16 of the Gift-tax Act,—

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

“(1) If the Assessing Officer, for reasons to be recorded by him in writing, is of the opinion that the taxable gifts in respect of which any person is assessable under this Act (whether made by him or by any other person) have escaped assessment for any assessment year (whether by reason of under-assessment or assessment at too low a rate or otherwise), he may, subject to the other provisions of this section and section 16A, serve on such person a notice requiring him to furnish within such period not being less than thirty days, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner, setting forth the taxable gifts made by him or by such other person during the previous year mentioned in the notice, in respect of which he is assessable, along with such other particulars as may be required by the notice, and may proceed to assess or

re-assess such gifts and also any other taxable gifts in respect of which such person is assessable, which have escaped assessment and which come to his notice subsequently in the course of the proceedings under this section for the assessment year concerned (hereafter in this section referred to as the relevant assessment year); and the provisions of this Act shall, so far as may be, apply as if the return were a return required under section 13:

Provided that where an assessment under sub-section (3) of section 15 or this section has been made for the relevant assessment year, no action shall be taken under this section after the expiry of four years from the end of the relevant assessment year, unless any taxable gift chargeable to tax has escaped assessment for such assessment year by reason of the failure on the part of the assessee to make a return under section 13 or section 14 or in response to a notice issued under sub-section (4) of section 15 or this section or to disclose fully and truly all material facts necessary for his assessment for that assessment year.

Explanation.—Production before the Assessing Officer of account books or other evidence from which material evidence could with due diligence have been discovered by the Assessing Officer will not necessarily amount to disclosure within the meaning of the foregoing proviso.

(1A) No notice under sub-section (1) shall be issued for the relevant assessment year,—

(a) in a case where an assessment under sub-section (3) of section 15 or sub-section (1) of this section has been made for such assessment year,—

(i) if four years have elapsed from the end of the relevant assessment year, unless the case falls under sub-clause (ii) or sub-clause (iii);

(ii) if four years, but not more than seven years, have elapsed from the end of the relevant assessment year, unless the value of taxable gifts chargeable to tax which have escaped assessment amounts to or is likely to amount to rupees fifty thousand or more for that year;

(iii) if seven years, but not more than ten years, have elapsed from the end of the relevant assessment year, unless the value of taxable gifts chargeable to tax which have escaped assessment amounts to or is likely to amount to rupees one lakh or more for that year;

(b) in any other case,—

(i) if four years have elapsed from the end of the relevant assessment year, unless the case falls under sub-clause (ii) or sub-clause (iii);

(ii) if four years, but not more than seven years, have elapsed from the end of the relevant assessment year, unless the value of taxable gifts chargeable to tax which have escaped assessment amounts to or is likely to amount to rupees twenty-five thousand or more for that year;

(iii) if seven years, but not more than ten years, have elapsed from the end of the relevant assessment year, unless the value of taxable gifts chargeable to tax which have escaped assessment amounts to or is likely to amount to rupees fifty thousand or more for that year.

Explanation.—For the purposes of sub-section (1) and sub-section (1A), the following shall also be deemed to be cases where taxable gifts chargeable to tax have escaped assessment, namely:—

(a) where no return of taxable gifts has been furnished by the assessee although the taxable gifts made by him or the taxable gifts made by any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to gift-tax;

(b) where a return of taxable gifts has been furnished by the assessee but no assessment has been made and it is noticed by the Assessing Officer that the assessee has understated the amount or value of the taxable gifts or has claimed excessive exemption or deduction in the return.

(1B) (a) In a case where an assessment under sub-section (3) of section 15 or sub-section (1) of this section has been made for the relevant assessment year, no notice shall be issued under sub-section (1) except by an Assessing Officer of the rank of Assistant Commissioner or Deputy Commissioner:

Provided that, after the expiry of four years from the end of the relevant assessment year, no such notice shall be issued unless the Chief Commissioner or Commissioner is satisfied, on the reasons recorded by the Assessing Officer aforesaid, that it is a fit case for the issue of such notice.

(b) In a case other than a case failing under clause (a), no notice shall be issued under sub-section (1) by an Assessing Officer, who is below the rank of Deputy Commissioner, after the expiry of four years from the end of the relevant assessment year, unless the Deputy Commissioner is satisfied, on the reasons recorded by such Assessing Officer, that it is a fit case for the issue of such notice.”;

(b) in sub-section (2), the words “or by a court in any proceedings under any other law” shall be added at the end.

172. In section 16A of the Gift-tax Act,—Amend-
ment of
section
16A.

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

“(1) No order of assessment shall be made under section 15 at any time after the expiry of one year from the end of the assessment year in which the gifts were first assessable:

Provided that where the gifts were first assessable in the assessment year commencing on the 1st day of April, 1985, or the 1st day of April, 1986, such assessment may be made on or before the 31st day of March, 1990.

(2) No order of assessment or reassessment shall be made under section 16 after the expiry of two years from the end of the financial year in which the notice under sub-section (1) of that section was served:

Provided that,—

(i) where the notice under clause (a) of sub-section (1) of section 16 was served during the financial year commencing on the 1st day of April, 1985, or the 1st day of April, 1986, such assessment or reassessment may be completed on or before the 31st day of March, 1990;

(ii) where the notice under clause (b) of sub-section (1) of section 16 relates to the assessment for the assessment year commencing on the 1st day of April, 1985, or the 1st day of April, 1986, such assessment or reassessment may be completed on or before the 31st day of March, 1990, or the expiry of two years from the end of the financial year in which such notice was served, whichever is later.

Explanation.—References to section 16 in the proviso shall be construed as references to that section as it stood before its amendment by the Direct Tax Laws (Amendment) Act, 1987.”;

(b) in sub-section (3),—

(i) for the words “four years”, the words “two years” shall be substituted;

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

“Provided that where the order setting aside or cancelling the assessment was passed during the financial year commencing on the 1st day of April, 1985, or the 1st day of April, 1986, the order of fresh assessment may be made on or before the 31st day of March, 1990.”.

173. After section 16A of the Gift-tax Act, the following section shall be inserted, namely:—Insertio
of new
section
16B.

‘16B. (1) Where a return of gifts for any assessment year under sub-section (1) of section 13 or section 14, or in response to a notice under clause (i) of sub-section (4) of section 15, is furnished after the

Interes
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gifts.

30th day of June of such year, or is not furnished, the assessee shall be liable to pay simple interest at the rate of two per cent. for every month or part of a month comprised in the period commencing on the 1st day of July of the assessment year, and,—

(a) where the return is furnished after the 30th day of June ending on the date of furnishing of the return; or

(b) where no return has been furnished, ending on the date of completion of the assessment under sub-section (5) of section 15,

on the amount of tax payable on the taxable gifts as determined on regular assessment.

Explanation 1.—In this sub-section and sub-section (3), “tax payable on the taxable gifts as determined on regular assessment” shall not include the additional gift-tax, if any, payable under section 18B.

Explanation 2.—Where in relation to an assessment year the assessment is made for the first time under section 16, the assessment so made shall be regarded as a regular assessment for the purposes of this section.

(2) The interest payable under sub-section (1) shall be reduced by the interest, if any, paid under section 14B towards the interest chargeable under this section.

(3) Where the return of gifts for any assessment year, required by a notice under sub-section (1) of section 16 issued after the completion of an assessment under sub-section (3) or sub-section (5) of section 15 or section 16, is furnished after the expiry of the time allowed under such notice, or is not furnished, the assessee shall be liable to pay simple interest at the rate of two per cent. for every month or part of a month comprised in the period commencing on the day immediately following the expiry of the time allowed as aforesaid, and,—

(a) where the return is furnished after the expiry of the time aforesaid, ending on the date of furnishing the return; or

(b) where no return has been furnished, ending on the date of completion of the reassessment under section 16,

on the amount by which the tax on the taxable gifts determined on the basis of such reassessment exceeds the tax on the taxable gifts as determined on the basis of the earlier assessment aforesaid.

Explanation.—In this sub-section, “tax on the taxable gifts determined on the basis of the reassessment under section 16” shall not include the additional gift-tax, if any, payable under section 18B.

(4) Where, as a result of an order under section 22 or section 23 or section 24 or section 26 or section 28 or section 34, the amount of tax on which interest was payable under this section has

been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and,—

(i) in a case where the interest is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 31 and the provisions of this Act shall apply accordingly, and

(ii) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.

(5) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years.

~~1xxx) 174. For sections 17 and 17A of the Gift-tax Act, the following sections shall be substituted, namely:—~~

Substitu-
tion of
new sec-
tions for
sections
17 and
17A.

17. (1) If the Assessing Officer, in the course of any proceedings under this Act, is satisfied that any person has failed to comply with the notice under sub-section (2) or sub-section (4) of section 15, the Assessing Officer may, by order in writing, direct that such person shall pay, by way of penalty, a sum which shall not be less than one thousand rupees but which may extend to twenty-five thousand rupees for each such failure:

Penalty
for
failure to
comply
with
notices.

Provided that—

(a) no penalty shall be imposable under this section if the person proves that there was reasonable cause for the failure referred to in this sub-section;

(b) no order imposing a penalty under this section shall be made—

(i) by the Income-tax Officer, where the penalty exceeds ten thousand rupees;

(ii) by the Assistant Commissioner, where the penalty exceeds twenty thousand rupees,

except with the prior approval of the Deputy Commissioner.

(2) No order shall be made under sub-section (1) unless the person concerned has been heard, or has been given a reasonable opportunity of being heard.

(3) No order imposing a penalty under sub-section (1) shall be passed after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of

emitted by Act 3 of 1989, S. 95 (W.C.F. 1.4.1989).

the month in which action for imposition of penalty is initiated, whichever period expires later.

Explanation.—In computing the period of limitation for the purposes of this section,—

(i) the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 38; and

(ii) any period during which a proceeding under this section for the levy of the penalty is stayed by an order or injunction of any court,

shall be excluded.

17A. (1) If a person,—

(a) being legally bound to state the truth of any matter touching the subject of his assessment, refuses to answer any question put to him by a gift-tax authority in the exercise of his powers under this Act; or

(b) refuses to sign any statement made by him in the course of any proceedings under this Act, which a gift-tax authority may legally require him to sign; or

(c) to whom a summons is issued under sub-section (1) of section 36, either to attend to give evidence or produce books of account or other documents at a certain place and time, omits to attend or produce the books of account or documents at the place and time,

he shall pay, by way of penalty, a sum which shall not be less than five hundred rupees but which may extend to ten thousand rupees for each such default or failure:

Provided that no penalty shall be imposable under clause (c) if the person proves that there was reasonable cause for the said failure.

(2) If a person fails to furnish in due time any statement or information which such person is bound to furnish to the Assessing Officer under section 37, he shall pay, by way of penalty, a sum which shall not be less than one hundred rupees but which may extend to two hundred rupees for every day during which the failure continues:

Provided that no penalty shall be imposable under this sub-section if the person proves that there was reasonable cause for the said failure.

(3) Any penalty imposable under sub-section (1) or sub-section (2) shall be imposed—

(a) in a case where the contravention, failure or default in respect of which such penalty is imposable occurs in the course of any proceeding before a gift-tax authority not lower in rank than a Deputy Director or a Deputy Commissioner, by such gift-tax authority;

Penalty for failure to answer questions, sign statements, furnish information, allow inspections, etc.

(b) in any other case, by the Deputy Director or the Deputy Commissioner.

(4) No order under this section shall be passed by any gift-tax authority referred to in sub-section (3) unless the person on whom penalty is proposed to be imposed has been heard or has been given a reasonable opportunity of being heard in the matter by such authority.

Explanation.—In this section, “gift-tax authority” includes a Director General, Director, Deputy Director, Assistant Director or Valuation Officer while exercising the powers vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the matters specified in sub-section (1) of section 36.

5 of 1908.

175. In the Gift-tax Act, after section 18A, the following Chapter shall be inserted, namely:—

Insertion
of new
Chapter
IVA.

“CHAPTER IVA

CHARGE OF ADDITIONAL GIFT-TAX IN CERTAIN CASES

18B. (1) Where, in the case of any person, the value of taxable gifts determined in the regular assessment for any assessment year (hereafter in this section referred to as assessed taxable gifts) exceeds the value of taxable gifts declared in the return of taxable gifts furnished by such person for that assessment year (hereafter in this section referred to as returned taxable gifts) by any amount, the Assessing Officer shall make an order in writing that such person shall, apart from the sum determined as payable by him on the basis of the assessment under section 15, be liable to pay, by way of additional gift-tax, in respect of the said assessment year, a sum calculated on such excess amount at the rate of twenty per cent.

Additional
gift-tax.

(2) For the purposes of sub-section (1) —

(a) where such person has furnished two or more returns of taxable gifts for the same assessment year, the value of taxable gifts declared in the return furnished last before the service of a notice under sub-section (2) of section 15 on such person shall be treated as the returned taxable gifts;

(b) where such person fails to furnish the return of taxable gifts in respect of any assessment year and the assessment for that year is made under sub-section (5) of section 15, the returned taxable gifts shall be taken to be *nil*;

(c) where such person fails to furnish a return of taxable gifts for any assessment year under section 13 or section 14, but furnishes such return after he is served with a notice under section 16, the returned taxable gifts shall be taken to be *nil*.

(3) Where, as a result of an order under section 16 or section 22 or section 23 or section 24 or section 26 or section 28 or section 34, the amount on which the additional gift-tax is payable

under sub-section (1) has been increased or reduced, as the case may be, the additional gift-tax shall be increased or reduced accordingly, and,—

(i) in a case where the additional gift-tax is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 31 and the provisions of this Act shall apply accordingly;

(ii) in a case where the additional gift-tax is reduced, the excess amount paid, if any, shall be refunded.

(4) The Chief Commissioner or Commissioner may, in his discretion, whether on his own motion or otherwise, waive or reduce the amount of additional gift-tax payable under sub-section (1) by any person, if he is satisfied that the whole or, as the case may be, any part of the excess amount referred to in that sub-section is attributable to any amount added or disallowed in computing the assessed taxable gifts, as a result of the rejection of any explanation (by way of interpretation of any provision of this Act or otherwise) offered by such person, if such explanation is *bona fide* and all the facts relating to the same and material to the computation of the assessed taxable gifts have been disclosed by him:

Provided that,—

(i) where an appeal before the Deputy Commissioner (Appeals) or Commissioner (Appeals) or the Appellate Tribunal has also been filed by the assessee against the order of assessment, the petition for waiver or reduction of the amount of additional gift-tax can be filed by the assessee only after the decision on such appeal;

(ii) the petition for waiver or reduction of the amount of additional gift-tax shall be accompanied by a fee of one hundred rupees.

(5) The additional gift-tax payable under this section shall not be included in the amount of tax payable on the taxable gifts as ~~determined on regular assessment, for the purposes of section 16B.~~

Amend-
ment of
section 22.

176. In section 22 of the Gift-tax Act,—

(a) in sub-section (1),—

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

“(d) objecting to any penalty imposed by the Assessing Officer under section 17 as it stood immediately before the 1st day of April, 1989 or under section 17 as amended by the Direct Tax Laws (Amendment) Act, 1987;”;

(ii) clause (h) shall be omitted;

(b) in sub-section (1A), for clauses (b), (c) and (d), the following clauses shall be substituted, namely:—

“(b) objecting to any assessment or order referred to in clauses (a) to (g) (both inclusive) of sub-section (1), where such assessment or order has been made by the Deputy Commissioner in exercise of the powers or functions conferred on or assigned to him under section 7 or section 10; or

(c) objecting to any penalty imposed under clause (c) of sub-section (1) of section 17 as it stood immediately before the 1st day of April, 1989 in respect of any assessment year commencing on the 1st day of April, 1988 or any earlier assessment year where such penalty has been imposed with the previous approval of the Deputy Commissioner under sub-section (3) of that section; or

(d) objecting to any penalty imposed by the Deputy Director or the Deputy Commissioner under section 17A; or”;

(c) for sub-sections (1B) and (1C), the following sub-section shall be substituted, namely:—

“(1B) Notwithstanding anything contained in sub-section (1), the Board or the Director General or the Chief Commissioner or the Commissioner, if so authorised by the Board, may, by order in writing, transfer any appeal which is pending before a Deputy Commissioner (Appeals) and any matter arising out of or connected with such appeal and which is so pending, to the Commissioner (Appeals), if the Board or, as the case may be, the Director General, the Chief Commissioner or the Commissioner (at the request of the appellant or otherwise) is satisfied that it is necessary or expedient so to do having regard to the nature of the case, the complexities involved and other relevant considerations and the Commissioner (Appeals) may proceed with such appeal or matter from the stage at which it was before it was so transferred:

Provided that the appellant may demand that before proceeding further with the appeal or matter, the previous proceeding or any part thereof be reopened or that he be reheard.”.

~~177. After section 22 of the Gift-tax Act, the following section shall be inserted, namely:—~~

Insertion of new section 22A.

“22A. (1) Where before furnishing a return of taxable gifts under sub-section (1) of section 13 or section 14 or sub-section (4) of section 15 for any assessment year, any question arises as to whether,—

Application by the assessee in certain cases.

(a) any amount is includible or not in computing the amount of taxable gifts (hereafter in this section referred to as the disputed amount), or

(b) any exemption or deduction is admissible or not in computing taxable gifts (hereafter in this section referred to as the disputed deduction),

omitted by Act 3 of 1989, s. 95 (W.L. 1.4.1989).

the assessee shall, after furnishing such return, make an application under sub-section (2):

Provided that the assessee,—

(i) shall include in such return the disputed amount and shall not claim the disputed deduction; and

(ii) shall also pay thirty per cent. of the tax due on the disputed amount and in respect of the amount of disputed deduction.

(2) The application under sub-section (1) may be made within thirty days of furnishing the aforesaid return to the Deputy Commissioner (Appeals) or, as the case may be, to the Commissioner (Appeals).

(3) For the purpose of disposing of an application under sub-section (1), the Deputy Commissioner (Appeals) or, as the case may be, the Commissioner (Appeals) may—

(a) conduct such inquiry or call for such books of account, other documents or information which he deems necessary; or

(b) direct the Assessing Officer to conduct such inquiry and furnish the report thereon,

and thereafter decide the question raised in the application and pass such orders thereon as he thinks fit.

(4) The provisions relating to filing of appeals under this Act shall, so far as may be, apply to the making of an application under this section as if such application were an appeal.

178. In section 32 of the Gift-tax Act,—

(a) in sub-section (1), for the words "thirty-five days", wherever they occur, the words "thirty days" shall be substituted;

(b) in sub-section (2),—

(i) for the words, brackets and figure "fifteen per cent. per annum from the day commencing after the end of the period mentioned in sub-section (1)", the words, brackets and figure "one and one-half per cent. for every month or part of a month comprised in the period commencing from the day immediately following the end of the period mentioned in sub-section (1) and ending with the day on which the amount is paid" shall be substituted;

(ii) after the proviso, the following proviso shall be inserted, namely:—

"Provided further that in respect of any period commencing on or before the 31st day of March, 1989 and ending after that date, such interest shall, in respect of so much of such period as falls after that date, be calculated at the rate of one and one-half per cent. for every month or part of a month."

179. In section 33 of the Gift-tax Act,—

Amend-
ment of
section
33.

(a) for the words “and to Gift-tax Officer and Commissioner of Gift-tax instead of to Income-tax Officer and Commissioner of Income-tax”, the words “and to the corresponding gift-tax authorities instead of to the income-tax authorities specified therein” shall be substituted;

and shall be deemed to have been substituted with effect from the 1st day of April, 1988

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

“Explanation II.—The Chief Commissioner or Commissioner and the Tax Recovery Officer referred to in the Income-tax Act shall be deemed to be the corresponding gift-tax authorities for the purpose of recovery of gift-tax and sums imposed by way of penalty, fine and interest under this Act.”.

180. In section 33A of the Gift-tax Act,—

Amend-
ment of
section
33A.

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

“Provided that where, by the order aforesaid,—

(a) an assessment is set aside or cancelled and an order of fresh assessment is directed to be made, the refund, if any, shall become due only on the making of such fresh assessment;

(b) the assessment is annulled, the refund shall become due only of the amount, if any, of the tax paid in excess of the tax chargeable on the total income returned by the assessee.”;

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

“(4A) The provisions of sub-sections (3), (3A) and (4) shall not apply in respect of any assessment for the assessment year commencing on the 1st day of April, 1989, or any subsequent assessment year.

(4B) (a) Where, in pursuance of any order passed under this Act, the refund of any amount becomes due to the assessee he shall, subject to the provisions of this sub-section, be entitled to receive, in addition to the said amount, simple interest thereon calculated at the rate of one and a half per cent. for every month or part of a month comprised in the period or periods from the date or, as the case may be, dates of payment of the tax or penalty to the date on which the refund is granted.

Explanation.—For the purposes of this clause, “date of payment of the tax or penalty” means the date on and from which the amount of tax or penalty specified in the notice of demand issued under section 31 is paid in excess of such demand.

(b) If the proceedings resulting in the refund are delayed for reasons attributable to the assessee, whether wholly or in part, period of the delay so attributable to him shall be excluded

to 4th. by Act 3 of 1989, s. 25 (w.e.f. 1.4.1989).

from the period for which interest is payable, and where any question arises as to the period to be excluded, it shall be decided by the Chief Commissioner or Commissioner whose decision thereon shall be final.

(c) Where, as a result of an order under section 16 or section 22 or section 23 or section 24 or section 26 or section 28 or section 34, the amount on which the interest was payable under clause (a) has been increased or reduced, as the case may be, interest shall be increased or reduced accordingly, and, in a case where the interest is reduced, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the amount of the excess interest paid and requiring him to pay such amount; and such notice of demand shall be deemed to be a notice under section 31 and the provisions of this Act shall apply accordingly.

(d) The provisions of this sub-section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989, and subsequent assessment years."

Amend-
ment of
section 34.

181. In section 34 of the Gift-tax Act, in sub-section (1), after clause (a), the following clause shall be inserted, namely:—

"(aa) a gift-tax authority may amend any intimation sent by it under sub-section (1) of section 15 or enhance or reduce the amount of refund granted by it under that sub-section."

Amend-
ment of
section
36.

182. In section 36 of the Gift-tax Act,—

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

~~"(1A) If the Director General or Director has reason to suspect that any gifts chargeable to tax under this Act have been concealed, or are likely to be concealed by any person or class of persons within his jurisdiction, then, for the purposes of making any inquiry or investigation relating thereto it shall be competent for him to exercise the powers conferred under sub-section (1) on the gift-tax authorities referred to in that sub-section, notwithstanding that no proceedings with respect to such person or class of persons are pending before him or any other gift-tax authority";~~

~~(b) sub-section (2) shall be omitted.~~

Amend-
ment of
section 37.

183. In section 37 of the Gift-tax Act,—

(a) for the words "Where, for the purposes of determining the gift-tax payable by any person, it appears necessary for the Gift-tax Officer to obtain any statement or information from any person," the words "Where, for the purposes of this Act, it appears necessary for any gift-tax authority to obtain any statement or information from any person or banking company," shall be substituted;

(b) for the words "the Gift-tax Officer", in the second and third places where they occur, the words "such gift-tax authority" shall be substituted.

to be omitted by Act 26 of 1988, § 85 (W.L.F. 14. 1988)

184. In section 45 of the Gift-tax Act,—

Amend-
ment of
section
45.

(a) for the words "The provisions of this Act shall not apply to gifts made by", the words "No tax shall be levied under this Act in respect of gifts made by" shall be substituted;

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

"(a) a company in which the public are substantially interested;

(b) any company to an Indian company in a scheme of amalgamation;"

~~(c) for clause (e), the following clause shall be substituted,~~ C4xxx
namely:—

"(e) any institution or fund, which is eligible for the deduction under section 80F of the Income-tax Act.";

(d) for Explanations 1, 2 and 3, the following Explanations shall be substituted, namely:—

'Explanation 1.—For the purposes of clause (b), the term "amalgamation" shall have the meaning assigned to it in clause (1A) of section 2 of the Income-tax Act.

Explanation 2.—For the removal of doubts, it is hereby declared that the exemption admissible under clause (e) in relation to gifts made by an institution or fund referred to in that clause shall not be denied merely on either or both of the following grounds, namely:—

(i) that, subsequent to the gift, the institution or fund has become ineligible to the deduction under section 80F of the Income-tax Act due to non-compliance with any of the provisions of that section;

(ii) that the deduction under section 80F of the Income-tax Act is denied to the institution or fund in relation to any income arising to it from any investment referred to in clause (h) of sub-section (4) of that section where the aggregate of the funds invested by it in a concern referred to in the said clause (h) does not exceed five per cent. of the capital of that concern.

185. After section 46A of the Gift-tax Act, the following section shall be inserted with effect from the 1st day of April, 1988, namely:—

Insertion of
new section
47.

"47. (1) If any difficulty arises in giving effect to the provisions of this Act as amended by the Direct Tax Laws (Amendment) Act, 1987, the Central Government may, by order, do anything not inconsistent with such provisions for the purpose of removing the difficulty:

Power to
remove
difficulties.

Provided that no such order shall be made after the expiration of three years from the 1st day of April, 1988.

omitted by Act 3 of 1989, s. 95 (w.e.f. 1.4.1989).

(2) Every order made under sub-section (1) shall be laid before each House of Parliament.”

Conse-
quential
amend-
ments.

136. The following amendments (being amendments of a consequential nature) shall be made in the Gift-tax Act with effect from the 1st day of April, 1989, namely:—

(1) in section 19A,—

(a) in sub-section (4),—

(i) for the words, brackets and figures “a return under sub-section (2) of section 13”, the words, brackets and figures “a return under sub-section (1) of section 13” shall be substituted;

(ii) for the words, brackets and figures “as if the notice were a notice issued under sub-section (2) of section 13”, the words, brackets and figures “as if the notice were a notice issued under clause (i) of sub-section (4) of section 15” shall be substituted;

(b) in sub-section (6), for the words, brackets and figures “sub-section (2) of section 13”, at both the places where they occur, the words, brackets and figures “clause (i) of sub-section (4) of section 15” shall be substituted;

~~(2) in section 23, in sub-section (1), after the word and figures “section 22”, the words, figures and letter “or section 22A” shall be inserted;~~

(3) in section 34, in sub-section (1), for clauses (b), (c), (d) and (e), the following clauses shall be substituted, namely:—

“(b) the Deputy Director or Deputy Commissioner or Director or Commissioner or Deputy Commissioner (Appeals) or Commissioner (Appeals) may amend any order passed by him under section 17A;

(c) the Deputy Commissioner (Appeals) or Commissioner (Appeals) may amend any order passed by him under section 22 or section 22A;

(d) the Commissioner may amend any order passed by him under section 24;

(e) the Appellate Tribunal may amend any order passed by it under section 23 or section 25.”

CHAPTER V

AMENDMENTS TO THE COMPANIES (PROFITS) SURTAX ACT, 1964

Substi-
tution of
new
autho-
rities.

187. In the Companies (Profits) Surtax Act, 1964 (hereafter in this Chapter referred to as the Surtax Act), save as otherwise expressly provided in this Act, and unless the context otherwise requires, references to any authority specified in column (1) of the Table below shall be substituted with effect from the 1st day of April, 1988 by references to the authority or authorities specified in the corresponding entry in column

7 of 1964.

to be omitted by Act 3 of 1988, S. 95 (w.e.f. 1.4.1989).

(2) of the said Table, and such consequential changes as the rules of grammar may require, shall also be made:

TABLE

(1)	(2)
Commissioner	Chief Commissioner or Commissioner
Inspecting Assistant Commissioner	Deputy Commissioner
Income-tax Officer	Assessing Officer

188. For section 3 of the Surtax Act, the following section shall be substituted, with effect from the 1st day of April 1988, namely:—

Substitution of new section for section 3.

“3. (1) The income-tax authorities specified in section 116 of the Income-tax Act shall be the authorities for the purposes of this Act and every such authority shall exercise the powers and perform the functions of a tax authority under this Act in respect of any company, and for this purpose his jurisdiction under this Act shall be the same as he has under the Income-tax Act by virtue or orders or directions issued under section 120 of that Act (including orders or directions assigning concurrent jurisdiction) or under any other provision of that Act.

Tax authorities.

(2) The Board may, from time to time, issue such orders, instructions and directions to other tax authorities as it may deem fit for the proper administration of this Act, and such authorities and all other persons employed in the execution of this Act shall observe and follow such orders, instructions and directions of the Board:

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 Commissioner (Appeals) in the exercise of his appellate functions.”

189. In section 18 of the Surtax Act,—

(a) for the figures, brackets, letter and word “2(43B) and (44)”, the figures and brackets “2(44)” shall be substituted;

(b) for the figures and letters “118, 125, 125A, 129, 130, 130A”, the figures “116, 117, 118, 119, 120, 129” shall be substituted with effect from the 1st day of April, 1988.

Amendment of section 18.

THE PARSI MARRIAGE AND DIVORCE (AMENDMENT)
ACT, 1988

No. 5 OF 1988

[25th March, 1988.]

An Act further to amend the Parsi Marriage and Divorce Act, 1936.

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

Short
title
and
com-
mence-
ment.

1. (1) This Act may be called the Parsi Marriage and Divorce (Amendment) Act, 1988.

(2) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

Amend-
ment of
section 3.

2. In the Parsi Marriage and Divorce Act, 1936 (hereinafter referred to as the principal Act), section 3 shall be re-numbered as sub-section (1) thereof, and—

3 of 1936.

(a) in sub-section (1) as so re-numbered, for clause (c), the following clause shall be substituted, namely:—

“(c) in the case of any Parsi (whether such Parsi has changed his or her religion or domicile or not) who, if a male, has not completed twenty-one years of age, and if a female, has not completed eighteen years of age.”;

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

“(2) Notwithstanding that a marriage is invalid under any of the provisions of sub-section (1), any child of such marriage who would have been legitimate if the marriage had been valid, shall be legitimate.”.

Amend-
ment of
section 6.

3. In section 6 of the principal Act, the words “, or their fathers or guardians when they shall not have completed the age of twenty-one years,” shall be omitted.

Amend-
ment of
sections
19 and 20.

4. In sections 19 and 20 of the principal Act, for the words “by seven delegates”, the following shall be substituted, namely:—

“by five delegates, except in regard to—

(a) interlocutory applications and proceedings;

¹15.4 1988 *Vide* Notification No. S.O. 381 (E) dated 12.4.1988, Gazette of India, Extraordinary 1988 Pt. II Sec. 3 (ii)

(b) alimony and maintenance, both permanent as well as *pendente lite*;

(c) custody, maintenance and education of children; and

(d) all matters and proceedings other than the regular hearing of cases”.

5. In section 25 of the principal Act, after the words “being in force”, the words “involving moral turpitude” shall be inserted.

Amendment of section 25.

6. In the proviso to section 27 of the principal Act, for the word “three”, the word “two” shall be substituted.

Amendment of section 27.

7. In section 29 of the principal Act, in sub-section (1), the words “or where the marriage under this Act was solemnized” shall be added at the end.

Amendment of section 29.

8. In section 32 of the principal Act,—

Amendment of section 32.

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

“(bb) that the defendant has been incurably of unsound mind for a period of two years or upwards immediately preceding the filing of the suit or has been suffering continuously or intermittently from mental disorder of such kind and to such an extent that the plaintiff cannot reasonably be expected to live with the defendant.

Explanation.—In this clause,—

(a) the expression “mental disorder” means mental illness, arrested or incomplete development of mind, psychopathic disorder or any other disorder or disability of mind and includes schizophrenia;

(b) the expression “psychopathic disorder” means a persistent disorder or disability of mind (whether or not including subnormality of intelligence) which results in abnormally aggressive or seriously irresponsible conduct on the part of the defendant, and whether or not it requires or is susceptible to medical treatment;”;

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

“(dd) that the defendant has since the solemnization of the marriage treated the plaintiff with cruelty or has behaved in such a way as to render it in the judgment of the Court improper to compel the plaintiff to live with the defendant:

Provided that in every suit for divorce on this ground it shall be in the discretion of the Court whether it should grant a decree for divorce or for judicial separation only;”;

(iii) in clause (g), for the words “three years”, the words “two years” shall be substituted;

(iv) in clause (h),—

(1) the words "a decree or order for judicial separation has been passed against the defendant, or" shall be omitted;

(2) for the words "three years", the words "one year" shall be substituted;

(v) clause (i) shall be omitted;

(vi) in clause (j), after the word "Parsi", the words "by conversion to another religion" shall be inserted.

9. After section 32 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 32A and 32B.

"32A. (1) Either party to a marriage, whether solemnized before or after the commencement of the Parsi Marriage and Divorce (Amendment) Act, 1988, may sue for divorce also on the ground,—

Non-resumption of cohabitation or restitution of conjugal rights within one year in pursuance of a decree to be ground for divorce.

(i) that there has been no resumption of cohabitation as between the parties to the marriage for a period of one year or upwards after the passing of a decree for judicial separation in a proceeding to which they were parties; or

(ii) that there has been no restitution of conjugal rights as between the parties to the marriage for a period of one year or upwards after the passing of a decree for restitution of conjugal rights in a proceeding to which they were parties.

(2) No decree for divorce shall be granted under sub-section (1) if the plaintiff has failed or neglected to comply with an order for maintenance passed against him under section 40 of this Act or section 488 of the Code of Criminal Procedure, 1898 or section 125 of the Code of Criminal Procedure, 1973.

5 of 1898.
2 of 1974.

32B. (1) Subject to the provisions of this Act, a suit for divorce may be filed by both the parties to a marriage together, whether such marriage was solemnized before or after the commencement of the Parsi Marriage and Divorce (Amendment) Act, 1988, on the ground that they have been living separately for a period of one year or more, that they have not been able to live together and that they have mutually agreed that the marriage should be dissolved:

Divorce by mutual consent.

Provided that no suit under this sub-section shall be filed unless at the date of the filing of the suit one year has lapsed since the date of the marriage.

(2) The Court shall, on being satisfied, after hearing the parties and after making such inquiry as it thinks fit, that a marriage has been solemnized under this Act and the averments in the plaint are true and that the consent of either party to the suit was not obtained by force or fraud, pass a decree declaring the marriage to be dissolved with effect from the date of the decree."

10. In section 34 of the principal Act, the portion beginning with the words “, or on the ground that”, and ending with the words “with the defendant” shall be omitted. Amendment of section 34.
11. In section 35 of the principal Act, after the figures “32”, the figures and letter “, 32A” shall be inserted. Amendment of section 35.
12. For section 38 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 38.
- “38. Notwithstanding anything contained in any other law for the time being in force, no document shall be inadmissible in evidence in any proceeding at the trial of a suit under this Act on the ground that it is not duly stamped or registered.” Documentary evidence.
13. For sections 39 and 40 of the principal Act, the following sections shall be substituted, namely:— Substitution of new sections 39 and 40.
- “39. Where in any suit under this Act, it appears to the Court that either the wife or the husband, as the case may be, has no independent income sufficient for her or his support and the necessary expenses of the suit, it may, on the application of the wife or the husband, order the defendant to pay to the plaintiff, the expenses of the suit, and such weekly or monthly sum, during the suit, as, having regard to the plaintiff's own income and the income of the defendant, it may seem to the Court to be reasonable. Alimony pendente lite.
40. (1) Any Court exercising jurisdiction under this Act may, at the time of passing any decree or at any time subsequent thereto, on an application made to it for the purpose by either the wife or the husband, order that the defendant shall pay to the plaintiff for her or his maintenance and support, such gross sum or such monthly or periodical sum, for a term not exceeding the life of the plaintiff as having regard to the defendant's own income and other property, if any, the income and other property of the plaintiff, the conduct of the parties and other circumstances of the case, it may seem to the Court to be just, and any such payment may be secured, if necessary, by a charge on the movable or immovable property of the defendant. Permanent alimony and maintenance.
- (2) The Court if it is satisfied that there is change in the circumstances of either party at any time after it has made an order under sub-section (1); it may, at the instance of either party, vary, modify or rescind any such order in such manner as the Court may deem just.
- (3) The Court if it is satisfied that the party in whose favour an order has been made under this section has remarried or, if such party is the wife, that she has not remained chaste, or, if such party is the husband, that he had sexual intercourse with any woman outside wedlock, it may, at the instance of the other party, vary,

modify or rescind any such order in such manner as the Court may deem just."

Amendment of section 41.

14. In section 41 of the principal Act,—

(a) after the words "approved by the Court", the words "or to a guardian appointed by the Court" shall be inserted;

(b) after the words "a new trustee," the words "or guardian," shall be inserted.

Substitution of new section for section 43.

15. For section 43 of the principal Act, the following section shall be substituted, namely:—

Suits to be heard *in camera* and may not be printed or published.

"43. (1) Every suit filed under this Act shall be tried *in camera* and it shall not be lawful for any person to print or publish any matter in relation to any such case except a judgment of the Court printed or published with the previous permission of the Court.

(2) If any person prints or publishes any matter in contravention of the provisions contained in sub-section (1), he shall be punishable with fine which may extend to one thousand rupees."

Amendment of section 44.

16. In section 44 of the principal Act, for the word "five", the word "three" shall be substituted.

Amendment of section 45.

17. To section 45 of the principal Act, the following provisos shall be added, namely:—

"Provided that the presiding Judge shall read out to the delegates the relevant sections of this Act, and may, if he considers it necessary so to do, explain the same:

Provided further that a *verbatim* record shall be made of what the presiding Judge reads out or explains to the delegates."

Amendment of section 47.

18. Section 47 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) Every appeal under sub-section (1) shall be heard by a Bench of two Judges of the High Court."

Amendment of section 48.

19. In section 48 of the principal Act,—

(a) the word "hereby" shall be omitted;

(b) the words ", as if the prior marriage had been terminated by death" shall be omitted.

Amendment of section 49.

20. In section 49 of the principal Act, for the words "sixteen years", the words "eighteen years" shall be substituted.

THE APPROPRIATION (VOTE ON ACCOUNT) ACT, 1988

No. 6 OF 1988

[29th March, 1988.]

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 1988-89.

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

1. This Act may be called the Appropriation (Vote on Account) Act, 1988.

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 forty thousand four hundred and fifty-six crores and fifty lakhs rupees towards defraying the several charges which will come in course of payment during the financial year 1988-89.

Withdrawal of Rs. 40456,50,00,000 from and out of the Consolidated Fund of India for the financial year 1988-89.

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

Appropriation.

4. References to Ministries or Departments in the Schedule are to such Ministries or Departments as existing immediately before the 10th February, 1988 and shall on or after that date be construed as references to the appropriate Ministries or Departments as reconstituted from time to time.

Construction of references to Ministries and Departments in Schedule.

THE SCHEDULE
(See sections 2, 3 and 4)

1 No. of Vote	2 Services and purposes	3 Sums not exceeding			
		Voted by Parliament	Charged on the Consolidated Fund	Total	
		Rs.	Rs.	Rs.	
1	Agriculture	Revenue	67,60,00,000	1,00,000	67,61,00,000
		Capital	1,24,00,000	46,66,00,000	47,90,00,000
2	Other Services of Department of Agriculture and Cooperation	Revenue	42,40,00,000	..	42,40,00,000
		Capital	29,34,00,000	3,93,00,000	33,27,00,000
3	Department of Agricultural Research and Education	Revenue	33,53,00,000	..	33,53,00,000
4	Department of Rural Development	Revenue	778,13,00,000	..	778,13,00,000
		Capital	5,00,000	..	5,00,000
5	Department of Fertilizers	Revenue	898,42,00,000	1,00,000	898,43,00,000
		Capital	70,67,00,000	16,00,000	70,83,00,000
6	Civil Aviation	Revenue	8,82,00,000	..	8,82,00,000
		Capital	2,17,00,000	..	2,17,00,000
7	Department of Commerce	Revenue	202,59,00,000	..	202,59,00,000
		Capital	32,38,00,000	..	32,38,00,000
8	Department of Supply	Revenue	3,45,00,000	5,00,000	3,50,00,000
9	Ministry of Communications	Revenue	1,25,00,000	..	1,25,00,000
		Capital	27,00,000	..	27,00,000
10	Postal Services	Revenue	181,82,00,000	1,00,000	181,83,00,000
		Capital	7,81,00,000	..	7,81,00,000
11	Telecommunication Services	Revenue	404,25,00,000	7,00,000	404,32,00,000
		Capital	229,00,00,000	1,00,000	229,01,00,000
12	Ministry of Defence	Revenue	102,68,00,000	..	102,68,00,000
		Capital	28,21,00,000	1,08,00,000	29,29,00,000
13	Defence Pensions	Revenue	183,26,00,000	8,00,000	183,34,00,000
14	Defence Services—Army	Revenue	1145,83,00,000	21,00,000	1146,04,00,000
15	Defence Services—Navy	Revenue	130,12,00,000	2,00,000	130,14,00,000
16	Defence Services—Air Force	Revenue	298,72,00,000	2,00,000	298,74,00,000
17	Defence Ordnance Factories	Revenue	20,65,00,000	2,00,000	20,67,00,000
18	Capital Outlay on Defence Services	Capital	643,24,00,000	2,12,00,000	645,36,00,000
19	Department of Coal	Revenue	22,29,00,000	..	22,29,00,000
		Capital	255,67,00,000	..	255,67,00,000
20	Department of Power	Revenue	56,41,00,000	..	56,41,00,000
		Capital	243,49,00,000	16,16,00,000	259,65,00,000
21	Department of Non-conventional Energy Sources	Revenue	16,11,00,000	..	16,11,00,000
		Capital	42,00,000	..	42,00,000

1	2	3			
		Sums not exceeding			
		No. of Vote	Services and purposes	Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.	
22	Ministry of Environment and Forests	Revenue	31,44,00,000	..	31,44,00,000
		Capital	49,00,000	1,00,00,000	1,49,00,000
23	Ministry of External Affairs	Revenue	69,26,00,000	1,00,000	69,27,00,000
		Capital	15,50,00,000	..	15,50,00,000
24	Department of Economic Affairs	Revenue	70,58,00,000	1,00,000	70,59,00,000
		Capital	27,79,00,000	..	27,79,00,000
25	Currency, Coinage and Stamps	Revenue	46,40,00,000	1,00,000	46,41,00,000
		Capital	33,34,00,000	1,00,000	33,35,00,000
26	Payments to Financial Institutions	Revenue	54,94,00,000	..	54,94,00,000
		Capital	227,81,00,000	..	227,81,00,000
27	Pensions	Revenue	82,56,00,000	78,00,000	83,34,00,000
	CHARGED.—Interest Payments	Revenue	..	2356,18,00,000	2356,18,00,000
29	Transfers to State Governments	Revenue	1150,20,00,000	1505,45,00,000	2655,65,00,000
		Capital	17,50,00,000	2733,87,00,000	2751,37,00,000
30	Loans to Government Servants, etc.	Capital	27,50,00,000	..	27,50,00,000
	CHARGED.—Repayment of Debt	Capital	..	22196,97,00,000	22196,97,00,000
32	Department of Expenditure	Revenue	134,04,00,000	..	134,04,00,000
		Capital	30,00,000	..	30,00,000
33	Audit	Revenue	32,32,00,000	70,00,000	33,02,00,000
34	Department of Revenue	Revenue	34,78,00,000	..	34,78,00,000
		Capital	24,00,000	..	24,00,000
35	Direct Taxes	Revenue	26,58,00,000	1,00,000	26,59,00,000
		Capital	20,00,00,000	..	20,00,00,000
36	Indirect Taxes	Revenue	57,23,00,000	1,00,000	57,24,00,000
		Capital	12,77,00,000	..	12,77,00,000
37	Department of Food	Revenue	406,37,00,000	1,00,000	406,38,00,000
		Capital	20,81,00,000	3,00,000	20,84,00,000
38	Department of Civil Supplies	Revenue	8,10,00,000	..	8,10,00,000
		Capital	71,00,000	64,00,000	1,35,00,000
39	Department of Health	Revenue	65,55,00,000	..	65,55,00,000
		Capital	24,74,00,000	1,00,000	24,75,00,000
40	Department of Family Welfare	Revenue	113,52,00,000	..	113,52,00,000
		Capital	1,00,000	..	1,00,000
41	Ministry of Home Affairs	Revenue	26,46,00,000	4,00,000	26,50,00,000
42	Cabinet	Revenue	2,88,00,000	..	2,88,00,000

1 No. of Vote	2 Services and purposes		3		
			Voted by Parlia- ment	Sums not exceeding Charged on the Consolidated Fund	
			Rs.	Rs.	Rs.
43	Police	Revenue Capital	187,86,00,000 17,54,00,000	3,00,000 1,34,00,000	187,89,00,000 18,88,00,000
44	Other Expenditure of the Ministry of Home Affairs	Revenue Capital	42,45,00,000 17,91,00,000	1,00,000 2,47,00,000	42,46,00,000 20,38,00,000
45	Transfers to Union terri- tory Governments	Revenue Capital	9,08,00,000 4,73,00,000	.. ..	9,08,00,000 4,73,00,000
46	Department of Education	Revenue Capital	261,85,00,000 12,00,000	.. 50,00,000	261,85,00,000 62,00,000
47	Department of Youth Affairs and Sports	Revenue Capital	15,74,00,000 42,00,000	.. ..	15,74,00,000 42,00,000
48	Art and Culture	Revenue Capital	25,57,00,000 3,42,00,000	.. ..	25,57,00,000 3,42,00,000
49	Department of Women and Child Development	Revenue	44,06,00,000	..	44,06,00,000
50	Department of Industrial Development	Revenue Capital	82,40,00,000 29,91,00,000	67,00,000 56,00,000	83,07,00,000 30,47,00,000
51	Department of Company Affairs	Revenue	1,19,00,000	1,00,000	1,20,00,000
52	Department of Chemicals and Petrochemicals	Revenue Capital	1,58,00,000 19,34,00,000	.. ..	1,58,00,000 19,34,00,000
53	Department of Public Enterprises	Revenue Capital	4,08,00,000 77,99,00,000	24,00,000 ..	4,32,00,000 77,99,00,000
54	Ministry of Information and Broadcasting	Revenue Capital	10,89,00,000 72,00,000	1,00,000 ..	10,90,00,000 72,00,000
55	Broadcasting Services	Revenue Capital	69,82,00,000 53,17,00,000	1,00,000 1,00,000	69,83,00,000 53,18,00,000
56	Ministry of Labour	Revenue Capital	41,28,00,000 12,00,000	1,00,000 ..	41,29,00,000 12,00,000
57	Law and Justice	Revenue	5,37,00,000	1,00,00,000	6,37,00,000
58	Ministry of Parliamentary Affairs	Revenue	14,00,000	..	14,00,000
59	Ministry of Personnel, Public Grievances and Pensions	Revenue Capital	5,95,00,000 ..	1,00,000 67,00,000	5,96,00,000 67,00,000
60	Ministry of Petroleum and Natural Gas	Revenue Capital	28,91,00,000 23,48,00,000	.. ..	28,91,00,000 23,48,00,000
61	Planning	Revenue	2,30,00,000	..	2,30,00,000
62	Department of Statistics	Revenue	5,87,00,000	..	5,87,00,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
63	Ministry of Programme Implementation . Revenue	13,00,000	..	13,00,000
64	Department of Science and Technology . Revenue Capital	27,75,00,000 3,08,00,000	.. ..	27,75,00,000 3,08,00,000
65	Department of Scientific and Industrial Research . Revenue Capital	33,99,00,000 78,00,000	.. ..	33,99,00,000 78,00,000
66	Department of Biotech- nology . Revenue Capital	6,86,00,000 92,00,000	.. ..	6,86,00,000 92,00,000
67	Department of Steel . Revenue Capital	8,60,00,000 108,24,00,000	.. 2,51,00,000	8,60,00,000 110,75,00,000
68	Department of Mines . Revenue Capital	19,69,00,000 37,77,00,000	1,00,000 ..	19,70,00,000 37,77,00,000
69	Surface Transport . Revenue Capital	5,45,00,000 24,89,00,000	.. 67,00,000	5,45,00,000 25,56,00,000
70	Roads . Revenue Capital	47,41,00,000 81,05,00,000	1,00,000 7,66,00,000	47,42,00,000 88,71,00,000
71	Ports, Lighthouses and Shipping . Revenue Capital	18,78,00,000 54,80,00,000	.. 1,67,00,000	18,78,00,000 56,47,00,000
72	Ministry of Textiles . Revenue Capital	87,26,00,000 47,95,00,000	.. 1,54,00,000	87,26,00,000 49,49,00,000
73	Ministry of Tourism . Revenue Capital	5,89,00,000 2,66,00,000	.. ..	5,89,00,000 2,66,00,000
74	Urban Development and Housing . Revenue Capital	13,57,00,000 18,53,00,000	43,00,000 3,28,00,000	14,00,00,000 21,81,00,000
75	Public Works . Revenue Capital	27,67,00,000 12,71,00,000	.. 3,00,000	27,67,00,000 12,74,00,000
76	Stationery and Printing . Revenue Capital	12,66,00,000 1,00,00,000	1,00,000 ..	12,67,00,000 1,00,00,000
77	Ministry of Water Resources . Revenue Capital	49,60,00,000 2,77,00,000	1,00,000 7,93,00,000	49,61,00,000 10,70,00,000
78	Ministry of Welfare . Revenue Capital	47,67,00,000 14,00,000	41,74,00,000 ..	89,41,00,000 14,00,000
79	Atomic Energy . Revenue Capital	51,67,00,000 82,42,00,000	1,00,000 ..	51,68,00,000 82,42,00,000
80	Nuclear Power Schemes . Revenue Capital	56,53,00,000 38,00,00,000	.. ..	56,53,00,000 38,00,00,000
81	Department of Electronics . Revenue Capital	13,47,00,000 8,41,00,000	.. ..	13,47,00,000 8,41,00,000
82	Department of Ocean Development . Revenue Capital	4,34,00,000 48,00,000	.. ..	4,34,00,000 48,00,000
83	Department of Space . Revenue Capital	46,36,00,000 44,33,00,000	1,00,000 1,00,000	46,37,00,000 44,34,00,000
84	Lok Sabha . Revenue	2,49,00,000	1,00,000	2,50,00,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
85	Rajya Sabha . . . Revenue	93,00,000	1,00,000	94,00,000
	<i>CHARGED.— Staff, Household and Allowances of the President</i> . . . Revenue		37,00,000	37,00,000
87	Secretariat of the Vice-President . . . Revenue	3,00,000	..	3,00,000
	<i>CHARGED.— Union Public Ser- vice Commission</i> . . . Revenue	..	1,82,00,000	1,82,00,000
89	Delhi . . . Revenue	115,72,00,000	67,00,000	116,39,00,000
	Capital	83,93,00,000	4,20,00,000	88,13,00,000
90	Andaman and Nicobar Islands . . . Revenue	16,69,00,000	1,00,000	16,70,00,000
	Capital	12,04,00,000	..	12,04,00,000
91	Dadra and Nagar Haveli . . . Revenue	3,08,00,000	..	3,08,00,000
	Capital	95,00,000	..	95,00,000
92	Lakshadweep . . . Revenue	4,49,00,000	..	4,49,00,000
	Capital	1,80,00,000	..	1,80,00,000
93	Chandigarh . . . Revenue	18,48,00,000	41,00,000	18,89,00,000
	Capital	6,21,00,000	17,00,000	6,38,00,000
94	Daman and Diu . . . Revenue	2,07,00,000	..	2,07,00,000
	Capital	1,93,00,000	..	1,93,00,000
	TOTAL	11507,39,00,000	28949,11,00,000	40456,50,00,000

THE APPROPRIATION ACT, 1988

No. 7 of 1988

[29th March, 1988.]

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 1987-88.

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

1. This Act may be called the Appropriation Act, 1988.
2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of three thousand, six hundred and sixty-nine crores and thirty-three lakhs rupees towards defraying the several charges which will come in course of payment during the financial year 1987-88, 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.

Short title.

Issue of
Rs. 3669,
33,00,000
out of the
Consolida-
ted Fund
of India
for the
year
1987-88.

Appropri-
ation.

THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Agriculture Revenue	32,41,00,000	..	32,41,00,000
2	Other Services of Department of Agriculture and Co-operation Revenue	41,13,00,000	..	41,13,00,000
	Capital	11,35,00,000	..	11,35,00,000
6	Department of Commerce Revenue	1,00,000	..	1,00,000
	Capital	19,00,00,000	..	19,00,00,000
7	Department of Supply Revenue	1,19,00,000	..	1,19,00,000
10	Telecommunication Services Revenue	213,66,00,000	50,00,00,000	50,00,00,000
	Capital	213,66,00,000	..	213,66,00,000
12	Defence Pensions Revenue	508,51,00,000	71,00,000	509,22,00,000
13	Defence Services—Army Revenue	127,84,00,000	56,00,000	128,40,00,000
14	Defence Services—Navy Revenue	93,22,00,000	5,00,000	93,27,00,000
15	Defence Services—Air Force Revenue	75,56,00,000	..	75,56,00,000
15A	Defence Ordnance Factories Revenue	64,82,00,000	9,00,000	64,91,00,000
17	Department of Coal Capital	1,00,000	..	1,00,000
18	Department of Power Capital	2,00,000	60,00,00,000	60,02,00,000
21	Ministry of External Affairs Revenue	28,86,00,000	..	28,86,00,000
	Capital	1,00,000	..	1,00,000
22	Department of Economic Affairs Revenue	92,06,00,000	..	92,06,00,000
23	Currency, Coinage and Stamps Revenue	..	1,00,000	1,00,000
24	Payments to Financial Institutions Revenue	70,42,00,000	..	70,42,00,000
	Capital	187,97,00,000	..	187,97,00,000
	CHARGED.—Interest Payments Revenue	..	800,00,00,000	800,00,00,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
27	Transfers to State Govern- ments	Revenue 69,00,00,000 Capital 22,76,00,000	220,79,00,000 90,00,00,000	289,79,00,000 112,76,00,000
28	Loans to Government Servants, etc.	Capital 5,00,00,000	..	5,00,00,000
31	Audit	Revenue 16,26,00,000	27,00,000	16,53,00,000
33	Direct Taxes	Revenue 23,55,00,000	..	23,55,00,000
34	Indirect Taxes	Revenue 11,41,00,000	13,00,00,000	24,41,00,000
37	Department of Health	Revenue 2,00,000 Capital 8,49,00,000	.. ..	2,00,000 8,49,00,000
39	Ministry of Home Affairs	Revenue 7,31,00,000	4,00,000	7,35,00,000
41	Police	Revenue 21,02,00,000 Capital ..	18,00,000 2,53,00,000	21,20,00,000 2,53,00,000
42	Other Expenditure of the Ministry of Home Affairs	Capital ..	19,00,000	19,00,000
44	Department of Education	Revenue 3,00,000	..	3,00,000
46	Art and Culture	Revenue 2,00,000 Capital 1,00,000	.. ..	2,00,000 1,00,000
48	Department of Industrial Development	Revenue 2,24,00,000 Capital 8,00,00,000	.. ..	2,24,00,000 8,00,00,000
49	Department of Company Affairs	Revenue 1,00,000	10,00,000	11,00,000
50	Department of Chemicals and Petro-Chemicals	Revenue 1,48,00,000	..	1,48,00,000
51	Department of Public Enterprises	Revenue 334,29,00,000	..	334,29,00,000
53	Broadcasting Services	Revenue 8,59,00,000	..	8,59,00,000
54	Ministry of Labour	Revenue 6,58,00,000	..	6,58,00,000
55	Law and Justice	Revenue ..	55,00,000	55,00,000
56	Ministry of Parliamentary Affairs	Revenue 4,00,000	..	4,00,000
57	Ministry of Personnel, Public Grievances and Pensions	Revenue 81,00,000	..	81,00,000
58	Ministry of Petroleum and Natural Gas	Capital 26,00,000	..	26,00,000
60	Department of Statistics	Revenue 63,00,000	..	63,00,000
62	Department of Science and Technology	Revenue 1,00,000	..	1,00,000
65	Department of Steel	Revenue 4,37,00,000	..	4,37,00,000
66	Department of Mines	Revenue 12,73,00,000 Capital 1,00,000	.. ..	12,73,00,000 1,00,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
67	Ministry of Textiles . Revenue	65,09,00,000	..	65,09,00,000
	Capital	11,96,00,000	..	11,96,00,000
69	Surface Transport . Capital	13,14,00,000	..	13,14,00,000
70	Roads . Revenue	77,00,000	1,00,000	78,00,000
	Capital	24,42,00,000	..	24,42,00,000
71	Ports, Lighthouses and Shipping . Revenue	1,00,000	..	1,00,000
	Capital	33,61,00,000	..	33,61,00,000
72	Ministry of Civil Aviation. Revenue	1,00,000	..	1,00,000
73	Urban Development and Housing . Revenue	2,79,00,000	37,00,000	3,16,00,000
74	Public Works . Revenue	5,06,00,000	1,00,000	5,07,00,000
	Capital	1,00,000	7,00,000	8,00,000
75	Stationery and Printing . Revenue	2,64,00,000	1,00,000	2,65,00,000
	Capital	4,76,00,000	..	4,76,00,000
77	Ministry of Welfare . Capital	25,00,000	..	25,00,000
79	Nuclear Power Schemes Capital	1,00,000	..	1,00,000
82	Department of Space . Revenue	6,59,00,000	..	6,59,00,000
	Capital	1,00,000	..	1,00,000
84	Rajya Sabha . Revenue	43,00,000	..	43,00,000
	CHARGED.— <i>Staff, Household and Allowances of the President</i> . Revenue	..	27,00,000	27,00,000
	CHARGED.— <i>Union Public Service Commission</i> . Revenue	..	1,04,00,000	1,04,00,000
88	Delhi . Revenue	87,75,00,000	35,00,000	88,10,00,000
	Capital	13,00,000	..	13,00,000
89	Andaman and Nicobar Islands . Revenue	13,37,00,000	..	13,37,00,000
90	Dadra and Nagar Haveli Revenue	2,46,00,000	..	2,46,00,000
	Capital	69,00,000	..	69,00,000
91	Lakshadweep . Revenue	3,19,00,000	..	3,19,00,000
	Capital	5,73,00,000	..	5,73,00,000
92	Chandigarh . Revenue	8,66,00,000	54,00,000	9,20,00,000
	Capital	1,07,00,000	..	1,07,00,000
	TOTAL	2427,59,00,000	1241,74,00,000	3669,33,00,000

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**THE PUNJAB APPROPRIATION (VOTE ON ACCOUNT)
ACT, 1988**

No. 8 OF 1988

[29th March, 1988.]

An Act to provide for the withdrawal of certain sums from and out of the Consolidated Fund of the State of Punjab for the services of a part of the financial year 1988-89.

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

1. This Act may be called the Punjab Appropriation (Vote on Account) Act, 1988.

Short title.

2. From and out of the Consolidated Fund of the State of Punjab there may be withdrawn sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of two thousand five hundred and eighty-five crores, ninety-five lakhs and twenty-five thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1988-89.

Withdrawal of Rs. 2585,95,25,000 from and out of the Consolidated Fund of the State of Punjab for the financial year 1988-89.

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

Appropriation.

THE SCHEDULE

(See sections 2 and 3)

1	2	3			
		Sums not exceeding			
		Voted by Parliament	Charged on the Consolidated Fund	Total	
No. of Vote/Appropriation	Services and purposes	Rs.	Rs.	Rs.	
1	Agriculture and Forests	Revenue	37,04,05,000	1,78,000	37,05,83,000
		Capital	17,21,63,000	..	17,21,63,000
2	Animal Husbandry and Fisheries	Revenue	12,96,66,000	1,40,000	12,98,06,000
		Capital	81,50,000	..	81,50,000
3	Co-operation	Revenue	6,78,77,000	15,000	6,78,92,000
		Capital	22,80,42,000	..	22,80,42,000
4	Defence Services Welfare	Revenue	1,60,22,000	9,000	1,60,31,000
		Capital	6,50,000	..	6,50,000
5	Education	Revenue	178,88,29,000	2,58,30,000	181,46,59,000
		Capital	6,32,000	..	6,32,000
6	Elections	Revenue	82,66,000	7,000	82,73,000
7	Excise and Taxation	Revenue	4,28,84,000	32,000	4,29,16,000
8	Finance	Revenue	160,49,97,000	126,85,58,000	287,35,55,000
		Capital	3,18,30,000	662,21,52,000	665,39,92,000
9	Food and Supplies	Revenue	1,56,15,000	..	1,56,15,000
		Capital	515,44,26,000	1,80,000	515,46,06,000
10	General Administration	Revenue	6,63,50,000	23,57,000	6,87,07,000
11	Health and Family Welfare	Revenue	66,43,94,000	21,00,000	66,64,94,000
12	Home Affairs and Justice	Revenue	55,70,16,000	85,65,000	56,55,81,000
		Capital	1,75,00,000	..	1,75,00,000
13	Industries	Revenue	6,32,43,000	55,000	6,32,98,000
		Capital	7,92,32,000	..	7,92,32,000
14	Information and Public Relations	Revenue	1,51,85,000	8,000	1,51,93,000
15	Irrigation and Power	Revenue	56,53,64,000	..	56,53,64,000
		Capital	381,47,24,000	..	381,47,24,000
16	Labour and Employment	Revenue	1,86,10,000	50,000	1,86,60,000
17	Local Government, Housing and Urban Development	Revenue	1,71,42,000	5,000	1,71,47,000
		Capital	10,22,00,000	..	10,22,00,000
18	Personnel and Administrative Reforms	Revenue	29,11,000	11,07,000	40,18,000
19	Planning	Revenue	3,80,96,000	1,000	3,80,97,000

1	2	3		
		Voted by Parliament	Sums not exceeding	
No. of Vote/ Appropriation	Services and purposes		Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
20	Programme Implementation . . . Revenue	2,00,000	..	2,00,000
21	Public Works . . . Revenue	62,97,48,000	14,80,000	63,12,28,000
	Capital	40,48,80,000	..	40,48,80,000
22	Revenue and Rehabilitation . . . Revenue	16,03,66,000	13,34,000	16,17,00,000
23	Rural Development and Panchayats . . . Revenue	22,35,42,000	22,000	22,35,64,000
	Capital	23,00,000	..	23,00,000
24	Science, Technology and Environment . . . Revenue	11,50,000	..	11,50,000
	Capital	61,00,000	..	61,00,000
25	Social and Women's Welfare and Welfare of Scheduled Castes and Backward Classes . . . Revenue	20,62,08,000	25,000	20,62,33,000
	Capital	71,50,000	..	71,50,000
26	Technical Education and Industrial Training . . . Revenue	7,63,24,000	50,000	7,63,74,000
	Capital	15,17,000	..	15,17,000
27	Tourism and Cultural Affairs . . . Revenue	88,68,000	98,000	89,66,000
	Capital	1,82,48,000	..	1,82,48,000
28	Transport . . . Revenue	44,15,75,000	20,40,000	44,36,15,000
	Capital	6,54,00,000	..	6,54,00,000
29	Vigilance . . . Revenue	71,18,000	2,000	71,20,000
	TOTAL	1792,31,15,000	793,64,10,000	2585,95,25,000

THE PUNJAB APPROPRIATION ACT, 1988

No. 9 OF 1988

[29th March, 1988.]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Punjab for the services of the financial year 1987-88.

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

Short title. 1. This Act may be called the Punjab Appropriation Act, 1988.

Issue of
Rs. 5,93,
72,77,000
out of the
Conso-
lidated
Fund of
the
State of
Punjab
for the
financial
year
1987-88.

2. From and out of the Consolidated Fund of the State of Punjab there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of five hundred and ninety-three crores, seventy-two lakhs and seventy-seven thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1987-88 in respect of the services specified in column 2 of the Schedule.

Appro-
priation.

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

THE SCHEDULE
(See sections 2 and 3)

1	2	3		
		Sums not exceeding		
No. of Vote/Appropriation	Services and purposes	Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Agriculture and Forests Revenue	6,32,06,000	2,44,000	6,34,50,000
2	Animal Husbandry and Fisheries . . . Revenue	2,91,78,000		2,91,78,000
	Capital	1,00,000		1,00,000
	Co-operation . . . Revenue	66,64,000		66,64,000
	Capital	2,52,36,000		2,52,36,000
	Defence Services Welfare . . . Capital	1,07,00,000		1,07,00,000
	Education . . . Revenue	82,29,08,000	5,53,30,000	87,82,38,000
8	Excise and Taxation . Revenue	1,18,67,000	30,000	1,18,97,000
10	Food and Supplies . Revenue	55,94,000		55,94,000
11	General Administration Revenue		40,66,000	40,66,000
12	Health and Family Welfare . . . Revenue	18,99,55,000		18,99,55,000
13	Home Affairs and Justice . . . Revenue	49,33,86,000	52,08,000	49,85,94,000
	Capital	3,60,00,000		3,60,00,000
14	Industries . . . Revenue		20,000	20,000
	Capital	1,70,00,000		1,70,00,000
15	Information and Public Relations . . . Revenue	94,06,000		94,06,000
16	Irrigation and Power . . Revenue	1,41,89,95,000	20,89,000	1,42,10,84,000
	Capital	1,89,00,55,000		1,89,00,55,000
17	Labour and Employment Revenue	48,88,000		48,88,000
18	Local Government, Housing and Urban Development . . Revenue	1,41,76,000	55,000	1,42,31,000
19	Personnel and Administrative Reforms . Revenue		7,22,000	7,22,000
20	Planning . . . Revenue	8,91,000		8,91,000
21	Public Works . . . Revenue	8,91,98,000	6,50,000	8,98,48,000
	Capital		15,20,000	15,20,000

1	2	3		
		Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
No. of Vote/Appropriation	Services and purposes	Rs.	Rs.	Rs.
22	Revenue and Rehabilitation Revenue	64,09,73,000	5,20,000	64,14,93,000
23	Rural Development and Panchayats Revenue	2,73,79,000	1,48,000	2,75,27,000
24	Science, Technology and Environment Capital	11,46,000	..	11,46,000
25	Social and Women's Welfare and Welfare of Scheduled Castes and Backward Classes Revenue	3,12,16,000	..	3,12,16,000
26	Technical Education and Industrial Training Revenue	68,79,000	..	68,79,000
27	Tourism and Cultural Affairs Revenue	..	42,000	42,000
28	Transport Revenue	69,00,000	..	69,00,000
	Capital	1,24,00,000	..	1,24,00,000
29	Vigilance Revenue	3,37,000	..	3,37,000
	TOTAL	5,86,66,33,000	7,06,44,000	5,93,72,77,000

THE DELHI ADMINISTRATION (AMENDMENT) ACT, 1988

No. 10 of 1988

[29th March, 1988]

An Act further to amend the Delhi Administration Act, 1966.

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

1. (1) This Act may be called the Delhi Administration (Amendment) Act, 1988.

Short title and commencement.

(2) It shall be deemed to have come into force on the 24th day of December, 1987.

19 of 1966.

2. In section 10 of the Delhi Administration Act, 1966 (hereinafter referred to as the principal Act), in the proviso, for the words "Provided that the said period", the following shall be substituted, namely:—

Amendment of section 10.

"Provided that the Central Government may, by notification in the Official Gazette, extend the said period for reasons to be specified in the notification by such period not exceeding one year at a time as it thinks fit, so, however, that the total period so extended shall not exceed three years.

Provided further that the said period or extended period".

Ord. 10 of 1987.

3. (1) The Delhi Administration (Amendment) Ordinance, 1987, is hereby repealed.

Repeal and saving.

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

THE DELHI MUNICIPAL CORPORATION (AMENDMENT)
ACT, 1988

No. 11 OF 1988

[29th March, 1988.]

An Act further to amend the Delhi Municipal Corporation Act, 1957.

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

Short
title
and com-
mence-
ment.

1. (1) This Act may be called the Delhi Municipal Corporation (Amendment) Act, 1988.

(2) It shall be deemed to have come into force on the 24th day of December, 1987.

Amend-
ment of
section 4.

2. In the Delhi Municipal Corporation Act, 1957 (hereinafter referred to as the principal Act), in sub-section (1) of section 4, for the proviso, the following proviso shall be substituted, namely:—

“Provided that the Central Government may, by notification in the Official Gazette, extend for reasons to be specified in the notification, the term of office of all the councillors and aldermen by such period not exceeding one year at a time as it thinks fit, so, however, that the total period so extended shall not exceed three years.”

Repeal
and
saving.

3. (1) The Delhi Municipal Corporation (Second Amendment) Ordinance, 1987 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.

66 of 1957.

Ord. 9 of
1987.

THE MAJOR PORT TRUSTS (AMENDMENT) ACT, 1988

No. 12 OF 1988

[29th March, 1988.]

An Act further to amend the Major Port Trusts Act, 1963.

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

1. (1) This Act may be called the Major Port Trusts (Amendment) Act, 1988.

Short title and commencement.

(2) It shall be deemed to have come into force on the 28th day of January, 1988.

38 of 1963.

2. In section 88 of the Major Port Trusts Act, 1963 (hereinafter referred to as the principal Act),—

Amendment of section 88.

(a) in sub-section (2),—

(i) in the opening portion, for the words "All moneys standing at the credit of the Board", the words "Subject to such general or special directions as the Central Government may, for the purpose of maintenance or development of major ports in the country or generally for the development of shipping and navigation, give in this behalf, all moneys standing at the credit of the Board" shall be substituted;

(ii) in clause (a), for the words "scheduled bank or banks", the words "corresponding new bank or banks" shall be substituted;

(iii) in clause (b), the word "or" shall be added at the end;

(iv) after clause (b), the following clause and *Explanation* shall be inserted, namely:—

'(c) be given as a loan to the Board of another port for the development of that port.

Explanation.—For the purposes of this sub-section, "corresponding new bank" means a corresponding new bank as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.;

5 of 1970.
40 of 1980.

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

“(3) Every direction issued by the Central Government under sub-section (2) shall be complied with by the Board and shall not be called in question in any court on any ground.

(4) No suit or other legal proceeding shall lie against the Central Government, the Board or any officer or other employee of the Board authorised by it in this behalf 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 any direction issued under sub-section (2).”.

Repeal and saving.

3. (1) The Major Port Trusts (Amendment) Ordinance, 1988 is hereby repealed.

Ord. 1 of 1988.

(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 TAMIL NADU APPROPRIATION (VOTE ON ACCOUNT)
ACT, 1988

No. 13 OF 1988

[30th March, 1988.]

An Act to provide for the withdrawal of certain sums from and out of the Consolidated Fund of the State of Tamil Nadu for the services of a part of the financial year 1988-89.

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

1. This Act may be called the Tamil Nadu Appropriation (Vote on Account) Act, 1988.

Short title.

2. From and out of the Consolidated Fund of the State of Tamil Nadu there may be withdrawn sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of two thousand one hundred and ninety-six crores, ninety-two lakhs and sixty thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1988-89.

Withdrawal of Rs. 2196,92,60,000 from and out of the Consolidated Fund of the State of Tamil Nadu for the financial year 1988-89.

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

Appropriation.

THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote/ Appropriation	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Land Revenue Department Revenue	12,34,97,000		12,34,97,000
2	State Excise Department Revenue	2,26,71,000		2,26,71,000
3	Motor Vehicles Acts—Administration Revenue	2,10,32,000		2,10,32,000
4	General Sales Tax and other Taxes and Duties—Administration Revenue	11,54,93,000	6,000	11,54,99,000
5	Stamps—Administration Revenue	75,56,000		75,56,000
6	Registration Revenue	5,00,52,000	1,000	5,00,53,000
	Debt Charges Revenue		145,21,87,000	145,21,87,000
7	State Legislature Revenue	1,05,25,000	1,22,000	1,06,47,000
8	Elections Revenue	9,08,05,000		9,08,05,000
9	Head of State, Ministers and Headquarters staff Revenue	23,99,86,000	1,36,86,000	25,36,72,000
10	Milk Supply Schemes Revenue	1,68,33,000		1,68,33,000
11	District Administration Revenue	29,09,05,000	36,000	29,09,41,000
12	Administration of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 Revenue	2,58,84,000	13,000	2,58,97,000
13	Administration of Justice Revenue	11,50,50,000	1,22,82,000	12,73,32,000
14	Jails Revenue	6,41,33,000	2,000	6,41,35,000
15	Police Revenue	75,80,45,000	51,000	75,80,96,000
16	Fire Services Revenue	5,59,48,000	1,000	5,59,49,000
17	Education Revenue	344,85,65,000	8,000	344,85,73,000
18	Medical Revenue	78,02,56,000	1,000	78,02,57,000

1 No. of Vote/ Appro- pria- tion	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
19	Public Health . . . Revenue	43,77,63,000	1,000	43,77,64,000
20	Agriculture . . . Revenue	73,69,83,000	4,000	73,69,87,000
21	Fisheries . . . Revenue	4,05,04,000	1,000	4,05,05,000
22	Animal Husbandry . . Revenue	18,44,48,000	1,000	18,44,49,000
23	Co-operation . . . Revenue	26,15,62,000	1,000	26,15,63,000
24	Industries . . . Revenue	4,42,53,000	..	4,42,53,000
25	Cinchona . . . Revenue	2,13,43,000	..	2,13,43,000
26	Handlooms and Textiles . . . Revenue	10,45,87,000	..	10,45,87,000
27	Khadi . . . Revenue	2,28,67,000	..	2,28,67,000
28	Community Develop- ment Projects and Municipal Adminis- tration . . . Revenue	97,21,93,000	1,000	97,21,94,000
29	Labour including Factories . . . Revenue	13,21,44,000	1,000	13,21,45,000
30	Social Welfare . . . Revenue	48,59,40,000	..	48,59,40,000
31	Welfare of the Scheduled Tribes and Castes, etc. . . Revenue	32,37,24,000	5,01,000	32,42,25,000
32	Welfare of the Back- ward Classes, etc. . . Revenue	8,22,43,000	3,000	8,22,46,000
33	Housing . . . Revenue	2,76,37,000	..	2,76,37,000
34	Urban Development . . Revenue	29,92,34,000	..	29,92,34,000
35	Civil Supplies . . . Revenue	78,82,69,000	2,000	78,82,71,000
36	Irrigation . . . Revenue	43,34,28,000	5,000	43,34,33,000
37	Public Works— Buildings . . . Revenue	1,87,64,000	5,46,000	1,93,10,000
38	Public Works— Establishment and Tools and Plant . . . Revenue	15,52,35,000	..	15,52,35,000
39	Roads and Bridges . . Revenue	48,36,68,000	..	48,36,68,000
40	Road Transport Services and Shipping . . . Revenue	3,18,05,000	2,000	3,18,07,000
41	Relief on account of Natural Calamities . . Revenue	59,77,000	4,37,50,000	4,97,27,000
42	Pensions and other Retirement Benefits . . Revenue	77,91,39,000	31,39,000	78,22,78,000
43	Miscellaneous . . . Revenue	179,13,02,000	7,46,000	179,20,48,000
44	Stationery and Printing . . . Revenue	9,08,18,000	1,41,000	9,09,59,000

1 No. of Vote/ Appropriation	2 Services and purposes	3		
		Sums not exceeding		Total
		Voted by Parliament	Charged on the Consolidated Fund	
		Rs.	Rs.	Rs.
45	Forest Department . Revenue	9,52,85,000	1,000	9,52,86,000
46	Compensation and Assignments . Revenue	20,31,63,000	11,27,000	20,42,90,000
47	Information, Tourism and Film Technology Revenue	1,94,02,000	..	1,94,02,000
48	Rural Industries . Revenue	10,91,16,000	2,000	10,91,18,000
49	Water Supply . Revenue	63,55,02,000	..	63,55,02,000
50	Capital Outlay on Agriculture . Capital	1,95,69,000	1,000	1,95,70,000
51	Capital Outlay on Industrial Development . Capital	6,96,69,000	1,000	6,96,70,000
52	Capital Outlay on Irrigation . Capital	28,57,95,000	..	28,57,95,000
53	Capital Outlay on Public Works—Buildings . Capital	22,83,70,000	2,01,000	22,85,71,000
54	Capital Outlay on Roads and Bridges . Capital	21,57,20,000	1,000	21,57,21,000
55	Capital Outlay on Road Transport Services and Shipping . Capital	30,12,000	..	30,12,000
56	Capital Outlay on Forests . Capital	12,05,21,000	..	12,05,21,000
57	Capital Outlay on Rural Industries . Capital	79,75,000	1,000	79,76,000
58	Miscellaneous Capital Outlay . Capital	7,12,14,000	2,000	7,12,16,000
59	Loans and Advances by the State Government . Capital	181,88,65,000	..	181,88,65,000
	Public Debt—Repayment . Capital	..	154,44,38,000	154,44,38,000
	TOTAL	1889,62,44,000	307,30,16,000	2196,92,60,000

THE TAMIL NADU APPROPRIATION ACT, 1988

No. 14 OF 1988

[30th March, 1988.]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Tamil Nadu for the services of the financial year 1987-88.

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

1. This Act may be called the Tamil Nadu Appropriation Act, 1988.

2. From and out of the Consolidated Fund of the State of Tamil Nadu 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 six hundred and sixty-six crores, eighty-nine lakhs and ninety-three Consolidated Fund of India by this Act shall be appropriated for the in course of payment during the financial year 1987-88 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 Tamil Nadu by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

Short title.

Issue of
Rs. 666,
89,93,000
from and
out of
the Con-
solidated
Fund of
the State
of Tamil
Nadu for
the finan-
cial year
1987-88,

Appre-
priation.

THE SCHEDULE

(See sections 2 and 3)

1	2	3		
		Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Land Revenue Department . . . Revenue	1,22,42,000	..	1,22,42,000
2	State Excise Department . . . Revenue		31,000	31,000
3	Motor Vehicles Acts—Administration . . . Revenue	1,70,000	..	1,70,000
4	General Sales Tax and other Taxes and Duties—Administration . . . Revenue	1,20,27,000	24,000	1,20,51,000
5	Stamps—Administration . . . Revenue	68,35,000	..	68,35,000
6	Registration . . . Revenue	34,01,000	..	34,01,000
	Debt Charges . . . Revenue	..	27,59,64,000	27,59,64,000
7	State Legislature . . . Revenue	38,22,000	46,000	38,68,000
8	Elections . . . Revenue	2,69,00,000	..	2,69,00,000
9	Head of State, Ministers and Headquarters Staff . . . Revenue	1,76,43,000	14,25,000	1,90,68,000
10	Milk Supply Schemes . . . Revenue	46,66,000	..	46,66,000
11	District Administration . . . Revenue	6,62,22,000	24,74,000	6,86,96,000
12	Administration of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 . . . Revenue	10,70,000	..	10,70,000
13	Administration of Justice . . . Revenue	90,03,000	78,68,000	1,68,71,000
14	Jails . . . Revenue	1,98,36,000	..	1,98,36,000
15	Police . . . Revenue	16,91,43,000	8,31,000	16,99,74,000
16	Fire Services . . . Revenue	60,47,000	..	60,47,000
17	Education . . . Revenue	76,74,86,000	..	76,74,86,000
18	Medical . . . Revenue	4,88,92,000	7,09,000	4,96,01,000

1	2	3				
		No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
				Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.		
19	Public Health . . . Revenue	4,66,92,000	..	4,66,92,000		
20	Agriculture . . . Revenue	39,04,94,000	75,000	39,05,69,000		
21	Fisheries . . . Revenue	1,20,90,000	..	1,20,90,000		
22	Animal Husbandry . Revenue	1,86,07,000	..	1,86,07,000		
23	Co-operation . . . Revenue	5,92,76,000	..	5,92,76,000		
24	Industries . . . Revenue	2,43,81,000	..	2,43,81,000		
25	Cinchona . . . Revenue	1,00,94,000	..	1,00,94,000		
26	Handlooms and Textiles . . . Revenue	13,45,97,000	..	13,45,97,000		
27	Khadi . . . Revenue	1,06,00,000	..	1,06,00,000		
28	Community Development Projects and Municipal Administration . Revenue	25,46,61,000	14,000	25,46,75,000		
30	Social Welfare . . . Revenue	9,68,68,000	..	9,68,68,000		
31	Welfare of the Scheduled Tribes and Castes, etc. . Revenue	8,85,57,000	86,77,000	9,72,34,000		
32	Welfare of the Back- ward Classes, etc. . Revenue	1,82,22,000	..	1,82,22,000		
34	Urban Development . Revenue	67,19,000	..	67,19,000		
35	Civil Supplies . . . Revenue	1,19,05,000	27,000	1,19,32,000		
36	Irrigation . . . Revenue	6,81,42,000	..	6,81,42,000		
37	Public Works— Buildings . . . Revenue	1,63,21,000	20,79,000	1,84,00,000		
38	Public Works— Establishment and Tools and Plant . Revenue	1,43,15,000	1,70,000	1,44,25,000		
39	Roads and Bridges . Revenue	1,000	4,000	5,000		
40	Road Transport Services and Ship- ping . . . Revenue	1,31,34,000	3,70,000	1,35,04,000		
41	Relief on account of Natural Calamities Revenue	1,44,21,000	..	1,44,21,000		
42	Pensions and other Retirement Benefits Revenue	46,44,31,000	..	46,44,31,000		
43	Miscellaneous . . . Revenue	2,000	..	2,000		
44	Stationery and Printing . . . Revenue	2,84,000	1,46,000	4,30,000		
45	Forest Department . Revenue	3,63,76,000	..	3,63,76,000		
46	Compensation and Assignments . . . Revenue	10,02,21,000	..	10,02,21,000		

1	2	3		
		Sums not exceeding		Total
		Voted by Parliament	Charged on the Consolidated Fund	
No. of Vote/Appropriation	Services and purposes	Rs.	Rs.	Rs.
47	Information, Tourism and Film Technology Revenue	72,77,000	..	72,77,000
48	Rural Industries Revenue	1,44,25,000	55,000	1,44,80,000
49	Water Supply Revenue	5,000	..	5,000
50	Capital Outlay on Agriculture Capital	53,07,000	..	53,07,000
51	Capital Outlay on Industrial Development Capital	5,48,97,000	..	5,48,97,000
52	Capital Outlay on Irrigation Capital	3,000	83,39,000	83,42,000
53	Capital Outlay on Public Works—Buildings Capital	12,000	..	12,000
54	Capital Outlay on Roads and Bridges Capital	3,000	16,75,000	16,78,000
55	Capital Outlay on Road Transport Services and Shipping Capital	1,50,15,000	..	1,50,15,000
57	Capital Outlay on Rural Industries Capital	33,73,000	3,61,000	37,34,000
58	Miscellaneous Capital Outlay Capital	4,63,04,000	..	4,63,04,000
59	Loans and Advances by the State Government Capital	45,50,18,000	..	45,50,18,000
	Public Debt—Repayment Capital	..	266,92,34,000	266,92,34,000
	TOTAL	368,84,55,000	298,05,38,000	666,89,93,000

THE APPROPRIATION (RAILWAYS) ACT, 1988

No. 15 OF 1988

[30th March, 1988.]

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 1988-89 for the purposes of Railways.

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

1. This Act may be called the Appropriation (Railways) Act, 1988.
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 sixteen thousand eight hundred and thirty-seven crores, twelve lakhs and twenty-four thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1988-89, in respect of the services relating to Railways specified in column 2 of the Schedule.
3. The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

Short
title.

Issue of
Rs. 16837,
12,24,000
out of the
Consolida-
ted Fund
of India
for the
financial
year
1988-89.

Appro-
priation.

THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parlia- ment	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Railway Board	8,53,66,000		8,53,66,000
2	Miscellaneous Expenditure (General)	55,51,06,000		55,51,06,000
3	General Superintendence and Services on Railways	398,66,18,000	2,42,000	398,68,60,000
4	Repairs and Maintenance of Permanent Way and Works	820,42,91,000	2,10,000	820,45,01,000
5	Repairs and Maintenance of Motive Power	658,29,66,000	83,000	658,30,49,000
6	Repairs and Maintenance of Carriages and Wagons	869,41,16,000	2,55,000	869,43,71,000
7	Repairs and Maintenance of Plant and Equipment	442,59,07,000	2,00,000	442,61,07,000
8	Operating Expenses—Rolling Stock and Equipment	702,37,20,000	2,00,000	702,39,20,000
9	Operating Expenses—Traffic	926,46,11,000	3,25,000	926,49,36,000
10	Operating Expenses—Fuel	1328,52,27,000	90,000	1328,53,17,000
11	Staff Welfare and Amenities	287,28,46,000	67,000	287,29,13,000
12	Miscellaneous Working Expenses	429,91,01,000	8,96,000	438,87,61,000
13	Provident Fund, Pension and other Retirement Benefits	575,43,88,000	4,48,96,000	579,92,84,000
14	Appropriation to Funds	2149,00,00,000		2149,00,00,000
15	Dividend to General Revenues, Repayment of loan taken from General Revenues and Amortiza- tion of Over-Capitalization	778,94,40,000		778,94,40,000
16	Assets—Acquisition, Construction and Replacement—			
	Revenue	39,99,50,000	50,000	40,00,00,000
	Other Expenditure			
	Capital	4561,98,53,000	4,49,50,000	4566,48,03,000
	Railway Funds	1785,49,90,000	15,00,000	1785,64,90,000
	TOTAL	16818,84,96,000	18,27,28,000	16837,12,24,000

THE APPROPRIATION (RAILWAYS) No. 2 ACT, 1988

No. 16 OF 1988

[30th March, 1988.]

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 1987-88 for the purposes of Railways.

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

1. This Act may be called the Appropriation (Railways) No. 2 Act, 1988.

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 four hundred and eighty-seven crores, fifty-three lakhs and thirty thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1987-88, in respect of the services relating to Railways specified in column 2 of the Schedule.

Issue of
Rs. 487,
53,30,000
out of
the Con-
solidated
Fund of
India
for the
financial
year
1987-88.

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

Appro-
priation.

THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3		
		Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
1	Railway Board	46,21,000	..	46,21,000
3	General Superintendence and Services on Railways	29,54,75,000	2,76,000	29,57,51,000
4	Repairs and Maintenance of Permanent Way and Works	52,78,01,000	4,68,000	52,82,69,000
5	Repairs and Maintenance of Motive Power	8,07,10,000	23,000	8,07,33,000
6	Repairs and Maintenance of Carriages and Wagons	8,27,86,000	..	8,27,86,000
7	Repairs and Maintenance of Plant and Equipment	21,00,16,000	..	21,00,16,000
8	Operating Expenses—Rolling Stock and Equipment	64,50,85,000	4,85,000	64,55,70,000
9	Operating Expenses—Traffic	62,07,80,000	2,38,000	62,10,18,000
10	Operating Expenses—Fuel	30,61,49,000	..	30,61,49,000
11	Staff Welfare and Amenities	18,17,11,000	..	18,17,11,000
12	Miscellaneous Working Expenses	39,05,61,000	..	39,05,61,000
13	Provident Fund, Pension and other Retirement Benefits	142,31,76,000	2,47,33,000	144,79,09,000
14	Appropriation to Funds	4,60,00,000	..	4,60,00,000
16	Assets—Acquisition, Construction and Replacement—			
	Revenue	2,05,86,000	..	2,05,86,000
	<i>Other Expenditure</i>			
	Capital	3,000	1,36,42,000	1,36,45,000
	Railway Funds	5,000	..	5,000
	TOTAL	483,54,65,000	3,98,65,000	487,53,30,000

THE APPROPRIATION (RAILWAYS) No. 3 ACT, 1988

No. 17 of 1988

[30th March, 1988.]

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, 1986 in excess of the amounts granted for those services and for that year.

Enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Appropriation (Railways) No. 3 Act, 1988.

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 one hundred and ninety-three crores, thirty-eight lakhs, sixty-four thousand, three hundred and seventy-six rupees shall be deemed to have been authorised to be paid and applied to meet the amounts spent for defraying the charges in respect of the services relating to Railways specified in column 2 of the Schedule during the financial year ended on the 31st day of March, 1986, in excess, of the amounts granted for those services and for that year.

Issue of Rs. 193,38,64,376 out of the Consolidated Fund of India to meet certain expenditure for the year ended on the 31st March, 1986.

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, 1986.

Appropriation.

THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parlia- ment	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
2	Miscellaneous Expenditure (General)	..	33,965	33,965
4	Repairs and Maintenance of Permanent Way and Works . .	5,04,64,354	..	5,04,64,354
5	Repairs and Maintenance of Mo- tive Power . .	21,11,46,914	..	21,11,46,914
6	Repairs and Maintenance of Car- riages and Wagons . .	3,74,06,000	..	3,74,06,000
7	Repairs and Maintenance of Plant and Equipment . .	1,18,72,388	36,648	1,19,09,036
8	Operating Expenses—Rolling Stock and Equipment . .	1,01,34,924	1,90,303	1,03,25,227
9	Operating Expenses—Traffic . .	3,46,34,128	..	3,46,34,128
10	Operating Expenses—Fuel . .	4,05,08,268	..	4,05,08,268
11	Staff Welfare and Amenities . .	1,20,37,933	..	1,20,37,933
12	Miscellaneous Working Expenses . .	5,75,30,930	..	5,75,30,930
13	Provident Fund, Pension and Other Retirement Benefits . .	11,69,63,805	..	11,69,63,805
15	Dividend to General Revenues, Repayment of loan taken from General Revenues and Amorti- zation of Over-Capitalisation . .	83,76,67,933	..	83,76,67,933
16	Assets—Acquisition, Construction and Replacement . .			
	<i>Other Expenditure</i>			
	Railway Funds . .	51,32,35,883	..	51,32,35,883
	TOTAL	193,36,03,460	2,60,916	193,38,64,376

THE AUTHORISED TRANSLATIONS (CENTRAL LAWS)
AMENDMENT ACT, 1988

No. 18 of 1988

[31st March, 1988.]

An Act to amend the Authorised Translations (Central Laws)
Act, 1973.

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

1. This Act may be called the Authorised Translations (Central
Laws) Amendment Act, 1988.

Short
title.

50 of 1973.

2. In the Authorised Translations (Central Laws) Act, 1973 (herein-
after referred to as the principal Act), in the long title, for the words
“authorised translations”, the words “authoritative texts” shall be sub-
stituted.

Amend-
ment of
long title.

3. In section 1 of the principal Act, in sub-section (1), for the words
“Authorised Translations”, the words “Authoritative Texts” shall be
substituted.

Amend-
ment of
section 1.

4. In section 2 of the principal Act, for the words “authorised trans-
lation”, the words “authoritative text” shall be substituted.

Amend-
ment of
section 2.

THE REPEALING AND AMENDING ACT, 1988

No. 19 OF 1988

[31st March, 1988.]

An Act to repeal certain enactments and to amend certain other enactments.

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

Short
title.

1. This Act may be called the Repealing and Amending Act, 1988.

Repeal
of certain
enact-
ments.

2. The enactments specified in the First Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

Amend-
ment of
certain
enact-
ments.

3. The enactments specified in the Second Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

Savings.

4. The repeal by this Act of any enactment shall not affect any other enactment in which the repealed enactment has been applied, incorporated or referred to;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed or recognised or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE

(See section 2)

REPEALS

Year	No.	Short title	Extent of repeal
1	2	3	4
1976	1	The Income-tax (Amendment) Act, 1976	The whole
1976	3	The Unit Trust of India (Amendment) Act, 1976	The whole
1976	4	The Delhi Development (Amendment) Act, 1976	The whole
1976	9	The Indian Railways (Amendment) Act, 1976	The whole
1976	12	The Imports and Exports (Control) Amendment Act, 1976	The whole
1976	15	The Delhi Land Holdings (Ceiling) Amendment Act, 1976	Sections 2 to 13 and 15.
1976	18	The Delhi Rent Control (Amendment) Act, 1976	Sections 2, 5, 6, 7 and 8.
1976	20	The Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Act, 1976.	The whole
1976	21	The Regional Rural Banks Act, 1976	Chapter VII
1976	23	The Payment of Bonus (Amendment) Act, 1976	Sections 2 to 29 and 31.
1976	24	The Press Council (Repeal) Act, 1976	The whole
1976	26	The Motor Vehicles (Amendment) Act, 1976	The whole
1976	28	The Parliamentary Proceedings (Protection of Publication) Repeal Act, 1976	Section 3
1976	29	The Payment of Wages (Amendment) Act, 1976	The whole
1976	30	The House of the People (Extension of Duration) Act, 1976	The whole
1976	32	The Industrial Disputes (Amendment) Act, 1976	The whole
1976	34	The Prevention of Food Adulteration (Amendment) Act, 1976	The whole
1976	35	The High Court Judges (Conditions of Service) Amendment Act, 1976	The whole
1976	36	The Supreme Court Judges (Conditions of Service) Amendment Act, 1976	The whole
1976	37	The Indian Lighthouse (Amendment) Act, 1976	The whole
1976	41	The Tamil Nadu State Legislature (Delegation of Powers) Act, 1976	The whole
1976	42	The Warehousing Corporations (Amendment) Act, 1976	The whole

Year 1	No. 2	Short title 3	Extent of repeal 4
1976	44	The Gujarat State Legislature (Delegation of Powers) Act, 1976.	The whole
1976	45	The Contempt of Courts (Amendment) Act, 1976	The whole
1976	46	The Kerala Legislative Assembly (Extension of Duration) Amendment Act, 1976.	The whole
1976	53	The Maternity Benefit (Amendment) Act, 1976	The whole
1976	54	The Indian Standards Institution (Certification Marks) Amendment Act, 1976.	The whole
1976	58	The Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Amendment Act, 1976.	The whole
1976	65	The Workmen's Compensation (Amendment) Act, 1976	The whole
1976	67	The Coal Mines (Nationalisation) Amendment Act, 1976.	The whole
1976	68	The Marriage Laws (Amendment) Act, 1976	Sections 2 to 38
1976	69	The Merchant Shipping (Amendment) Act, 1976	The whole
1976	70	The Pharmacy (Amendment) Act, 1976	The whole
1976	71	The Tariff Commission (Repeal) Act, 1976	The whole
1976	73	The Banking and Public Financial Institutions Laws (Amendment) Act, 1976.	Sections 3 to 6
1976	74	The Additional Emoluments (Compulsory Deposit) Amendment Act, 1976.	The whole
1976	75	The Tea (Amendment) Act, 1976	The whole
1976	79	The President's Pension (Amendment) Act, 1976	The whole
1976	81	The Contingency Fund of India (Amendment) Act, 1976	The whole
1976	82	The Antiquities and Art Treasures (Amendment) Act, 1976	The whole
1976	86	The Government of Union Territories (Amendment) Act, 1976.	The whole
1976	88	The Representation of the People (Amendment) Act, 1976	The whole
1976	90	The Conservation of Foreign Exchange and Prevention of Smuggling Activities (Second Amendment) Act, 1976	Sections 2 and 4
1976	92	The Essential Commodities (Amendment) Act, 1976	Sections 2 to 8
1976	93	The Dhoties (Additional Excise Duty) Repeal Act, 1976	The whole
1976	94	The Factories (Amendment) Act, 1976	The whole
1976	99	The Labour Provident Fund Laws (Amendment) Act, 1976	The whole
1976	102	The Kerala Legislative Assembly (Extension of Duration) Second Amendment Act, 1976.	The whole

Year	No.	Short title	Extent of repeal
1	2	3	4
1976	103	The Central Sales Tax (Amendment) Act, 1976	Sections 2 to 8
1976	104	The Code of Civil Procedure (Amendment) Act, 1976	Sections 2 to 96 and sub-section (1) of section 98.
1976	105	The Salaries and Allowances of Members of Parliament (Amendment) Act, 1976.	The whole
1976	106	The Untouchability (Offences) Amendment and Miscellaneous Provision Act, 1976.	Sections 2 to 18 and 21.
1976	107	The Advocates (Amendment) Act, 1976	Sections 2 to 10
1976	108	The Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976.	Sections 3 and 4 and the First Schedule and the Second Schedule.
1976	109	The House of the People (Extension of Duration) Amendment Act, 1976.	The whole
1976	115	The Electricity (Supply) Amendment Act, 1976	The whole
1977	12	The Food Corporations (Amendment) Act, 1977	The whole
1977	13	The Petroleum Pipelines (Acquisition of Right of User in Land) Amendment Act, 1977.	The whole
1977	14	The Prevention of Publication of Objectionable Matter (Repeal) Act, 1977.	The whole
1977	19	The Payment of Wages (Amendment) Act, 1977	The whole
1977	20	The Presidential and Vice-Presidential Election (Amendment) Act, 1977.	The whole
1977	21	The Yoga Undertakings (Taking Over of Management) Act, 1977.	The whole
1977	23	The Oil and Natural Gas Commission (Amendment) Act, 1977.	The whole
1977	24	The Insecticides (Amendment) Act, 1977	The whole
1977	26	The Cardamom (Amendment) Act, 1977	The whole
1977	30	The National Highways (Amendment) Act, 1977	The whole
1977	31	The Petroleum (Amendment) Act, 1977	The whole
1977	32	The Tea (Amendment) Act, 1977	The whole
1977	33	The Salary and Allowances of Leaders of Opposition in Parliament Act, 1977.	Sections 11 and 12
1977	35	The Inland Steam-vessels (Amendment) Act, 1977	The whole
1977	37	The Salaries and Allowances of Ministers (Amendment) Act, 1977.	Section 2
1977	38	The Advocates (Amendment) Act, 1977	The whole
1977	39	The Indian Iron and Steel Company (Acquisition of Shares) Amendment Act, 1977,	The whole
1977	40	The Enemy Property (Amendment) Act, 1977	The whole
1977	43	The Payment of Bonus (Amendment) Act, 1977	Sections 3 to 21
1977	44	The Requisitioning and Acquisition of Immovable Property (Amendment) Act, 1977.	The whole
1977	46	The Companies (Amendment) Act, 1977.	The whole
1977	47	The Betwa River Board (Amendment) Act, 1977	The whole

Year 1	No. 2	Short title 3	Extent of repeal 4
1977	48	The Supreme Court (Number of Judges) Amendment Act, 1977.	The whole
1978	1	The Merchant Shipping (Amendment) Act, 1978	The whole
1978	2	The Child Marriage Restraint (Amendment) Act, 1978.	The whole
1978	12	The Public Wakfs (Extension of Limitation) (Delhi Amendment) Act, 1978.	The whole
1978	15	The Children (Amendment) Act, 1978	The whole
1978	17	The Port Laws (Amendment) Act, 1978	The whole
1978	22	The Coal Mines Nationalisation Laws (Amendment) Act, 1978.	Sections 2 to 19
1978	23	The Electricity (Supply) Amendment Act, 1978	The whole
1978	24	The Reserve Bank of India (Amendment) Act, 1978	The whole
1978	25	The Customs, Central Excises and Salt and Central Boards of Revenue (Amendment) Act, 1978.	The whole
1978	26	The Customs Tariff (Amendment) Act, 1978	The whole
1978	27	The Maintenance of Internal Security (Repeal) Act, 1978.	The whole
1978	28	The Insolvency Laws (Amendment) Act, 1978	The whole
1978	29	The Taxation Laws (Amendment) Act, 1978	The whole
1978	31	The Passports (Amendment) Act, 1978	The whole
1978	32	The Indian Explosives (Amendment) Act, 1978	The whole
1978	36	The Tobacco Board (Amendment) Act, 1978	The whole
1978	37	The Press Council Act, 1978	Section 27
1978	38	The Repealing and Amending Act, 1978	The whole
1978	39	The Employment of Children (Amendment) Act, 1978.]	The whole
1978	45	The Code of Criminal Procedure (Amendment) Act, 1978.	The whole
1978	46	The Suppression of Immoral Traffic in Women and Girls (Amendment) Act, 1978.	The whole
1978	47	The Motor Vehicles (Amendment) Act, 1978	The whole
1978	48	The Payment of Bonus (Amendment) Act, 1978	The whole
1979	4	The Copra Cess Act, 1979	Section 20
1979	6	The Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions (Amendment) Act, 1979.	The whole
1979	12	The Punjab Excise (Delhi Amendment) Act, 1979	Sections 2 to 5 and 7
1979	17	The Industries (Development and Regulation) Amendment Act, 1979.	The whole

Year 1	No. 2	Short title 3	Extent of repeal 4
1979	18	The Sugar Undertakings (Taking Over of Management) Amendment Act, 1979.	Sections 2 and 4
1979	20	The Merchant Shipping (Amendment) Act, 1979	The whole
1979	23	The Additional Duties of Excise (Goods of Special Importance) Amendment Act, 1979.	The whole
1979	26	The Estate Duty (Distribution) Amendment Act, 1979	The whole
1979	27	The Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1979.	The whole
1980	1	The Government of Union Territories (Amendment) Act, 1980.	The whole
1980	4	The Contingency Fund of India (Amendment) Act, 1980	The whole
1980	5	The Payment of Bonus (Amendment) Act, 1980	The whole
1980	6	The Central Excise and Salt and Additional Duties of Excise (Amendment) Act, 1980.	Sections 2 to 4 and 6
1980	8	The Representation of the People (Amendment) Act, 1980	The whole
1980	35	The Requisitioning and Acquisition of Immovable Property (Amendment) Act, 1980.	The whole
1980	37	The Delhi High Court (Amendment) Act, 1980	Sections 2 and 3
1980	38	The Assam State Legislature (Delegation of Powers) Act, 1980.	The whole
1980	40	The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.	Section 20
1980	45	The Inter-State Water Disputes (Amendment) Act, 1980	The whole
1980	47	The Advocates (Amendment) Act, 1980	The whole
1980	49	The Dock Workers (Regulation of Employment) Amendment Act, 1980.	Sections 2, 4 and 5
1980	50	The Hindustan Tractors Limited (Acquisition and Transfer of Undertakings) Amendment Act, 1980.	The whole
1980	51	The Mica Mines Labour Welfare Fund (Amendment) Act, 1980.	The whole
1980	53	The Territorial Army (Amendment) Act, 1980	The whole
1980	54	The Hotel-Receipts Tax Act, 1980	Section 37
1980	55	The Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Amendment Act, 1980.	The whole
1980	57	The High Court and Supreme Court Judges (Conditions of Service) Amendment Act, 1980.	The whole
1980	60	The Monopolies and Restrictive Trade Practices (Amendment) Act, 1980.	The whole
1980	61	The Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1980.	The whole
1980	63	The Code of Criminal Procedure (Amendment) Act, 1980	Sections 2 to 9 and 11.
1980	66	The Payment of Bonus (Second Amendment) Act, 1980	The whole

Year	No.	Short title	Extent of repeal
1	2	3	4
1981	1	The Life Insurance Corporation (Amendment) Act, 1981	The whole
1981	6	The Delhi Sikh Gurdwaras (Amendment) Act, 1981	The whole
1981	7	The Special Bearer Bonds (Immunities and Exemptions) Act, 1981.	Sections 5, 6 and 9
1981	17	The Oil and Natural Gas Commission (Amendment) Act, 1981.	The whole
1981	19	The Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities (Amendment) Act, 1981.	Section 2
1981	21	The Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1981.	The whole
1981	22	The Income-tax (Amendment) Act, 1981	The whole
1981	23	The Compulsory Deposit Scheme (Income-tax Payers) Amendment Act, 1981.	The whole
1981	24	The Customs Tariff (Amendment) Act, 1981	The whole
1981	25	The Coal Mines Labour Welfare Fund (Amendment) Act, 1981.	Section 2
1981	26	The High Court at Bombay (Extension of Jurisdiction to Goa, Daman and Diu) Act, 1981.	Section 12
1981	27	The Delhi University (Amendment) Act, 1981	The whole
1981	28	The Export-Import Bank of India Act, 1981	Section 40 and the Second Schedule.
1981	32	The Victoria Memorial (Amendment) Act, 1981	The whole
1981	35	The State of Nagaland (Amendment) Act, 1981	The whole
1981	36	The Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions (Amendment) Act, 1981.	The whole
1981	38	The Income-tax (Second Amendment) Act, 1981	The whole
1981	39	The Assam State Legislature (Delegation of Powers) Act, 1981.	The whole
1981	43	The Merchant Shipping (Amendment) Act, 1981	The whole
1981	44	The Sugar Undertakings (Taking Over of Management) Amendment Act, 1981.	The whole
1981	45	The Oil Industry (Development) Amendment Act, 1981	The whole
1981	46	The Economic Offences (Inapplicability of Limitation) Amendment Act, 1981.	The whole
1981	47	The Beedi Workers Welfare Cess (Amendment) Act, 1981	The whole
1981	49	The Cinematograph (Amendment) Act, 1981	The whole
1981	51	The Khuda Bakhsh Oriental Public Library (Amendment) Act, 1981.	The whole
1981	52	The Rampur Raza Library (Amendment) Act, 1981	The whole
1981	58	The Plantations Labour (Amendment) Act, 1981	The whole
1981	59	The Indian Iron and Steel Company (Acquisition of Shares) Amendment Act, 1981.	The whole

Year	No.	Short title	Extent of repeal
1	2	3	4
1981	61	The National Bank for Agriculture and Rural Development Act, 1981.	Section 61 and the Second Schedule.
1981	62	The Aligarh Muslim University (Amendment) Act, 1981	Sections 2 to 21
1982	2	The Industrial Finance Corporation (Amendment) Act, 1982.	The whole
1982	13	The Central Silk Board (Amendment) Act, 1982	The whole
1982	15	The Customs Tariff (Amendment) Act, 1982	Section 2
1982	16	The Indian Railways (Amendment) Act, 1982	The whole
1982	17	The Major Port Trusts (Amendment) Act, 1982	The whole
1982	18	The Industrial Employment (Standing Orders) Amendment Act, 1982.	The whole
1982	20	The Pensions' (Amendment) Act, 1982	The whole
1982	21	The Architects (Amendment) Act, 1982	The whole
1982	22	The Pharmacy (Amendment) Act, 1982	The whole
1982	23	The Wild Life (Protection) Amendment Act, 1982	The whole
1982	24	The Air Corporations (Amendment) Act, 1982	The whole
1982	25	The Assam State Legislature (Delegation of Powers) Act, 1982.	The whole
1982	26	The Prevention of Cruelty to Animals (Amendment) Act, 1982.	Sections 2 to 17
1982	27	The Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities (Amendment) Act, 1982.	The whole
1982	30	The Monopolies and Restrictive Trade Practices (Amendment) Act, 1982.	The whole
1982	34	The Special Courts (Repeal) Act, 1982	The whole
1982	35	The Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1982.	The whole
1982	39	The Public Wakfs (Extension of Limitation) (Delhi Amendment) Act, 1982.	The whole
1982	41	The Metro Railways (Construction of Works) Amendment Act, 1982.	Sections 2 to 16
1982	42	The East Punjab Urban Rent Restriction (Chandigarh Amendment) Act, 1982.	Sections 2 and 3
1982	44	The Iron Ore Mines and Manganese Ore Mines Labour Welfare Cess (Amendment) Act, 1982.	The whole
1982	45	The Iron Ore Mines and Manganese Ore Mines Labour Welfare Fund (Amendment) Act, 1982.	The whole
1982	47	The Motor Vehicles (Amendment) Act, 1982	The whole
1982	48	The Navy (Amendment) Act, 1982	The whole
1982	51	The Contingency Fund of India (Amendment) Act, 1982	The whole
1982	52	The Customs Tariff (Second Amendment) Act, 1982	The whole
1982	53	The Food Corporations (Amendment) Act, 1982	The whole
1982	55	The Powers-of-Attorney (Amendment) Act, 1982	The whole
1982	56	The Charitable Endowments (Amendment) Act, 1982	The whole
1982	57	The Sugar Cess (Amendment) Act, 1982	The whole

Year	No.	Short title	Extent of repeal
1	2	3	4
1982	61	The Salary, Allowances and Pension of Members of Parliament (Second Amendment) Act, 1982.	The whole
1982	63	The Road Transport Corporations (Amendment) Act, 1982.	Sections 2 to 14, 16 and the Schedule.
1982	64	The Sugar Development Fund (Amendment) Act, 1982	The whole
1982	67	The International Monetary Fund and Bank (Amendment) Act, 1982.	The whole
1982	68	The Drugs and Cosmetics (Amendment) Act, 1982	Sections 2 to 41
1982	69	The Sales Promotion Employees (Conditions of Service) Amendment Act, 1982.	Section 2
1982	70	The Limestone and Dolomite Mines Labour Welfare Fund (Amendment) Act, 1982.	Sections 2 to 7
1982	72	The Industrial Development Bank of India (Amendment) Act, 1982.	The whole
1983	1	The Aircraft (Amendment) Act, 1983	The whole
1983	8	The Delhi Municipal Corporation (Amendment) Act, 1983.	The whole
1983	9	The Delhi Administration (Amendment) Act, 1983	The whole
1983	12	The Merchant Shipping (Amendment) Act, 1983	The whole
1983	14	The Central Industrial Security Force (Amendment) Act, 1983.	Sections 2 to 13 and the Schedule.
1983	15	The Cantonments (Amendment) Act, 1983	The whole
1983	16	The Electricity (Supply) Amendment Act, 1983	The whole
1983	18	The Administrators-General (Amendment) Act, 1983	The whole
1983	22	The Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1983	The whole
1983	23	The Copyright (Amendment) Act, 1983	The whole
1983	24	The Hindu Widows' Re-marriage (Repeal) Act, 1983	The whole
1983	25	The Arms (Amendment) Act, 1983	The whole
1983	26	The Societies Registration (Delhi Amendment) Act, 1983.	The whole
1983	30	The Vegetable Oils Cess Act, 1983	Section 7
1983	38	The Tea (Amendment) Act, 1983	The whole
1983	42	The Mines (Amendment) Act, 1983	Sections 2 to 48
1983	43	The Criminal Law (Amendment) Act, 1983	The whole
1983	44	The Indian Railways (Amendment) Act, 1983	Sections 2 to 4
1983	45	The Punjab Panchayat Samities and Zila Parishads (Temporary Supersession) Second Amendment Act, 1983.	The whole
1983	46	The Criminal Law (Second Amendment) Act, 1983	The whole
1983	48	The Public Financial Institutions (Obligation as to Fidelity and Secrecy) Act, 1983.	Sections 5 and 6
1984	2	The Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Amendment Act, 1984.	The whole

Year 1	No. 2	Short title 3	Extent of repeal 4
1984	4	The Industries (Development and Regulation) Amendment Act, 1984.	Sections 2 to 5 and 7
1984	19	The Government of Union Territories (Amendment) Act, 1984.	Sections 2 and 3
1984	20	The Oilfields (Regulation and Development) Amendment Act, 1984.	The whole
1984	22	The Workmen's Compensation (Amendment) Act, 1984	The whole
1984	23	The Punjab Commercial Crops Cess (Amendment) Act, 1984.	The whole
1984	24	The National Security (Amendment) Act, 1984	The whole
1984	25	The Payment of Gratuity (Amendment) Act, 1984	The whole
1984	26	The Payment of Gratuity (Second Amendment) Act, 1984	Sections 2 to 5
1984	27	The Union Duties of Excise (Distribution) Amendment Act, 1984.	The whole
1984	28	The Union Duties of Excise (Electricity Distribution) Amendment Act, 1984.	The whole
1984	29	The Additional Duties of Excise (Goods of Special Importance) Amendment Act, 1984.	The whole
1984	30	The Monopolies and Restrictive Trade Practices (Amendment) Act, 1984.	The whole
1984	31	The Visva-Bharati (Amendment) Act, 1984	Sections 2 to 27
1984	32	The Estate Duty (Distribution) Amendment Act, 1984	The whole
1984	35	The Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1984.	The whole
1984	36	The Punjab State Legislature (Delegation of Powers) Act, 1984.	The whole
1984	37	The Delhi Rent Control (Amendment) Act, 1984	The whole
1984	40	The Export (Quality Control and Inspection) Amendment Act, 1984.	The whole
1984	45	The Employees' State Insurance (Amendment) Act, 1984	Sections 2 to 14
1984	48	The Electricity (Supply) Amendment Act, 1984	The whole
1984	49	The Industrial Disputes (Amendment) Act, 1984	The whole
1984	54	The Levy Sugar Price Equalisation Fund (Amendment) Act, 1984.	Sections 2 to 7
1984	56	The Cinematograph (Amendment) Act, 1984	The whole
1984	58	The Conservation of Foreign Exchange and Prevention of Smuggling Activities (Amendment) Act, 1984.	The whole
1984	59	The University Grants Commission (Amendment) Act, 1984.	Sections 2 to 8
1984	60	The National Security (Second Amendment) Act, 1984	The whole
1984	64	The Banking Laws (Amendment) Act, 1984	The whole
1984	65	The Copyright (Amendment) Act, 1984	The whole
1984	68	The Land Acquisition (Amendment) Act, 1984	Sections 2 to 29

THE SECOND SCHEDULE

(See section 3)

AMENDMENTS

Year	No.	Short title	Amendments
1	2	3	4
1908	5	The Code of Civil Procedure, 1908.	In the First Schedule, in Order XXXIII, in rule 15-A, the words, brackets and figure "sub-rule (2) of" shall be omitted.
1948	54	The Electricity (Supply) Act, 1948.	In section 79A, for the word, figures and letter "section 78A", the word and figures "section 78" shall be substituted.
1957	66	The Delhi Municipal Corporation Act, 1957.	In section 99, in sub-section (2), in clause (d), the words, brackets and letter "or clause (b)" shall be omitted.
1961	47	The Deposit Insurance and Credit Guarantee Corporation Act, 1961.	In section 2, in clause (i), for the words "corresponding new bank or a banking company", the words "a banking company" shall be substituted.
1968	47	The Border Security Force Act, 1968.	In section 141, in sub-section (2), in clause (i), for the words "forms or orders", the words "forms of orders" shall be substituted.
1978	30	The Coast Guard Act, 1978.	In section 75, in sub-section (2), for the words "Every officer", the words "Every person" shall be substituted.
1985	60	The Railway Protection Force (Amendment) Act, 1985.	In section 3, for the brackets and figure "(v)", the brackets and letter "(b)" shall be substituted.
1986	7	The Additional Duties of Excise (Goods of Special Importance) Amendment Act, 1986.	In section I, in sub-section (I), for the word "Amendment", the words "Second Amendment" shall be substituted.
1986	11	The Spices Cess Act, 1986	In section 3, in sub-section (I), for the words "on spices", the words "on all spices which are exported," shall be substituted.

THE HIGH COURT AND SUPREME COURT JUDGES
(CONDITIONS OF SERVICE) AMENDMENT ACT, 1988

No. 20 of 1988

[8th April, 1988.]

An Act further to amend the High Court Judges (Conditions of Service) Act, 1954 and the Supreme Court Judges (Conditions of Service) Act, 1958.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the High Court and Supreme Court Judges (Conditions of Service) Amendment Act, 1988.

Short title and commencement.

(2) The provisions of sections 2 and 5 shall be deemed to have come into force on the 1st day of January, 1986 and the provisions of sections 3, 4, 6 and 7 shall be deemed to have come into force on the 1st day of November, 1986.

CHAPTER II

AMENDMENT OF THE HIGH COURT JUDGES (CONDITIONS OF SERVICE) ACT, 1954

28 of 1954.

2. In section 17A of the High Court Judges (Conditions of Service) Act, 1954 (hereafter in this Chapter referred to as the High Court Judges Act), in sub-section (3), in clause (ii), the word "and" occurring at the end, and clause (iii), shall be omitted.

Amendment of section 17A.

3. For section 22D of the High Court Judges Act, the following section shall be substituted, namely:—

Substitution of new section for section 22D.

43 of 1961.

'22D. Notwithstanding anything contained in the Income-tax Act, 1961,—

Exemption from liability to pay income-tax on certain perquisites received by a Judge.

(a) the value of rent-free official residence provided to a Judge under sub-section (1) of section 22A or the allowance paid to him under sub-section (2) of that section;

(b) the value of the conveyance facilities provided to a Judge under section 22B;

(c) the sumptuary allowance provided to a Judge under section 22C,

Amendment of First Schedule.

shall not be included in the computation of his income chargeable under the head "Salaries" under section 15 of the Income-tax Act, 1961.

4. In the First Schedule to the High Court Judges Act,—

(a) in Part I,—

(i) for paragraph 2, the following paragraph shall be substituted, namely:—

"2. Subject to the other provisions of this Part, the pension payable to a Judge to whom this Part applies and who has completed not less than seven years of service for pension shall be,—

(a) for service as Chief Justice in any High Court, Rs. 4,500 per annum for each completed year of service;

(b) for service as any other Judge in any High Court, Rs. 3,430 per annum for each completed year of service:

Provided that the pension under this paragraph shall in no case exceed Rs. 54,000 per annum in the case of a Chief Justice and Rs. 48,000 per annum in the case of any other Judge."

(ii) paragraphs 3 to 5 shall be omitted;

(iii) for paragraph 6, the following paragraph shall be substituted, namely:—

"6. A Judge who has rendered service for pension both as Chief Justice and other Judge in any High Court may claim that any period of service of less than a completed year rendered by him as Chief Justice, or any portion of any such period, shall be treated for the purposes of paragraph 2, as service rendered by him as other Judge."

(iv) in paragraph 8, for the word "twelve" and for the figures "20,000", the word "fourteen" and the figures "54,000" shall respectively be substituted;

(v) in paragraph 9, for the figures "6,000", the figures "15,750" shall be substituted;

(vi) paragraphs 10 and 11 shall be omitted;

(b) in Part II,—

(i) to paragraph 2, the following proviso shall be added, namely:—

"Provided that the pension under clause (a) and the additional pension under clause (b) together shall in no case exceed Rs. 54,000 per annum in the case of a Chief Justice and Rs. 48,000 per annum in the case of any other Judge."

(ii) In paragraph 3, for the figures "1,333", "1,600", "1,866", "2,133", "2,400" and "2,666" the figures "3,466", "4,160", "4,851", "5,545", "6,240" and "6,933" shall respectively be substituted;

[1958] High Court and Supreme Court Judges (Conditions of Service) Amendment

(iii) paragraph 4 shall be omitted;

(c) in Part III,—

(i) in paragraph 2,—

(A) in clause (b), for the figures "500" and "2,500", the figures "1,600" and "8,000" shall respectively be substituted;

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

"Provided that the pension under clause (a) and the additional pension under clause (b) together shall in no case exceed Rs. 54,000 per annum in the case of a Chief Justice and Rs. 48,000 per annum in the case of any other Judge.";

(ii) paragraphs 3 and 4 shall be omitted.

CHAPTER III

AMENDMENT OF THE SUPREME COURT JUDGES (CONDITIONS OF SERVICE) Act, 1958.

41 of 1958.

5. In section 16A of the Supreme Court Judges (Conditions of Service) Act, 1958 (hereafter in this Chapter referred to as the Supreme Court Judges Act), in sub-section (2), in clause (ii), the word "and" occurring at the end, and clause (iii), shall be omitted.

Amendment of section 16A.

6. For section 23D of the Supreme Court Judges Act, the following section shall be substituted, namely:—

Substitution of new section for section 23D.

43 of 1961.

23D. Notwithstanding anything contained in the Income-tax Act, 1961,—

(a) the value of rent-free official residence provided to a Judge under sub-section (1) of section 23;

(b) the value of the conveyance facilities provided to a Judge under section 23A;

(c) the sumptuary allowance provided to a Judge under section 23B,

Exemption from liability to pay income-tax on certain perquisites received by a Judge.

shall not be included in the computation of his income chargeable under the head "Salaries" under section 15 of the Income-tax Act, 1961.

7. In the Schedule to the Supreme Court Judges Act,—

(a) in Part I,—

(i) in paragraph 2,—

(A) in clause (b), for the figures "470", "20,000" and "1,200", the figures "1,235", "37,500" and "3,150" shall respectively be substituted;

(B) in the proviso, for the figures "26,000", the figures "60,000" shall be substituted;

Amendment of the Schedule.

208 *High Court and Supreme Court Judges (Conditions of Service) Amendment* [Act 20 of 1988]

(ii) to paragraph 3, the following proviso shall be added, namely:—

“Provided that the pension under this paragraph shall in no case exceed Rs. 54,000 per annum.”;

(iii) in paragraph 5, for the figures “7,500”, the figures “19,700” shall be substituted;

(iv) paragraphs 6 and 7 shall be omitted;

(b) in Part II,—

(i) in paragraph 2,—

(A) in clause (b), for the figures “1,400”, the figures “3,454” shall be substituted;

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

“Provided that the pension under clause (a) and the additional pension under clause (b) together shall in no case exceed Rs. 60,000 per annum in the case of a Chief Justice and Rs. 54,000 per annum in the case of any other Judge.”;

(ii) paragraph 3 shall be omitted;

(c) in Part III,—

(i) in paragraph 2,—

(A) in clause (b), for the figures “500” and “2,500”, the figures “1,600” and “8,000” shall respectively be substituted;

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

“Provided that the pension under clause (a) and the additional pension under clause (b) together shall in no case exceed Rs. 60,000 per annum in the case of a Chief Justice and Rs. 54,000 per annum in the case of any other Judge.”;

(ii) paragraphs 3 and 4 shall be omitted,

THE TAMIL NADU STATE LEGISLATURE (DELEGATION OF POWERS) ACT, 1988

No. 21 OF 1988

[8th April, 1988.]

An Act to confer on the President the power of the Legislature of the State of Tamil Nadu to make laws.

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

1. This Act may be called the Tamil Nadu State Legislature (Delegation of Powers) Act, 1988.

Short title.

2. In this Act, "Proclamation" means the Proclamation issued on the 30th January, 1988 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. 66(E) of the said date.

Definition.

3. (1) The power of the Legislature of the State of Tamil Nadu 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.

Conferment on the President of the power of the State Legislature to make laws.

(2) In the exercise of the said power, the President may, from time to time, whether Parliament is or is not in session, enact, as a President's Act, a Bill containing such provisions as he considers necessary:

Provided that before enacting any such Act, the President shall, whenever he considers it practicable to do so, consult a Committee constituted for the purpose, consisting of forty members of the House of the People nominated by the Speaker and twenty 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 TAMIL NADU AGRICULTURAL SERVICE CO-OPERATIVE SOCIETIES (APPOINTMENT OF SPECIAL OFFICERS) AMENDMENT ACT, 1988

No. 22 OF 1988

[8th April, 1988.]

An Act further to amend the Tamil Nadu Agricultural Service Co-operative Societies (Appointment of Special Officers) Act, 1986.

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

Short title and commencement.

1. (1) This Act may be called the Tamil Nadu Agricultural Service Co-operative Societies (Appointment of Special Officers) Amendment Act, 1988.

(2) It shall be deemed to have come into force on the 28th day of March, 1988.

Amendment of section 4.

2. In section 4 of the Tamil Nadu Agricultural Service Co-operative Societies (Appointment of Special Officers) Act, 1986 (hereinafter referred to as the principal Act), in sub-section (2), for the words "two years and six months", the words "three years" shall be substituted.

Tamil Nadu Act 17 of 1986.

Validation.

3. Every Special Officer appointed or deemed to be appointed under sub-section (1) of section 4 of the principal Act and holding office as such immediately before the commencement of this Act, shall continue to hold such office on and from such commencement as if the provisions of sub-section (2) of section 4 of the principal Act, as amended by this Act, had been in force on such commencement, and accordingly, anything done or any action taken by such Special Officer under the principal Act during the period commencing on and from the 28th day of March, 1988 and ending with the date of publication of this Act in the Tamil Nadu Government Gazette, shall be deemed to have been validly done or taken in accordance with the provisions of the principal Act.

THE TAMIL NADU CO-OPERATIVE SOCIETIES (APPOINTMENT OF SPECIAL OFFICERS) AMENDMENT ACT, 1988

No. 23 OF 1988

[8th April, 1988.]

An Act further to amend the Tamil Nadu Co-operative Societies (Appointment of Special Officers) Act, 1976.

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

1. This Act may be called the Tamil Nadu Co-operative Societies (Appointment of Special Officers) Amendment Act, 1988.

Short
title.

2. In the Tamil Nadu Co-operative Societies (Appointment of Special Officers) Act, 1976, in section 4, in sub-section (1), for the words "eleven years and ten months", the words "twelve years and four months" shall be substituted.

Amend-
ment
of sec-
tion 4.

President's
Act 25 of
1976.

THE ILLEGAL MIGRANTS (DETERMINATION BY TRIBUNALS) AMENDMENT ACT, 1988

No. 24 OF 1988

[25th April, 1988.]

An Act to amend the Illegal Migrants (Determination by Tribunals) Act, 1983.

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

Short title.

1. This Act may be called the Illegal Migrants (Determination by Tribunals) Amendment Act, 1988.

Amendment of section 5.

2. In section 5 of the Illegal Migrants (Determination by Tribunals) Act, 1983 (hereinafter referred to as the principal Act), in sub-section (3), for the words "three members", the words "two members" shall be substituted.

39 of 1983.

Amendment of section 6.

3. In section 6 of the principal Act, for the words "any other member", the words "the member" shall be substituted.

Amendment of section 8.

4. In section 8 of the principal Act,—

(a) in sub-section (2),—

(i) the words, brackets and figure "Without prejudice to the power conferred on the Central Government by sub-section (1)," shall be omitted;

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

"Provided that no such application shall be entertained by the Tribunal unless the person in relation to whom the application is made is found, or resides, within the jurisdiction of the same police station wherein the applicant has his place of residence.";

(b) in sub-section (3),—

(i) for the words "two persons residing within three kilometres of the area", the words "two persons residing within the jurisdiction of the same police station" shall be substituted;

(ii) for the word "twenty-five", the word "ten" shall be substituted;

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

"(4) Every reference under sub-section (1) shall be made to the Tribunal within the territorial limits of whose jurisdiction the place of residence of the person named in such reference is, at the time of making such reference, situated:

Provided that where such person has no place of residence, the reference shall be made to the Tribunal within the territorial limits of whose jurisdiction such person is, at the time of making such reference, found.

(5) Every application under sub-section (2) shall be made to the Tribunal within the territorial limits of whose jurisdiction the person named in such application is found or, as the case may be, has his place of residence, at the time of making such application."

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

Inser-
tion of
new
section
8A.

"8A. (1) Any person may make an application to the Central Government, for decision by a Tribunal, as to whether the person whose name and other particulars are given in the application, is or is not an illegal migrant, and where any such application is received by the Central Government, it may, on the basis of any information in its possession or after making such inquiry as it deems fit, reject the application on the ground that the application is frivolous or vexatious or it does not comply with the requirements of this section or refer such application to a Tribunal for decision.

Applica-
tion to
the
Central
Govern-
ment for
reference.

(2) Every application made under sub-section (1) shall be made in such form and in such manner as may be prescribed and shall be accompanied by a declaration by another person residing within the jurisdiction of the same revenue sub-division in which the applicant resides in such form as may be prescribed to the effect that the particulars mentioned in the application are true to his knowledge, information and belief:

Provided that no person shall make more than ten such applications or more than ten such declarations.

(3) Every reference under sub-section (1) shall be made to the Tribunal within the territorial limits of whose jurisdiction the place of residence of the person named in such reference is, at the time of making such reference, situated:

Provided that where such person has no place of residence, the reference shall be made to the Tribunal within the territorial

limits of whose jurisdiction such person is, at the time of making such reference, found.”.

Amend-
ment of
section
10.

6. In section 10 of the principal Act, for the word and figure “section 8”, the words, figures, brackets and letter “section 8 or sub-section (1) of section 8A” shall be substituted.

Amend-
ment of
section
12.

7. In section 12 of the principal Act,—

(a) in sub-section (1), for the words and figure “section 8, or to which an application has been made under that section”, the words, figures and letter “section 8 or section 8A, or to which an application has been made under section 8” shall be substituted;

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

“(2) Where the members of the Tribunal differ in their opinion on any point, the Chairman of the Tribunal shall state the point or points on which they differ and make a reference to the President of the Appellate Tribunal which exercises jurisdiction in relation to the Tribunal who shall refer the case for hearing on such point or points by a member of another Tribunal under its jurisdiction and such point or points shall be decided according to the opinion of that member and such decision shall be deemed to be the decision of the Tribunal.”;

(c) in sub-section (3), after the words “prescribed authority”, the words “or authorities” shall be inserted.

Amend-
ment of
section
13.

8. In section 13 of the principal Act, for the words and figure “section 8 or application made to a Tribunal under that section”, the words, figures and letter “section 8 or section 8A or application made to a Tribunal under section 8” shall be substituted.

Amend-
ment of
section
14.

9. In section 14 of the principal Act, after the words “that section”, the words, figure and letter “or any person named in a reference under section 8A” shall be inserted.

Amend-
ment of
section
15.

10. In section 15 of the principal Act,—

(a) in sub-section (3), for the words “less than three”, the words “less than two” shall be substituted;

(b) in sub-section (6), for the words “and each bench shall consist of not less than two members”, the words “which may either be single member benches or benches consisting of not less than two members” shall be substituted;

(c) for sub-section (10), the following sub-section shall be substituted, namely:—

“(10) Every Appellate Tribunal shall have the same powers as are vested in an appellate court under the Code of Civil Procedure, 1908, while hearing an appeal.”.

11. In section 16 of the principal Act,—

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

“(3) The Appellate Tribunal shall send a copy of every order passed by it under sub-section (1) to the parties to the appeal, to the Tribunal concerned and to the prescribed authority or authorities.”;

(b) in sub-section (4), the words and figures “Subject to the provisions of section 17,” shall be omitted.

12. For section 17 of the principal Act, the following section shall be substituted, namely:—

“17. (1) Every Appellate Tribunal shall have superintendence over all the Tribunals in the State.

(2) Without prejudice to the generality of the foregoing provisions, the Appellate Tribunal may—

(a) call for returns from any Tribunal;

(b) make general rules and specify forms for regulating the practice and proceedings of Tribunals; and

(c) specify the forms in which books, entries and accounts shall be kept by the officers of Tribunals.”.

13. Section 20 of the principal Act shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

“(2) Any police officer not below the rank of a Superintendent of Police shall have such powers as may be necessary, including the power to obtain a bond from any person for the due compliance of an order under sub-section (1) and to arrest such person in the event of his failure to furnish such bond to the satisfaction of such police officer.”.

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

“21A. Notwithstanding anything contained in any other law for the time being in force, it shall be lawful for a police officer not below the rank of a Superintendent of Police, if he is satisfied that the circumstances so require and for reasons to be recorded in writing, to direct any person against whom a reference or an application has been made under this Act to enter into a bond with or without sureties for making himself available for the inquiry and observance of such restrictions or conditions as may be specified by such police officer:

Provided that if such person fails to enter into such bond he may be arrested and detained in such manner as may be prescribed.”.

Amend-
ment of
section
16.

Substitu-
tion of
new
section
for
section
17.

Power of
superinten-
dence by
Appellate
Tribunals.

Amend-
ment of
section
20.

Insertion
of new
section
21A.

Power
to bind
certain
persons
against
whom
com-
plaint
is made
under
the Act.

Amend-
ment of
section
25.

15. In section 25 of the principal Act, for the words "shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine", the following shall be substituted, namely:—

"shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which shall not be less than two thousand rupees:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than one year or a fine of less than two thousand rupees."

Amend-
ment of
section
28.

16. In section 28 of the principal Act, in sub-section (2),—

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

"(aa) the form and the manner in which an application, and the form in which a declaration, may be made under sub-section (2) of section 8A;";

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

"(b) the authority or authorities to be prescribed under section 11, 12 and 16;";

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

"(ca) the manner of arrest and detention under the proviso to section 21A;".

THE APPROPRIATION (No. 2) ACT, 1988

No. 25 OF 1988

[9th May, 1988.]

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 1988-89.

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

1. This Act may be called the Appropriation (No. 2) Act, 1988.

Short title.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate [inclusive of the sums specified in column 3 of the Schedule to the Appropriation (Vote on Account) Act, 1988] to the sum of two lakhs twenty-five thousand six hundred and fifty-eight crores and fifty-five lakh rupees towards defraying the several charges which will come in course of payment during the financial year 1988-89 in respect of the services specified in column 2 of the Schedule.

Issue of Rs. 225658, 55,00,000 out of the Consolidated Fund of India for the year 1988-89.

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

Appropriation.

4. References to Ministries or Departments in the Schedule are to such Ministries or Departments as existing immediately before the 10th day of February, 1988 and shall, on or after that date, be construed as references to the appropriate Ministries or Departments as reconstituted from time to time.

Construction of references to Ministries and Departments in the Schedule.

6 of 1988.

THE SCHEDULE

(See sections 2, 3 and 4)

1 No. of Vote	2 Services and purposes	3 Sums not exceeding			
		Voted by Parlia- ment	Charged on the Consolidated Fund	Total	
		Rs.	Rs.	Rs.	
1	Agriculture	Revenue	405,58,00,000	3,00,000	405,61,00,000
		Capital	7,43,00,000	280,00,00,000	287,43,00,000
2	Other Services of De- partment of Agricul- ture and Co-operation	Revenue	254,39,00,000	..	254,39,00,000
		Capital	176,07,00,000	23,61,00,000	199,68,00,000
3	Department of Agri- cultural Research and Education	Revenue	201,17,00,000	..	201,17,00,000
4	Department of Rural Development	Revenue	2219,36,00,000	..	2219,36,00,000
		Capital	30,00,000	..	30,00,000
5	Department of Fer- tilizers	Revenue	3638,49,00,000	1,00,000	3638,50,00,000
		Capital	424,01,00,000	1,00,00,000	425,01,00,000
6	Civil Aviation	Revenue	52,91,00,000	..	52,91,00,000
		Capital	13,03,00,000	..	13,03,00,000
7	Department of Com- merce	Revenue	1215,57,00,000	..	1215,57,00,000
		Capital	194,29,00,000	..	194,29,00,000
8	Department of Supply	Revenue	20,70,00,000	30,00,000	21,00,00,000
9	Ministry of Commu- nications	Revenue	7,50,00,000	..	7,50,00,000
		Capital	1,60,00,000	..	1,60,00,000
10	Postal Services	Revenue	1091,12,00,000	3,00,000	1091,15,00,000
		Capital	46,85,00,000	..	46,85,00,000
11	Telecommunication Services	Revenue	2425,50,00,000	50,00,000	2426,00,00,000
		Capital	1373,99,00,000	1,00,000	1374,00,00,000
12	Ministry of Defence	Revenue	616,07,00,000	..	616,07,00,000
		Capital	169,26,00,000	6,50,00,000	175,76,00,000
13	Defence Pensions	Revenue	1099,55,00,000	45,00,000	1100,00,00,000
14	Defence Services—Army	Revenue	6874,97,00,000	1,28,00,000	6876,25,00,000
15	Defence Services—Navy	Revenue	1780,73,00,000	10,00,000	780,83,00,000
16	Defence Services—Air Force	Revenue	1 792,33,00,000	12,00,000	1792,45,00,000

1 No. of Vote	2 Services and purposes	3		
		Sums not exceeding		
		Voted by Parlia- ment	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
17	Defence Ordnance Factories . . . Revenue	123,90,00,000	10,00,000	124,00,00,000
18	Capital Outlay on De- fence Services . . . Capital	3859,42,00,000	12,70,00,000	3872,12,00,000
19	Department of Coal . Revenue Capital	139,00,00,000 1534,00,00,000	.. ..	139,00,00,000 1534,00,00,000
20	Department of Power Revenue Capital	338,45,00,000 1460,94,00,000	.. 97,00,00,000	338,45,00,000 1557,94,00,000
21	Department of Non- conventional Energy Sources . . . Revenue Capital	102,98,00,000 2,50,00,000	.. ..	102,98,00,000 2,50,00,000
22	Ministry of Environ- ment and Forests . Revenue Capital	188,68,00,000 2,94,00,000	.. 6,00,00,000	188,68,00,000 8,94,00,000
23	Ministry of External Affairs . . . Revenue Capital	403,98,00,000 93,00,00,000	2,00,000 ..	404,00,00,000 93,00,00,000
24	Department of Eco- nomic Affairs . . Revenue Capital	423,49,00,000 166,74,00,000	7,00,000 ..	423,56,00,000 166,74,00,000
25	Currency, Coinage and Stamps . . . Revenue Capital	278,45,00,000 200,09,00,000	1,00,000 2,00,000	278,46,00,000 200,11,00,000
26	Payments to Financial Institutions . . . Revenue Capital	328,62,00,000 681,29,00,000	.. ..	328,62,00,000 681,29,00,000
27	Pensions . . . Revenue	495,34,00,000	4,66,00,000	500,00,00,000
	CHARGED.—Interest Payments . . . Revenue	..	14100,00,00,000	14100,00,00,000
29	Transfers to State Governments . . . Revenue Capital	3602,93,00,000 105,00,00,000	9032,72,00,000 9336,63,00,000	12635,65,00,000 9441,63,00,000
30	Loans to Govern- ment Servants, etc. Capital	165,00,00,000	..	165,00,00,000
	CHARGED.—Repayment of Debt . . . Capital	..	132231,76,00,000	132231,76,00,000
32	Department of Expen- diture . . . Revenue Capital	804,27,00,000 1,82,00,000	.. ..	804,27,00,000 1,82,00,000
33	Audit . . . Revenue	193,96,00,000	4,22,00,000	198,18,00,000
34	Department of Revenue Revenue Capital	70,66,00,000 1,44,00,000	.. ..	70,66,00,000 1,44,00,000
35	Direct Taxes . . . Revenue Capital	159,53,00,000 120,00,00,000	2,00,000 ..	159,55,00,000 120,00,00,000
36	Indirect Taxes . . . Revenue Capital	343,41,00,000 76,64,00,000	4,00,000 ..	343,45,00,000 76,64,00,000
37	Department of Food . Revenue Capital	2438,30,00,000 124,85,00,000	1,00,000 15,00,000	2438,31,00,000 125,00,00,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
38	Department of Civil Supplies Revenue	48,61,00,000	..	48,61,00,000
	Capital	4,23,00,000	3,85,00,000	8,08,00,000
39	Department of Health Revenue	393,51,00,000	..	393,51,00,000
	Capital	148,49,00,000	2,00,000	148,51,00,000
40	Department of Family Welfare Revenue	681,12,00,000	..	681,12,00,000
	Capital	4,00,000	..	4,00,000
41	Ministry of Home Affairs Revenue	158,76,00,000	24,00,000	159,00,00,000
42	Cabinet Revenue	17,30,00,000	..	17,30,00,000
43	Police Revenue	1127,18,00,000	15,00,000	1127,33,00,000
	Capital	105,24,00,000	8,05,00,000	113,29,00,000
44	Other Expenditure of the Ministry of Home Affairs Revenue	215,97,00,000	6,00,000	216,03,00,000
	Capital	72,23,00,000	11,25,00,000	83,48,00,000
45	Transfers to Union territory Govern- ments Revenue	54,50,00,000	..	54,50,00,000
	Capital	28,38,00,000	..	28,38,00,000
46	Department of Education Revenue	1581,12,00,000	..	1581,12,00,000
	Capital	74,00,000	3,00,00,000	3,74,00,000
47	Department of Youth Affairs and Sports Revenue	94,47,00,000	..	94,47,00,000
	Capital	2,53,00,000	..	2,53,00,000
48	Art and Culture Revenue	107,39,00,000	..	107,39,00,000
	Capital	20,50,00,000	..	20,50,00,000
49	Department of Women and Child Develop- ment Revenue	249,46,00,000	..	249,46,00,000
50	Department of Indus- trial Development Revenue	349,37,00,000	4,00,00,000	353,37,00,000
	Capital	179,46,00,000	3,38,00,000	182,84,00,000
51	Department of Company Affairs Revenue	7,19,00,000	..	7,19,00,000
	Capital	1,00,000	..	1,00,000
52	Department of Che- micals and Petro- chemicals Revenue	9,45,00,000	..	9,45,00,000
	Capital	116,00,00,000	..	116,00,00,000
53	Department of Public Enterprises Revenue	24,48,00,000	1,42,00,000	25,90,00,000
	Capital	417,92,00,000	..	417,92,00,000
54	Ministry of Informa- tion and Broadcasting Revenue	65,42,00,000	2,00,000	65,44,00,000
	Capital	4,33,00,000	..	4,33,00,000
55	Broadcasting Services Revenue	418,93,00,000	1,00,000	418,94,00,000
	Capital	319,01,00,000	10,00,000	319,11,00,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
56	Ministry of Labour . Revenue Capital	247,72,00,000 72,00,000	1,00,000 ..	247,73,00,000 72,00,000
57	Law and Justice . Revenue	32,24,00,000	3,76,00,000	36,00,00,000
58	Ministry of Parlia- mentary Affairs . Revenue	86,00,000	..	86,00,000
59	Ministry of Personnel, Public Grievances and Pensions . Revenue Capital	37,44,00,000 ..	1,00,000 4,00,00,000	37,45,00,000 4,00,00,000
60	Ministry of Petro- leum and Natural Gas . Revenue Capital	125,46,00,000 140,87,00,000	.. ..	125,46,00,000 140,87,00,000
61	Planning . Revenue	13,83,00,000	..	13,83,00,000
62	Department of Statistics Revenue	35,20,00,000	..	35,20,00,000
63	Ministry of Programme Implementation . Revenue	79,00,000	..	79,00,000
64	Department of Science and Technology . Revenue Capital	180,47,00,000 18,50,00,000	.. ..	180,47,00,000 18,50,00,000
65	Department of Scien- tific and Industrial Research . Revenue Capital	203,92,00,000 4,65,00,000	.. ..	203,92,00,000 4,65,00,000
66	Department of Bio- technology . Revenue Capital	41,15,00,000 5,50,00,000	.. ..	41,15,00,000 5,50,00,000
67	Department of Steel . Revenue Capital	51,61,00,000 649,47,00,000	.. 15,05,00,000	51,61,00,000 664,52,00,000
68	Department of Mines . Revenue Capital	118,12,00,000 226,61,00,000	5,00,000 ..	118,17,00,000 226,61,00,000
69	Surface Transport . Revenue Capital	32,69,00,000 126,35,00,000	.. 4,00,00,000	32,69,00,000 130,35,00,000
70	Roads . Revenue Capital	284,48,00,000 486,33,00,000	2,00,000 46,00,00,000	284,50,00,000 532,33,00,000
71	Ports, Lighthouses and Shipping . Revenue Capital	108,45,00,000 328,77,00,000	.. 10,00,00,000	108,45,00,000 338,77,00,000
72	Ministry of Textiles . Revenue Capital	523,54,00,000 287,71,00,000	.. 9,23,00,000	523,54,00,000 296,94,00,000
73	Ministry of Tourism . Revenue Capital	35,33,00,000 15,96,00,000	.. ..	35,33,00,000 15,96,00,000
74	Urban Development and Housing . Revenue Capital	81,44,00,000 111,19,00,000	2,59,00,000 19,65,00,000	84,03,00,000 130,84,00,000
75	Public Works . Revenue Capital	166,04,00,000 76,23,00,000	.. 20,00,000	166,04,00,000 76,43,00,000
76	Stationery and Printing Revenue Capital	75,99,00,000 6,00,00,000	1,00,000 ..	76,00,00,000 6,00,00,000

1	2	3			
		Sums not exceeding			
		Voted by Parliament	Charged on the Consolidated Fund	Total	
No. of Vote	Services and purposes	Rs.	Rs.	Rs.	
77	Ministry of Water Resources	Revenue Capital	297,55,00,000 16,62,00,000	2,00,000 47,55,00,000	297,57,00,000 64,17,00,000
78	Ministry of Welfare	Revenue Capital	286,03,00,000 85,00,000	214,41,00,000 ..	500,44,00,000 85,00,000
79	Atomic Energy	Revenue Capital	310,05,00,000 497,52,00,000	1,00,000 ..	310,06,00,000 497,52,00,000
80	Nuclear Power Schemes	Revenue Capital	166,57,00,000 228,00,00,000	.. ..	166,57,00,000 228,00,00,000
81	Department of Electronics	Revenue Capital	80,83,00,000 50,47,00,000	.. ..	80,83,00,000 50,47,00,000
82	Department of Ocean Development	Revenue Capital	26,55,00,000 2,85,00,000	.. ..	26,55,00,000 2,85,00,000
83	Department of Space	Revenue Capital	278,21,00,000 153,86,00,000	1,00,000 2,00,000	278,22,00,000 153,88,00,000
84	Lok Sabha	Revenue	14,94,00,000	6,00,000	15,00,00,000
85	Rajya Sabha	Revenue	5,56,00,000	3,00,000	5,59,00,000
	CHARGED.—Staff, Household and Allowances of the President	Revenue	..	2,20,00,000	2,20,00,000
87	Secretariat of the Vice-President	Revenue	18,00,000	..	18,00,000
	CHARGED.—Union Public Service Commission	Revenue	..	10,90,00,000	10,90,00,000
89	Delhi	Revenue Capital	694,33,00,000 503,55,00,000	4,03,00,000 25,20,00,000	698,36,00,000 528,75,00,000
90	Andaman and Nicobar Islands	Revenue Capital	100,19,00,000 72,26,00,000	1,00,000 ..	100,20,00,000 72,26,00,000
91	Dadra and Nagar Haveli	Revenue Capital	18,48,00,000 5,71,00,000	.. ..	18,48,00,000 5,71,00,000
92	Lakshadweep	Revenue Capital	26,96,00,000 10,79,00,000	.. ..	26,96,00,000 10,79,00,000
93	Chandigarh	Revenue Capital	110,87,00,000 37,26,00,000	2,47,00,000 1,00,00,000	113,34,00,000 38,26,00,000
94	Daman and Diu	Revenue Capital	12,43,00,000 11,60,00,000	.. ..	12,43,00,000 11,60,00,000
	TOTAL		60060,43,00,000	165598,12,00,000	225658,55,00,000

THE FINANCE ACT, 1988

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title and commencement.

CHAPTER II

RATES OF INCOME-TAX

2. Income-tax.

CHAPTER III

DIRECT TAXES

Income-tax

3. Amendment of section 2.
4. Amendment of section 10.
5. Amendment of section 10A.
6. Insertion of new section 10B.
7. Amendment of section 13A.
8. Amendment of section 14.
9. Amendment of section 16.
10. Omission of sections 18 to 21.
11. Amendment of section 40.
12. Amendment of section 43B.
13. Insertion of new section 43C.
14. Amendment of section 44AB.
15. Insertion of new section 44AC.
16. Amendment of section 44BB.
17. Amendment of section 47.
18. Amendment of section 56.
19. Amendment of section 57.

SECTIONS

20. Amendment of section 58.
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22. Amendment of section 80CC.
23. Substitution of new section for section 80CCA.
24. Amendment of section 80HHC.
25. Amendment of section 80L.
26. Amendment of section 80-O.
27. Amendment of section 80P.
28. Omission of section 86A.
29. Amendment of section 89.
30. Omission of section 112A.
31. Amendment of section 115B.
32. Amendment of section 115F.
33. Amendment of section 131.
34. Amendment of section 132.
35. Amendment of section 139.
36. Omission of section 181.
37. Amendment of section 193.
38. Amendment of section 194C.
39. Amendment of section 195.
40. Insertion of new section 206C.
41. Amendment of section 230A.
42. Insertion of new section 245DD.
43. Amendment of section 246.
44. Amendment of section 263.
45. Amendment of section 271B.
46. Insertion of new section 276BB.
47. Amendment of section 279.
48. Omission of Chapter XXIIA.
49. Amendment of section 281B.
50. Omission of section 285A.
51. Amendment of section 293.
52. Amendment of First Schedule.
53. Amendment of Eleventh Schedule.
54. Consequential amendments.

*Wealth-tax***SECTIONS**

55. Amendment of section 5.
56. Insertion of new section 22DD.
57. Amendment of section 25.
58. Amendment of section 34AB.
59. Amendment of section 34ACC.
60. Amendment of section 34AD.
61. Insertion of new section 34AE.
62. Amendment of section 34C.
63. Substitution of new section for section 35-I.
64. Amendment of section 37.
65. Amendment of section 43.
66. Amendment of Schedule I.

Gift-tax

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THE FIRST SCHEDULE.

THE SECOND SCHEDULE.

THE THIRD SCHEDULE.

THE FOURTH SCHEDULE.

... which the ...
... request ...

THE FINANCE ACT, 1988

No. 26 of 1988

[13th May, 1988.]

An Act to give effect to the financial proposals of the Central Government for the financial year 1988-89.

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

CHAPTER I

PRELIMINARY

- 1. (1) This Act may be called the Finance Act, 1988.
- (2) Save as otherwise provided in this Act, sections 2 to 75 and sections 86 to 88 shall be deemed to have come into force on the 1st day of April, 1988.

Short title and commencement.

CHAPTER II

RATES OF INCOME-TAX

2. (1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1st day of April, 1988, income-tax shall be charged at the rates specified in Part I of the First Schedule and shall be increased,—

Income-tax.

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

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

calculated in each case in the manner provided therein.

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

(i) in a case to which the said Sub-Paragraph I applies, eighteen thousand rupees, and

(ii) in a case to which the said Sub-Paragraph II applies, twelve thousand rupees,

then,—

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

(i) in a case to which the said Sub-Paragraph I applies, the first eighteen thousand rupees, and

(ii) in a case to which the said Sub-Paragraph II applies, the first twelve 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,—

(A) in a case to which the said Sub-Paragraph I applies, by a sum of eighteen thousand rupees; and

(B) in a case to which the said Sub-Paragraph II applies, by a sum of twelve 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 of income-tax determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax in respect of the total income:

Provided that the amount of income-tax so arrived at shall, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent of such income-tax and the sum so arrived at shall be the income-tax in respect of the total income.

(3) In cases to which the provisions of Chapter XII or Chapter XII-A or sub-section (1A) of section 161 or section 164 or section 164A or section 167A of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or section, as the case may be:

Provided that in respect of any income chargeable to tax under section 115B or section 115BB of the Income-tax Act, the income-tax computed under section 115B or section 115BB shall be increased by a surcharge for purposes of the Union calculated at the rate of five per cent of such income-tax.

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

(a) in the cases to which the provisions of sub-item (a) of item 1 of that Part apply, by a surcharge for purposes of the Union; and

(b) in the cases to which the provisions of sub-item (a) of item 2 of that Part apply, by a surcharge,

calculated in each case in the manner provided therein.

(5) In cases in which tax has to be deducted under section 194C of the Income-tax Act, the deduction shall be made at the rates specified in that section and shall be increased by a surcharge for purposes of the Union calculated at the rate of five per cent of such deduction.

(5) In cases in which tax has to be deducted under section 194C of the the Income-tax Act, the collection shall be made at the rate specified in that section and shall be increased by a surcharge for purposes of the Union calculated at the rate of five per cent of such collection.

(7) Subject to the provisions of sub-section (8), 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 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 and shall be increased,—

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

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

calculated in each case in the manner provided therein:

Provided that in cases to which the provisions of Chapter XII or Chapter XII-A, or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be:

Provided further that in respect of any income chargeable to tax under section 115B of the Income-tax Act, the "advance tax" computed under the first proviso shall be increased by a surcharge for purposes

of the Union calculated at the rate of five per cent of such "advance tax".

(3) In the cases to which Sub-Paragraph I or Sub-Paragraph II of Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income exceeding six hundred rupees, in addition to total income and the total income exceeds,—

(i) in a case to which the said Sub-Paragraph I applies, eighteen thousand rupees, and

(ii) in a case to which the said Sub-Paragraph II applies, twelve thousand rupees,

then, in calculating income-tax under the first proviso to sub-section (5) of section 132 of the Income-tax Act or in charging income-tax under sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

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

(i) in a case to which the said Sub-Paragraph I applies, the first eighteen thousand rupees, and

(ii) in a case to which the said Sub-Paragraph II applies, the first twelve thousand rupees,

of the total income but without being liable to tax], only for the purpose of calculating, charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income; and

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

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

(ii) the net agricultural income shall be increased,—

(A) in a case to which the said Sub-Paragraph I applies, by a sum of eighteen thousand rupees; and

(B) in a case to which the said Sub-Paragraph II applies, by a sum of twelve thousand rupees,

and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Sub-Paragraph I or,

as the case may be, the said Sub-Paragraph II as if the net agricultural income as so increased were the total income;

(iii) the amount of income-tax or "advance tax" determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax or, as the case may be, "advance tax" determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income;

Provided that the amount of income-tax or "advance tax" so arrived at shall, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent. of such income-tax or, as the case may be, "advance tax" and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income.

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

(a) "company in which the public are substantially interested" means a company within the meaning of clause (18) of section 2 of the Income-tax Act, and includes a subsidiary of such company if the whole of the share capital of such subsidiary company has been held by the parent company or by its nominees throughout the previous year;

(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, 1988, 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 the Act;

(c) "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);

(d) "investment company" means a company whose gross total income (as defined in section 80B of the Income-tax Act) consists mainly of income which is chargeable under the heads "Interest on securities", "Income from house property", "Capital gains" and "Income from other sources";

(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) "trading company" means a company whose business consists mainly in dealing in goods or merchandise manufactured, produced or processed by a person other than that company and whose income attributable to such business included in its gross total income (as defined in section 80B of the Income-tax Act) is not less than fifty-one per cent. of the amount of such gross total income;

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

CHAPTER III

DIRECT TAXES

Income-tax

Amendment of section 2.

3. In section 2 of the Income-tax Act, after clause (28A), the following clause shall be inserted with effect from the 1st day of April, 1989, namely:—

(28B) "interest on securities" means—

(i) interest on any security of the Central Government or a State Government;

(ii) interest on debentures or other securities for money issued by or on behalf of a local authority or a company or a corporation established by a Central, State or Provincial Act;.

Amendment of section 10.

4. In section 10 of the Income-tax Act,—

(a) in clause (6),—

(i) for sub-clauses (ii) to (v), the following sub-clause shall be substituted with effect from the 1st day of April, 1989, namely:—

"(ii) the remuneration received by him as an official, by whatever name called, of an embassy, high commission, legation, commission, consulate or the trade representation of a foreign State, or as a member of the staff of any of these officials, for service in such capacity:

Provided that the remuneration received by him as a trade commissioner or other official representative in India of the Government of a foreign State (not holding office as such in an honorary capacity), or as a member of the staff of any of those officials, shall be exempt only if the remuneration of the corresponding officials or, as the case may be, members of the staff, if any, of the Government resident for similar purposes in the country concerned enjoys a similar exemption in that country;

Provided further that such members of the staff are subjects of the country represented and are not engaged in any business or profession or employment in India otherwise than as members of such staff;";

(ii) in sub-clause (viii)—

(1) in the opening paragraph, the brackets, words, figures and letters “(commencing from a date after the 31st day of March, 1971)” shall be omitted;

(2) in item (A), for the brackets, letter and words “(A) such remuneration due to or received by him”, the following shall be substituted, namely:—

“(I) where such services commence from a date after the 31st day of March, 1971, but before the 1st day of April, 1988,—

(A) such remuneration due to or received by him”;

(3) in the proviso, for the words “Provided that”, the following shall be substituted, namely:—

“(II) where such services commence from a date after the 31st day of March, 1988, and the tax on his income chargeable under the head “Salaries” is paid to the Central Government by the employer (which tax, in the case of an employer, being a company, may be paid notwithstanding anything contained in section 200 of the Companies Act, 1956), the tax so paid by the employer for a period not exceeding forty-eight months commencing from the date of his arrival in India:

Provided that nothing in this item shall relate to a period exceeding twenty-four months commencing from the date of his arrival in India if the approval of the Central Government for his employment in India for such period is not obtained before the 1st day of October of the relevant assessment year:

Provided further that’;

(b) in clause (6A), in the *Explanation*, for the words “For the purposes of this clause”, the words, brackets, figure and letter “For the purposes of this clause and clause (6B)” shall be substituted;

(c) after clause (6A), the following clause shall be inserted, namely:—

“(6B) where in the case of a non-resident (not being a company) or of a foreign company deriving income (not being salary, royalty or fees for technical services) from Government or an Indian concern in pursuance of an agreement entered into by the Central Government with the Government of a foreign State or an international organisation, the tax on such income is payable by Government or the Indian concern to the Central Government under the terms of that agreement or any other related agreement approved by the Central Government, the tax so paid;”;

(d) in clause (15), after sub-clause (iib), the following sub-clause shall be inserted with effect from the 1st day of April, 1989, namely:—

“(iic) in the case of an individual or a Hindu undivided family, interest on such Relief Bonds as the Central Government may, by notification in the Official Gazette, specify in this behalf;”;

(e) in clause (20), the words ‘“Interest on securities”’ shall be omitted with effect from the 1st day of April, 1989;

(f) in clause (23A), the words ‘“Interest on securities” or’ shall be omitted with effect from the 1st day of April, 1989;

(g) in clause (23D) [as inserted by clause (m) of section 6 of the Direct Tax Laws (Amendment) Act, 1987],—

4 of 1988.

(i) for the words “any income from”, the words “any income of” shall be substituted;

(ii) for the words “the income from the Mutual Fund shall be distributed to the unit holders”, the words “such income shall be distributed to the holders of its units” shall be substituted;

(h) in clause (24), the words ‘“Interest on securities”’ shall be omitted with effect from the 1st day of April, 1989;

(i) after clause (30), the following clause shall be inserted with effect from the 1st day of April, 1989, namely:—

“(31) in the case of an assessee who carries on the business of growing and manufacturing rubber, coffee, cardamom or such other commodity in India, as the Central Government may, by notification in the Official Gazette, specify in this behalf, the amount of any subsidy received from or through the concerned Board under any such scheme for replantation or replacement of rubber plants, coffee plants, cardamom plants or plants for the growing of such other commodity or for rejuvenation or consolidation of areas used for cultivation of rubber, coffee, cardamom or such other commodity as the Central Government may, by notification in the Official Gazette, specify:

Provided that the assessee furnishes to the Assessing Officer, along with his return of income for the assessment year concerned or within such further time as the Assessing Officer may allow, a certificate from the concerned Board, as to the amount of such subsidy paid to the assessee during the previous year.

Explanation.—In this clause, “concerned Board” means—

(i) in relation to rubber, the Rubber Board constituted under section 4 of the Rubber Act, 1947,

24 of 1947.

(ii) in relation to coffee, the Coffee Board constituted under section 4 of the Coffee Act, 1942,

8 of 1942.

10 of 1986.

(iii) in relation to cardamom, the Spices Board constituted under section 3 of the Spices Board Act, 1986,

(iv) in relation to any other commodity specified under this clause, any Board or other authority established under any law for the time being in force which the Central Government may, by notification in the Official Gazette, specify in this behalf.

5. In section 10A of the Income-tax Act, with effect from the 1st day of April, 1989,—

Amendment of section 10A.

(a) in sub-section (7), for the words, brackets and figures "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", the words, brackets and figures "before the due date for furnishing the return of income under sub-section (1) of section 139" shall be substituted;

4 of 1988.

(b) in sub-section (8) [as inserted by section 126 of the Direct Tax Laws (Amendment) Act, 1987],—

(i) for the words "in this section", the words, brackets and figure "in sub-section (5)" shall be substituted;

(ii) for the words "purposes of this section", the words "purposes of that sub-section" shall be substituted.

6. After section 10A of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1989, namely:—

Insertion of new section 10B.

10B. (1) Subject to the provisions of this section, any profits and gains derived by an assessee from a hundred per cent. export-oriented undertaking (hereafter in this section referred to as the undertaking) to which this section applies shall not be included in the total income of the assessee.

Special provision in respect of newly established hundred per cent. export-oriented undertakings.

(2) This section applies to any undertaking which fulfils all the following conditions, namely:—

(i) it manufactures or produces any article or thing;

(ii) it is not formed by the splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of any undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such 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.

Explanation.—The provisions of *Explanation 1* and *Explanation 2* to sub-section (2) of section 80-I shall apply for the purposes of clause (iii) of this sub-section as they apply for the purposes of clause (ii) of that sub-section.

(3) The profits and gains referred to in sub-section (1) shall not be included in the total income of the assessee in respect of any five consecutive assessment years, falling within a period of eight years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce articles or things, specified by the assessee at his option:

Provided that nothing in this sub-section shall be construed to extend the aforesaid five assessment years to cover any period after the expiry of the said period of eight years.

(4) Notwithstanding anything contained in any other provision of this Act, in computing the total income of the assessee of the previous year relevant to the assessment year immediately succeeding the last of the relevant assessment years, or of any previous year relevant to any subsequent assessment year,—

(i) section 32, section 32A, section 33 and clause (ix) of sub-section (1) of section 36 shall apply as if every allowance or deduction referred to therein and relating to or allowable for any of the relevant assessment years, in relation to any building, machinery, plant or furniture used for the purposes of the business of the undertaking in the previous year relevant to such assessment year or any expenditure incurred for the purposes of such business in such previous year had been given full effect to for that assessment year itself and accordingly sub-section (2) of section 32, clause (ii) of sub-section (3) of section 32A, clause (ii) of sub-section (2) of section 33 or the second proviso to clause (ix) of sub-section (1) of section 36, as the case may be, shall not apply in relation to any such allowance or deduction;

(ii) no loss referred to in sub-section (1) of section 72 or sub-section (1) or sub-section (3) of section 74, in so far as such loss relates to the business of the undertaking, shall be carried forward or set off where such loss relates to any of the relevant assessment years;

(iii) no deduction shall be allowed under section 80HH or section 80HHA or section 80-I in relation to the profits and gains of the undertaking; and

(iv) in computing the depreciation allowance under section 32, the written down value of any asset used for the purposes of the business of the undertaking shall be computed as if the assessee had claimed and been actually allowed the deduction in respect of depreciation for each of the relevant assessment years.

(5) Where the undertaking has begun to manufacture or produce articles or things in any previous year relevant to the assessment year commencing before the 1st day of April, 1989, the assessee may, at his option, before the due date for furnishing the return of his income under sub-section (1) of section 139 for the assessment year commencing on the 1st day of April, 1989, furnish to the Assessing Officer a declaration in writing that the provisions of sub-section (1) may be made applicable to him for any five consecutive assessment years falling within a period of eight years beginning with the assessment

year commencing on the 1st day of April, 1989 and if he does so, then, the provisions of sub-section (1) shall apply to him for each of such assessment years and the provisions of sub-section (4) shall also apply in computing the total income of the assessee for the assessment year immediately succeeding the last of such assessment years and any subsequent assessment year.

(6) The provisions of sub-section (8) and sub-section (9) of section 80-I shall, so far as may be, apply in relation to the undertaking referred to in this section as they apply for the purposes of the industrial undertaking referred to in section 80-I.

(7) Notwithstanding anything contained in the foregoing provisions of this section, where the assessee, before the due date for furnishing the return of his income under sub-section (1) of section 139, furnishes to the Assessing Officer a declaration in writing that the provisions of this section may not be made applicable to him, the provisions of this section shall not apply to him for any of the relevant assessment years.

Explanation.—For the purposes of this section,—

(i) “hundred per cent. export-oriented undertaking” means an undertaking which has been approved as a hundred per cent. export-oriented undertaking by the Board appointed in this behalf by the Central Government in exercise of the powers conferred by section 14 of the Industries (Development and Regulation) Act, 1951, and the rules made under that Act;

(ii) “relevant assessment years” means the five consecutive assessment years specified by the assessee at his option under sub-section (3) or sub-section (5), as the case may be;

(iii) “manufacture” includes any—

(a) process, or

(b) assembling, or

(c) recording of programmes on any disc, tape, perforated media or other information storage device.’

7. In section 13A of the Income-tax Act, the words ‘“Interest on securities”,’ shall be omitted with effect from the 1st day of April, 1989.

Amendment of section 13A.

8. In section 14 of the Income-tax Act, the letter and words “B.—Interest on securities.” shall be omitted with effect from the 1st day of April, 1989.

Amendment of section 14.

9. In section 16 of the Income-tax Act, in clause (i), for the portion beginning with the words “a sum equal to” and ending with the words “whichever is less”, the following shall be substituted with effect from the 1st day of April, 1989, namely:—

Amendment of section 16.

“a sum equal to thirty-three and one-third per cent. of the salary or twelve thousand rupees, whichever is less”.

Omission
of sec-
tions 18
to 21.

10. Section 18 to 21 of the Income-tax Act and the sub-heading “B.—*Interest on securities*” above section 18 shall be omitted with effect from the 1st day of April, 1989.

Amend-
ment of
section
40.

11. In section 40 of the Income-tax Act, with effect from the 1st day of April, 1989,—

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

‘(i) any interest (not being interest on a loan issued for public subscription before the 1st day of April, 1938), royalty, fees for technical services or other sum chargeable under this Act, which is payable outside India, on which tax has not been paid or deducted under Chapter XVII-B:

Provided that where in respect of any such sum, tax has been paid or deducted under Chapter XVII-B in any subsequent year, such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid or deducted.

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

(A) “royalty” shall have the same meaning as in *Explanation 2* to clause (vi) of sub-section (1) of section 9;

(B) “fees for technical services” shall have the same meaning as in *Explanation 2* to clause (vii) of sub-section (1) of section 9;;

(ii) clause (d) shall be omitted.

Amend-
ment of
section
43B.

12. In section 43B of the Income-tax Act [as amended by section 15 of the Direct Tax Laws (Amendment) Act, 1987], with effect from the 1st day of April, 1989,—

4 of 1988.

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

“(a) any sum payable by the assessee by way of tax, duty, cess or fee, by whatever name called, under any law for the time being in force, or”;

(ii) in clause (c), the word “or” shall be inserted at the end;

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

“(d) any sum payable by the assessee as interest on any loan or borrowing from any public financial institution, in accordance with the terms and conditions of the agreement governing such loan or borrowing.”;

(iv) in the first proviso, after the word, brackets and letter “clause (c)”, the words, brackets and letter “or clause (d)” shall be inserted;

(v) in *Explanation 2*, after the word, brackets and letter “clause (c)”, the words, brackets and letter “or clause (d)” shall be inserted;

(vi) after *Explanation 2*, the following *Explanation* shall be inserted, namely:—

Explanation 3.—For the purposes of this section, the expression “public financial institution” shall have the meaning assigned to it in section 4A of the Companies Act, 1956.’

1 of 1956.

13. After section 43B of the Income-tax Act, the following section shall be inserted namely:—

Insertion of new section 43C.

“43C. (1) Where an asset [not being an asset referred to in sub-section (2) of section 45] which becomes the property of an amalgamated company under a scheme of amalgamation, is sold after the 29th day of February, 1988, by the amalgamated company as stock-in-trade of the business carried on by it, the cost of acquisition of the said asset to the amalgamated company in computing the profit and gains from the sale of such asset shall be the cost of acquisition of the said asset to the amalgamating company, as increased by the cost, if any, of any improvement made thereto and the expenditure, if any, incurred wholly and exclusively in connection with such transfer by the amalgamating company.

Special provision for computation of cost of acquisition of certain assets.

(2) Where an asset [not being an asset referred to in sub-section (2) of section 45] which becomes the property of the assessee on the total or partial partition of a Hindu undivided family or under a gift or will or an irrevocable trust, is sold after the 29th day of February, 1988, by the assessee as stock-in-trade of the business carried on by him, the cost of acquisition of the said asset to the assessee in computing the profits and gains from the sale of such asset shall be the cost acquisition of the said asset to the transferor or the donor, as the case may be, as increased by the cost, if any, of any improvement made thereto, and the expenditure, if any, incurred, wholly and exclusively in connection with such transfer (by way of effecting the partition, acceptance of the gift, obtaining probate in respect of the will or the creation of the trust), including the payment of gift-tax, if any, incurred by the transferor or the donor, as the case may be.”.

14. In section 44AB of the Income-tax Act, with effect from the 1st day of April, 1989,—

Amendment of section 44AB.

(a) in clauses (a) and (b), the words, figures and letters “or years relevant to the assessment year commencing on the 1st day of April, 1985, or any subsequent assessment year” shall be omitted;

(b) for the words “such previous year or years”, the words “such previous year” shall be substituted;

(c) in the *Explanation*, for clause (ii), the following clause shall be substituted, namely:—

(ii) “specified date”, in relation to the accounts of the previous year relevant to an assessment year means,—

(a) where the assessee is a company, the 31st day of December of the assessment year;

(b) in any other case, the 31st day of October of the assessment year.’

Insertion
of new
section
44AC.

15. After section 44AB of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1989, namely:—

Special
provision
for com-
puting
profits
and gains
from the
business
of trad-
ing in
certain
goods.

44AC. (1) Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of an assessee, being a person other than a public sector company (hereafter in this section referred to as the buyer), obtaining in any sale by way of auction, tender or any other mode, conducted by any other person or his agent (hereafter in this section referred to as the seller),—

(a) any goods in the nature of alcoholic liquor for human consumption (other than Indian-made foreign liquor), a sum equal to forty per cent. of the amount paid or payable by the buyer as the purchase price in respect of such goods shall be deemed to be the profits and gains of the buyer from the business of trading in such goods chargeable to tax under the head "Profits and gains of business or profession";

(b) the right to receive any goods of the nature specified in column (2) of the Table below, or such goods, as the case may be, a sum equal to the percentage, specified in the corresponding entry in column (3) of the said Table, of the amount paid or payable by the buyer in respect of the sale of such right or as the purchase price in respect of such goods shall be deemed to be the profits and gains of the buyer from the business of trading in such goods chargeable to tax under the head "Profits and gains of business or profession".

TABLE

Sl. No.	Nature of goods	Percentage
(1)	(2)	(3)
(i)	Timber obtained under a forest lease	Thirty-five per cent.
(ii)	Timber obtained by any mode other than under a forest lease.	Fifteen per cent.
(iii)	Any other forest produce not being timber	Thirty-five per cent.

(2) For the removal of doubts, it is hereby declared that the provisions of sub-section (1) shall not apply to a buyer (other than a buyer who obtains any goods from any seller which is a public sector company) in the further sale of any goods obtained under or in pursuance of the sale under sub-section (1).

(3) In a case where the business carried on by the assessee does not consist exclusively of trading in goods to which this section applies and where separate accounts are not maintained or are not available, the amount of expenses attributable to such other business shall be an amount which bears to the total expenses of the business carried on by the assessee the same proportion as the turnover of such other business bears to the total turnover of the business carried on by the assessee.

Explanation.—For the purposes of this section, “seller” means the Central Government, a State Government or any local authority or corporation or authority established by or under a Central, State or Provincial Act, or any company or firm.’

16. In section 44BB of the Income-tax Act, in sub-section (1), in the opening paragraph, for the words “in the case of an assessee”, the words “in the case of an assessee, being a non-resident,” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1983.

Amendment of section 44BB.

17. In section 47 of the Income-tax Act, after clause (v), the following proviso shall be inserted, namely:—

Amendment of section 47.

“Provided that nothing contained in clause (iv), or clause (v) shall apply to the transfer of a capital asset made after the 29th day of February, 1988, as stock-in-trade.”

18. In section 56 of the Income-tax Act, in sub-section (2), after clause (ic) (as inserted by section 26 of the Finance Act, 1987), the following clause shall be inserted with effect from the 1st day of April, 1989, namely:—

11 of 1987.

Amendment of section 56.

“(id) income by way of interest on securities, if the income is not chargeable to income-tax under the head “Profits and gains of business or profession”;

19. In section 57 of the Income-tax Act, with effect from the 1st day of April, 1989,—

Amendment of section 57.

(a) in clause (i),—

(1) after the word “dividends”, the words “or interest on securities” shall be inserted;

(2) after the words “such dividend”, the words “or interest” shall be inserted;

(b) the *Explanation* shall be omitted.

20. In section 58 of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 1989,—

Amendment of section 58.

(a) in clause (a), in sub-clause (ii), the words and figures “and in respect of which there is no person in India who may be treated as an agent under section 163” shall be omitted;

(b) clause (b) shall be omitted.

21. In section 79 of the Income-tax Act, with effect from the 1st day of April, 1989,—

Amendment of section 79.

(a) in clause (a),—

(i) the word “or” occurring at the end shall be omitted;

(ii) the following proviso shall be added at the end, namely:—

“Provided that nothing contained in this section shall apply to a case where a change in the said voting power takes place in a previous year consequent upon the death of a

shareholder or on account of transfer of shares by way of gift to any relative of the shareholder making such gift ;

(b) clause (b) shall be omitted.

Amend-
ment of
section
80CC.

22. In section 80CC of the Income-tax Act, in sub-section (1), after the words "eligible issue of capital," the words, brackets, figures and letter "or units of any Mutual Fund specified under clause (23D) of section 10 if such Fund subscribes only to eligible issue of capital," shall be inserted with effect from the 1st day of April, 1989.

Substitu-
tion of new
section
for
section
80CCA.

23. For section 80CCA of the Income-tax Act (as inserted by section 34 of the Finance Act, 1987), the following section shall be substituted, namely:—

11 of 1987.

Deduction
in respect
of deposits
under
National
Savings
Scheme
or payment
to an
annuity
plan.

'80CCA. (1) Where an assessee, being—

(a) an individual, or

(b) a Hindu undivided family, or

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

has in the previous year—

(i) deposited any amount in accordance with such scheme as the Central Government may, by notification in the Official Gazette, specify in this behalf (hereafter in this section referred to as the National Savings Scheme); or

(ii) paid any amount to effect or to keep in force a contract for such annuity plan of the Life Insurance Corporation as the Central Government may, by notification in the Official Gazette specify,

out of his income chargeable to tax, he shall, in accordance with, and subject to, the provisions of this section, be allowed a deduction in the computation of his total income of the whole of the amount deposited or paid (excluding interest or bonus accrued or credited to the assessee's account, if any) as does not exceed the amount of twenty thousand rupees in the previous year:

Provided that in relation to the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years, this sub-section shall have effect as if for the words "twenty thousand rupees", the words "thirty thousand rupees" had been substituted.

(2) Where any amount—

(a) standing to the credit of the assessee under the National Savings Scheme in respect of which a deduction has been allowed under sub-section (1) together with the interest accrued on such amount is withdrawn in whole or part in any previous year, or

(b) is received on account of the surrender of the policy or as annuity or bonus in accordance with the annuity plan of the Life Insurance Corporation in any previous year,

an amount equal to the whole of the amount referred to in clause (a) or clause (b) shall be deemed to be the income of the assessee of that previous year in which such withdrawal is made or, as the case may be, amount is received, and shall, accordingly, be chargeable to tax as the income of that previous year.

Explanation I.—For the removal of doubts, it is hereby declared that interest on the deposits made under the National Savings Scheme shall not be chargeable to tax except in the manner and to the extent specified in sub-section (2).

Explanation II.—For the purpose of this section, "Life Insurance Corporation" shall have the same meaning as in clause (a) of sub-section (8) of section 80C.

24. In section 80HHC of the Income-tax Act, with effect from the 1st day of April, 1989,—

Amend-
ment of
section
80 HHC.

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

"(1) Where an assessee, being an Indian company or a person (other than a company) resident in India, is engaged in the business of export out of India of any goods or merchandise 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 of the whole of the income derived by the assessee from the export of such goods or merchandise:

Provided that if the assessee, being a holder of an Export House Certificate or a Trading House Certificate, (hereafter in this section referred to as an Export House or a Trading House, as the case may be,) issues a certificate referred to in clause (b) of sub-section (4A), that in respect of the amount of the export turnover specified therein, the deduction under this sub-section is to be allowed to a supporting manufacturer, then the amount of deduction in the case of the assessee shall be reduced by such amount which bears to the total profits of the export business of the assessee the same proportion as the amount of export turnover specified in the said certificate bears to the total export turnover of the assessee.

(1A) Where the assessee, being a supporting manufacturer, has during the previous year, sold goods or merchandise to any Export House or Trading House in respect of which the Export House or Trading House has issued a certificate under the proviso to sub-section (1), 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 of the whole of the income derived by the assessee from the sale of goods or merchandise to the Export House or Trading House in respect of which the certificate has been issued by the Export House or Trading House."

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

“(3A) For the purposes of sub-section (1A), profits derived by a supporting manufacturer from the sale of goods or merchandise shall be,—

(a) in a case where the business carried on by the supporting manufacturer consists exclusively of sale of goods or merchandise to one or more Export Houses or Trading Houses, the profits of the business as computed under the head “Profits and gains of business or profession”;

(b) in a case where the business carried on by the supporting manufacturer does not consist exclusively of sale of goods or merchandise to one or more Export Houses or Trading Houses, the amount which bears to the profits of the business (as computed under the head “Profits and gains of business or profession”) the same proportion as the turnover in respect of sale to the respective Export House or Trading House bears to the total turnover of the business carried on by the assessee.”;

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

“(4A) The deduction under sub-section (1A) shall not be admissible unless the supporting manufacturer furnishes in the prescribed form along with his return of income,—

(a) the report of an accountant, as defined in the Explanation below sub-section (2) of section 288 certifying that the deduction has been correctly claimed on the basis of the income of the supporting manufacturer in respect of his sale of goods or merchandise to the Export or Trading House; and

(b) a certificate from the Export House or Trading House containing such particulars as may be prescribed and verified in the manner prescribed that in respect of the export turnover mentioned in the certificate, the Export House or Trading House has not claimed of the deduction under this section:

Provided that the certificate specified in clause (b) shall be duly certified by the auditor auditing the accounts of the Export House or Trading House under the provisions of this Act or under any other law.”;

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

“(d) “Export House Certificate” or “Trading House Certificate” means a valid Export House Certificate or Trading House Certificate, as the case may be, issued by the Chief Controller of Imports and Exports, Government of India;

(e) “supporting manufacturer” means a person being an Indian company or a person (other than a company) resident in India, manufacturing goods or merchandise and selling such

goods or merchandise to an Export House or a Trading House for the purposes of export.

25. In section 80L of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 1989,—

Amend-
ment of
section
80L.

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

“(iiiia) interest on deposits under the Post Office (Monthly Income Account) Rules, 1987;”;

(b) in clause (vii),—

(i) in the opening paragraph, the words “or with a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes” shall be omitted;

(ii) in the proviso, the words “or, as the case may be, the company” shall be omitted;

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

“(x) interest on deposits with, or dividend received from, any public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes:

Provided that the company is for the time being approved by the Central Government for the purpose of clause (viii) of sub-section (1) of section 36;”;

(d) for the first and second provisos, the following provisos shall be substituted, namely:—

“Provided that where the gross total income of the assessee includes any income by way of interest on any deposits referred to in clause (iia), or income in respect of units referred to in clause (v) or clause (va), or income by way of interest or dividend referred to in clause (x), there shall be allowed in computing the total income of the assessee, a further deduction of an amount equal to so much of such income as has not been allowed by way of deduction under the foregoing provisions of this sub-section; so, however, that the amount of such further deduction shall not exceed three thousand rupees:

Provided further that where any income by way of interest on any deposits referred to in clause (iia) or any dividends referred to in clause (iv) remains unallowed after the deduction under the foregoing provisions of this section, there shall be allowed in computing the total income of the assessee, an additional deduction of an amount equal to so much of such income

as has remained unallowed; so, however, that the amount of such additional deduction shall not exceed three thousand rupees.”.

Amend-
ment of
section
80-O.

26. In section 80-O of the Income-tax Act (as amended by section 36 of the Finance Act, 1987),—

11 of 1987.

(a) in the opening pragraph,—

(i) for the words “under an agreement approved by the Board in this behalf”, the words “under an agreement approved in this behalf by the Chief Commissioner or the Director General” shall be substituted with effect from the 1st day of April, 1989;

(ii) for the portion beginning with the words “and such income is received in convertible foreign exchange” and ending with the words “in computing the total income of the assessee”, the following shall be substituted, namely:—

“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 an amount equal to fifty per cent. of the income so received in, or brought into, India, in computing the total income of the assessee”;

(b) for the first and second provisos, the following provisos shall be substituted with effect from the 1st day of April, 1989, namely:—

“Provided that the application for the approval of the agreement referred to in this section is made to the Chief Commissioner or, as the case may be, the Director General in the prescribed form and verified in the prescribed manner before the 1st day of October of the assessment year in relation to which the approval is first sought:

Provided further that the approval of the Chief Commissioner or, as the case may be, the Director General shall not be necessary in the case of any such agreement which has been approved for the purposes of the deduction under this section by the Central Government before the 1st day of April, 1972, or by the Board before the 1st day of April, 1989, and every application for such approval of any such agreement pending with the Board immediately before the 1st day of April, 1989 shall stand transferred to the Chief Commissioner to the Director General for disposal:”.

Amend-
ment of
section
80P.

27. In section 80P of the Income-tax Act, in sub-section (2), in clause (f), the words and figures “chargeable under section 18” shall be omitted with effect from the 1st day of April, 1989.

Omission
of sec-
tion 86A.

28. Section 86A of the Income-tax Act shall be omitted with effect from the 1st day of April, 1989.

29. In section 89 of the Income-tax Act, sub-section (2) shall be omitted with effect from the 1st day of April, 1989.

Amendment of section 89.

30. Section 112A of the Income-tax Act shall be omitted with effect from the 1st day of April, 1989.

Omission of section 112A.

31. Section 115B of the Income-tax Act shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-section shall be inserted with effect from the 1st day of April, 1989, namely:—

Amendment of section 115B.

“(2) Notwithstanding anything contained in sub-section (1) or in any other law for the time being in force or any instrument having the force of law, the assessee shall, in addition to the payment of income-tax computed under sub-section (1), deposit, during the previous year relevant to the assessment year commencing on the 1st day of April, 1989, an amount equal to thirty-three and one-third per cent. of the amount of income-tax computed under clause (i) of sub-section (1), in such social security fund (hereafter in this sub-section referred to as the security fund), as the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that where the assessee makes during the said previous year any deposit of an amount of not less than two and one-half per cent. of the profits and gains of the life insurance business in the security fund, the amount of income-tax payable by the assessee under the said clause (i) shall be reduced by an amount equal to two and one-half per cent. of such profits and gains and, accordingly, the deposit of thirty-three and one-third per cent. required to be made under this sub-section shall be calculated on the income-tax as so reduced.”.

32. In section 115F of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 1989,—

Amendment of section 115F.

(a) in the opening portion,—

(i) the words “or deposited” shall be omitted;

(ii) the words, brackets, figure and letter “or in an account referred to in clause (4A),” shall be omitted;

(iii) the words “or such deposit in the account aforesaid” shall be omitted;

(b) in the *Explanation*, in clause (i), the words, brackets, figures and letter “referred to in clause (4A) of section 10 or” shall be omitted.

33. In section 131 of the Income-tax Act, with effect from the 1st day of June, 1988,—

Amendment of section 131.

(a) in sub-section (1A), for the words “If the Assistant Director of Inspection”, the words, brackets and figures “If the Director General or Director or Deputy Director or Assistant Director, or the authorised officer referred to in sub-section (1) of section 132 before he takes action under clauses (i) to (v) of that sub-section,” shall be substituted;

(b) in sub-section (3), in the proviso, in clause (b) [as amended by section 2 of the Direct Tax Laws (Amendment) Act, 1987], for the words "the Chief Commissioner or Commissioner therefor", the words "the Chief Commissioner or Director General or Commissioner or Director therefor, as the case may be" shall be substituted.

Amendment of section 132.

34. In section 132 of the Income-tax Act, with effect from the 1st day of April, 1989,—

(a) in sub-section (1), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that where it is not possible or practicable to take physical possession of any valuable article or thing and remove it to a safe place due to its volume, weight or other physical characteristics or due to its being of a dangerous nature, the authorised officer may serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it, except with the previous permission of such authorised officer and such action of the authorised officer shall be deemed to be seizure of such valuable article or thing under clause (iii).";

(b) in sub-section (3), after the words "other valuable article or thing," the words, brackets and figure "for reasons other than those mentioned in the second proviso to sub-section (1)," shall be inserted.

Amendment of section 139.

35. In section 139 of the Income-tax Act, with effect from the 1st day of April, 1989,—

(a) in sub-section (6A), after the words "require him to furnish", the words, figures and letters "the report of any audit obtained under section 44AB, the" shall be inserted;

(b) in the *Explanation* below sub-section (9), after clause (b), the following clause shall be inserted, namely:—

"(bb) the return is accompanied by the report of the audit obtained under section 44AB;"

Omission of section, 181.

36. Section 181 of the Income-tax Act and the sub-heading "O.—*Liability of State Governments*" above that section shall be omitted with effect from the 1st day of April, 1989.

Amendment of section 193.

37. In section 193 of the Income-tax Act, with effect from the 1st day of April, 1989,—

(a) in the opening paragraph, for the words 'chargeable under the head "Interest on securities"', the words "by way of interest on securities" shall be substituted;

(b) in the proviso, clause (ii) shall be omitted.

Amendment of section 194C.

38. In section 194C of the Income-tax Act, after sub-section (2), the following *Explanation* shall be inserted with effect from the 1st day of June, 1988, namely:—

Explanation.—For the purposes of this section, where any sum referred to in sub-section (1) or sub-section (2) is credited to any

account, whether called "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.'

39. In section 195 of the Income-tax Act, in sub-section (2), for the words "in the prescribed manner", the words "by general or special order" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of March, 1988.

Amendment of section 195.

40. After section 206B of the Income-tax Act, the following sub-heading and section shall be inserted with effect from the 1st day of June, 1988, namely:—

Insertion of new section 206C.

"BB.—Collection at source

206C. (1) Every person, being a seller referred to in section 44AC, shall, at the time of debiting of the amount payable by the buyer referred to in that section to the account of the buyer or at the time of receipt of such amount from the said buyer in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the buyer of any goods of the nature specified in column (2) of the Table below, a sum equal to the percentage, specified in the corresponding entry in column (3) of the said Table, of such amount as income-tax on income comprised therein.

Profits and gains from the business of trading in alcoholic liquor, forest produce, etc.

TABLE

Sl. No.	Nature of goods	Percentage
(1)	(2)	(3)
(i)	Alcoholic liquor for human consumption (other than Indian made foreign liquor)	Fifteen per cent.
(ii)	Timber obtained under a forest lease	Fifteen per cent.
(iii)	Timber obtained by any mode other than under a forest lease	Ten per cent.
(iv)	Any other forest produce not being timber	Fifteen per cent. :

Provided that where the Assessing Officer, on an application made by the buyer, gives a certificate in the prescribed form that to the best of his belief any of the goods referred to in the aforesaid Table are to be utilised for the purposes of manufacturing, processing or producing articles or things and not for trading purposes, the provisions of this sub-section shall not apply so long as the certificate is in force.

(2) The power to recover tax by collection under sub-section (1) shall be without prejudice to any other mode of recovery.

(3) Any person collecting any amount under sub-section (1) shall pay within seven days the amount so collected to the credit of the Central Government or as the Board directs.

(4) Any amount collected in accordance with the provisions of this section and paid under sub-section (3) shall be deemed as pay-

ment of tax on behalf of the person from whom the amount has been collected and credit shall be given to him for the amount so collected on the production of the certificate furnished under sub-section (5) in the assessment made under this Act for the assessment year for which such income is assessable.

(5) Every person collecting tax in accordance with the provisions of this section shall within ten days from the date of debit or receipt of the amount furnish to the buyer to whose account such amount is debited or from whom such payment is received, a certificate to the effect that tax has been collected, and specifying the sum so collected, the rate at which the tax has been collected and such other particulars as may be prescribed.

(6) Any person responsible for collecting the tax who fails to collect the tax in accordance with the provisions of this section, shall, notwithstanding such failure, be liable to pay the tax to the credit of the Central Government in accordance with the provisions of sub-section (3).

(7) Without prejudice to the provisions of sub-section (6), if the seller does not collect the tax or after collecting the tax fails to pay it as required under this section, he shall be liable to pay simple interest at the rate of two per cent. per month or part thereof on the amount of such tax from the date on which such tax was collectable to the date on which the tax was actually paid.

(8) Where the tax has not been paid as aforesaid, after it is collected, the amount of the tax together with the amount of simple interest thereon referred to in sub-section (7) shall be a charge upon all the assets of the seller."

Amendment of section 230A.

41. In section 230A of the Income-tax Act, in sub-section (1), for the words "fifty thousand rupees", the words "two lakh rupees" shall be substituted.

Insertion of new section 245DD.

42. After section 245D of the Income-tax Act, the following section shall be inserted, namely:—

Power of Settlement Commission to order provisional attachment to protect revenue.

"245DD. (1) Where, during the pendency of any proceeding before it, the Settlement Commission is of the opinion that for the purpose of protecting the interests of the revenue it is necessary so to do, it may, by order, attach provisionally any property belonging to the applicant in the manner provided in the Second Schedule:

Provided that where a provisional attachment made under section 281B is pending immediately before an application is made under section 245C, an order under this sub-section shall continue such provisional attachment up to the period up to which an order made under section 281B would have continued if such application had not been made:

Provided further that where the Settlement Commission passes an order under this sub-section after the expiry of the period referred to in the preceding proviso, the provisions of sub-section

(2) shall apply to such order as if the said order had originally been passed by the Settlement Commission.

(2) Every provisional attachment made by the Settlement Commission under sub-section (1) shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (1):

Provided that the Settlement Commission may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as it thinks fit, so, however, that the total period of extension shall not in any case exceed two years."

43. In section 246 of the Income-tax Act,—

(a) in sub-section (1), in clause (o), in sub-clause (iva), after the word, figures and letter "section 272B", the words, figures and letters "or section 272BB" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1987;

(b) in sub-section (2), in clause (a), the words, figures and letters "or an order under section 104, as it stood immediately before the 1st day of April, 1988, in respect of any assessment for the assessment year commencing on the 1st day of April, 1987 or any earlier assessment years, made against the assessee, being a company" shall be inserted at the end.

44. In section 263 of the Income-tax Act, in sub-section (1), for the *Explanation*, the following *Explanation* shall be substituted with effect from the 1st day of June, 1988, namely:—

Explanation.—For the removal of doubts, it is hereby declared that, for the purposes of this sub-section,—

(a) an order passed by the Assessing Officer shall include—

(i) an order of assessment made by the Assistant Commissioner or the Income-tax Officer on the basis of the directions issued by the Deputy Commissioner under section 144A;

(ii) an order made by the Deputy Commissioner in exercise of the powers or in the performance of the functions of an Assessing Officer conferred on, or assigned to, him under the orders or directions issued by the Board or by the Chief Commissioner or Director General or Commissioner authorised by the Board in this behalf under section 120;

(b) "record" includes all records relating to any proceeding under this Act available at the time of examination by the Commissioner;

(c) where any order referred to in this sub-section and passed by the Assessing Officer had been the subject-matter of any appeal, the powers of the Commissioner under this sub-section shall extend to such matters as had not been considered and decided in such appeal.

Amend-
ment of
section
246.

Amend-
ment of
section
263.

Amend-
ment of
section
246.

Amendment of section 271B.

45. In section 271B of the Income-tax Act, after the words, figures and letters "or obtain a report of such audit as required under section 44AB", the words, brackets and figures "or furnish the said report along with the return of his income filed under sub-section (1) of section 139, or along with the return of income furnished in response to a notice under clause (i) of sub-section (1) of section 142" shall be inserted with effect from the 1st day of April, 1989.

Insertion of new section 276BB.

46. After section 276B of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 1988, namely:—

Failure to pay the tax collected at source.

"276BB. If a person fails to pay to the credit of the Central Government, the tax collected by him as required under the provisions of section 206C, he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and with fine."

Amendment of section 279.

47. In section 279 of the Income-tax Act, with effect from the 1st day of April, 1989,—

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

'(1) A person shall not be proceeded against for an offence under section 275A, section 276, section 276A, section 276B, section 276BB, section 276C, section 276CC, section 276D, section 277 or section 278 except with the previous sanction of the Chief Commissioner or Director General or Commissioner:

Provided that no such sanction shall be required if the prosecution is at the instance of the Commissioner (Appeals) or the appropriate authority.

Explanation.—For the purposes of this section, "appropriate authority" shall have the same meaning as in clause (c) of section 269UA.'

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

"(2) Any offence under this Chapter may, either before or after the institution of proceedings, be compounded by—

(a) the Board or a Chief Commissioner or a Director General authorised by the Board in this behalf, in a case where the prosecution would lie at the instance of the Commissioner (Appeals) or the appropriate authority;

(b) the Chief Commissioner or Director General or Commissioner, in any other case."

Omission of Chapter XXIIA.

48. Chapter XXIIA of the Income-tax Act shall be omitted.

49. In section 281B of the Income-tax Act,—

(a) in sub-section (1), the following *Explanation* shall be inserted at the end, namely:—

Explanation.—For the purposes of this sub-section, proceedings under sub-section (5) of section 132 shall be deemed to be proceedings for the assessment of any income or for the assessment or reassessment of any income which has escaped assessment.”;

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

“Provided further that where an application for settlement under section 245C is made, the period commencing from the date on which such application is made and ending with the date on which an order under sub-section (1) of section 245D is made shall be excluded from the period specified in the preceding proviso.”.

50. Section 285A of the Income-tax Act shall be omitted.

51. In section 293 of the Income-tax Act, for the words “any order made”, the words “any proceeding taken or order made” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of March, 1988.

52. In the First Schedule to the Income-tax Act, in rule 5, clause (b) shall be omitted with effect from the 1st day of April, 1989.

53. In the Eleventh Schedule to the Income-tax Act, for item 9, the following item shall be substituted with effect from the 1st day of April, 1989, namely:—

“9. Projectors.”.

54. The following amendments (being amendments of a consequential nature) shall be made in the Income-tax Act, namely:—

(i) in section 2, in clause (24), sub-clause (viii) shall be omitted;

(ii) in section 18, in sub-section (1), in clause (i), the words, figures and letters “not being interest payable under section 280D in respect of any annuity deposit made under Chapter XXIIA” shall be omitted;

(iii) in section 29 [as amended by the Direct Tax Laws (Amendment) Act, 1987], for the words, figures and letter “sections 30 to 43B”, the words, figures and letter “sections 30 to 43C” shall be substituted;

(iv) in section 33, in sub-section (2) and the *Explanation* thereunder, the words, figures and letter “or section 280-O” shall be omitted;

Amendment of section 281B.

Omission of section 285A.

Amendment of section 293.

Amendment of First Schedule.

Amendment of Eleventh Schedule.

Consequential amendments.

(v) in section 33A, in sub-section (2), and the *Explanation* thereunder, the words, figures and letter "or section 280-O" shall be omitted;

(vi) in section 80B, in clause (5), the words, figures and letter "or under section 280-O" shall be omitted;

(vii) in section 80J, in sub-section (3), the words, figures and letter "or section 280-O" shall be omitted;

(viii) in section 80L, in sub-section (1), in clause (i), the brackets, words, figures and letters "(not being interest payable under section 280D in respect of any annuity deposit made under Chapter XXIIA)" shall be omitted;

(ix) in section 194A, in sub-section (1), for the words 'chargeable under the head "Interest on securities"', the words "by way of interest on securities" shall be substituted with effect from the 1st day of April, 1989;

(x) in section 253, in sub-section (1), in clause (c), the words, figures and letter "or under section 285A" shall be omitted.

Wealth-tax

Amendment of section 5.

55. In section 5 of the Wealth-tax Act, 1957 (hereinafter referred to as the Wealth-tax Act),—

7 of 1957.

(a) in sub-section (1),—

(i) after clause (xvif) and the *Explanation* thereto, the following clause shall be inserted, namely:—

"(xvif) in the case of an individual or a Hindu undivided family, such Relief Bonds as the Central Government may, by notification in the Official Gazette, specify in this behalf;"

(ii) for clause (xxxxa), the following clause shall be substituted with effect from the 1st day of April, 1989, namely:—

"(xxxxa) the value of one or more dwelling units (each having a plinth area of eighty square metres or less) belonging to the assessee and used solely for the purpose of residence of persons employed by the assessee in any plantation or industrial undertaking belonging to the assessee;"

(b) in sub-section (1A), with effect from the 1st day of April, 1989,—

(i) in the opening paragraph, after the brackets and figures "(xvi)", the brackets, figures and letter "(xvif)", shall be inserted;

(ii) after the first proviso, the following proviso shall be inserted, namely:—

"Provided further that nothing contained in this sub-section shall apply to any assets referred to in clause (xvif) which are sold by a public sector company before the 1st day of June, 1988.";

(iii) in the second proviso, for the words "Provided further that", the words "Provided also that" shall be substituted;

(c) in sub-section (3),—

(i) in the opening portion, after the brackets, figures and letter "(xvie)", the brackets, figures and letter "(xvif)", shall be inserted;

(ii) in clause (aa),—

(1) after the word, brackets, figures and letter "clause (xvie)", the words, brackets, figures and letter "or Relief Bonds referred to in clause (xvif)", shall be inserted;

(2) after the words "Bonds or debentures", the words "or Relief Bonds" shall be inserted.

56. After section 22D of the Wealth-tax Act, the following section shall be inserted, namely:—

"22DD. (1) Where, during the pendency of any proceeding before it, the Settlement Commission is of the opinion that for the purpose of protecting the interests of the revenue it is necessary so to do, it may, by order, attach provisionally any property belonging to the applicant in the manner provided in the Second Schedule to the Income-tax Act as made applicable to this Act by section 32:

Provided that where a provisional attachment made under section 34C is pending immediately before an application is made under section 22C, an order under this sub-section shall continue such provisional attachment up to the period up to which an order made under section 34C would have continued if such application had not been made.

Provided further that where the Settlement Commission passes an order under this sub-section after the expiry of the period referred to in the preceding proviso, the provisions of sub-section (2) shall apply to such order as if the said order had originally been passed by the Settlement Commission.

(2) Every provisional attachment made by the Settlement Commission under sub-section (1) shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (1):

Provided that the Settlement Commission may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as it thinks fit, so, however, that the total period of extension shall not in any case exceed two years."

57. In section 25 of the Wealth-tax Act, in sub-section (2), for the Explanation, the following Explanation shall be substituted with effect from the 1st day of June, 1988, namely:—

Explanation—For the removal of doubts, it is hereby declared that, for the purposes of this sub-section,—

(a) an order passed by the Assessing Officer shall include an order made by the Deputy Commissioner in exercise of the

Insertion of new section 22DD.

Power of Settlement Commission to order provisional attachment to protect revenue.

Amendment of section 25.

powers or in the performance of the functions of an Assessing Officer conferred on or assigned to him under orders or directions issued by the Board or by the Chief Commissioner or Director General or Commissioner authorised by the Board in this behalf under section 120 of the Income-tax Act read with section 8 of this Act;

(b) "record" includes all records relating to any proceeding under this Act available at the time of examination by the Commissioner;

(c) where any order referred to in this sub-section and passed by the Assessing Officer had been the subject-matter of any appeal, the powers of the Commissioner under this sub-section shall extend to such matters as had not been considered and decided in such appeal.

Amendment of section 34AB.

58. In section 34AB of the Wealth-tax Act, in sub-sections (1) and (2), for the word "Board", the words "Chief Commissioner or Director General" shall be substituted with effect from the 1st day of June, 1988.

Amendment of section 34ACC.

59. In section 34ACC of the Wealth-tax Act, for the words "to the Board", occurring at the end, the words "to the Chief Commissioner or Director General" shall be substituted with effect from the 1st day of June, 1988.

Amendment of Section 34AD.

60. In section 34AD of the Wealth-tax Act, with effect from the 1st day of June, 1988,—

(a) in sub-section (1),—

(i) for the word "Board", at both the places where it occurs, the words "Chief Commissioner or Director General" shall be substituted;

(ii) for the words "it is satisfied", the words "he is satisfied" shall be substituted;

(iii) for the words "it thinks fit", the words "he thinks fit" shall be substituted;

(b) in sub-section (2), for the word "Board", the words "Chief Commissioner or Director General" shall be substituted;

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

"(3) Without prejudice to the provisions of sub-sections (1) and (2), the Chief Commissioner or Director General shall, once in three years, review the performance of all the registered valuers and may remove the name of any person from the Register of Valuers where he is satisfied, after giving that person a reasonable opportunity of being heard and after such further inquiry, if any, as he thinks fit to make, that his performance is such that his name should not remain on the Register of Valuers.

(4) The Chief Commissioner or Director General may himself conduct the inquiry referred to in sub-section (1) or sub-section (3) or appoint an Inquiry Officer not below the rank of a

5 of 1908.

Commissioner to conduct such inquiry, and for the purposes of such inquiry, the Chief Commissioner or Director General and the Inquiry Officer so appointed shall have the same powers as are vested in a court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters, namely:—

(a) discovery and inspection;

(b) enforcing the attendance of any person including any officer of a banking company and examining him on oath;

(c) compelling the production of books of account and other documents;

(d) issuing commission.”.

61. In Chapter VIIB of the Wealth-tax Act, after section 34AD, the following section shall be inserted with effect from the 1st day of June, 1988, namely:—

Insertion of new section 34AE.

“34AE. (1) Notwithstanding anything contained in this Chapter, every person whose name is included in the Register of Valuers immediately before the 1st day of June, 1988, shall, if he intends to continue to be registered under this Act, make an application under sub-section (2) of section 34AB within a period of three months from that date, for being registered afresh as a valuer under this Chapter and the provisions of sub-section (3) of that section and the rules made thereunder shall be applicable in respect of the verification of the application, the fees that shall accompany such application and the declaration to be made by the applicant.

Existing registered valuers to apply afresh.

(2) The provisions of this Chapter regarding the registration of a person as a valuer and other matters shall, so far as may be, apply to every application made under sub-section (1).

(3) Every application pending before the Board immediately before the 1st day of June, 1988, shall be deemed to be an application received by the Chief Commissioner or Director General under sub-section (1).”.

62. In section 34C of the Wealth-tax Act,—

Amendment of section 34C.

(a) in sub-section (1), the following *Explanation* shall be inserted at the end, namely:—

“*Explanation.*—For the purposes of this sub-section, the proceedings under sub-section (5) of section 37A shall be deemed to be proceedings for the assessment of any net wealth or for the assessment or reassessment of any net wealth which has escaped assessment.”.

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

“Provided further that where an application for settlement under section 22C is made, the period commencing from the date on which such application is made and ending with the date on

which an order under sub-section (1) of section 22D is made shall be excluded from the period specified in the preceding proviso."

Substitution of new section for section 35-I.

63. For section 35-I of the Wealth-tax Act, the following section shall be substituted with effect from the 1st day of April, 1989, namely:—

Prosecutions to be with the previous sanction of certain wealth-tax authorities and their power to compound offences.

"35-I. (1) A person shall not be proceeded against for an offence under this Act except with the previous sanction of the Chief Commissioner or Director General or Commissioner:

Provided that no such sanction shall be required if the prosecution is at the instance of the Commissioner (Appeals).

(2) Any such offence may, either before or after the institution of proceedings, be compounded by—

(a) the Board or a Chief Commissioner or a Director General authorised by the Board in this behalf, in a case where the prosecution would lie at the instance of the Commissioner (Appeals);

(b) the Chief Commissioner or Director General or Commissioner, in any other case."

Amendment of section 37.

64. In section 37 of the Wealth-tax Act, with effect from the 1st day of June 1988—

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

(1A) If the Director General or Director or Deputy Director or Assistant Director, or the authorised officer referred to in sub-section (1) of section 37A before he takes action under clauses (i) to (v) of that sub-section, has reason to suspect that any net wealth has been concealed, or is likely to be concealed, by any person or class of persons within his jurisdiction, then for the purposes of making any inquiry or investigation relating thereto, it shall be competent for him to exercise the powers conferred under sub-section (1) on the wealth-tax authorities referred to in that sub-section, notwithstanding that no proceedings with respect to such person or class of persons are pending before him or any other wealth-tax authority."

(b) in sub-section (3), in the proviso, in clause (b) [as amended by section 127 of the Direct Tax Laws (Amendment) Act, 1987], for the words "the Chief Commissioner or Commissioner therefor", the words "the Chief Commissioner or Director General or Commissioner or Director therefor, as the case may be" shall be substituted.

Amendment of section 43.

65. In section 43 of the Wealth-tax Act, for the words "any order made" the words "any proceeding taken or order made" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of March, 1988.

66. In Schedule I to the Wealth-tax Act, in Part I, the following shall be added at the end, namely:—

Amendment of Schedule I.

“Surcharge on wealth-tax”

The amount of wealth-tax computed in accordance with the provisions of this Part shall, in relation to the assessment year commencing on the 1st day of April, 1988, be increased by a surcharge calculated at the rate of ten per cent of such wealth-tax.”

Gift-tax

18 of 1958.

67. In section 5 of the Gift-tax Act, 1958 (hereinafter referred to as the Gift-tax Act), in sub-section (1), after clause (iiiic), the following clause shall be inserted, namely:—

Amendment of section 5.

“(iiiid) being an individual or a Hindu undivided family, of property in the form of such Relief Bonds, as the Central Government may, by notification in the Official Gazette, specify in this behalf subject to a maximum of rupees five lakhs in value in the aggregate in one or more previous years:

Provided that the exemption conferred by this clause shall be available only to a person who has initially subscribed to the said Bonds;”.

68. In section 24 of the Gift-tax Act, in sub-section (2), for the *Explanation*, the following *Explanation* shall be substituted with effect from the 1st day of June, 1988, namely:—

Amendment of section 24.

Explanation.—For the removal of doubts, it is hereby declared that, for the purposes of this sub-section,—

(a) an order passed by the Assessing Officer shall include an order passed by the Deputy Commissioner in exercise of the powers or in performance of the functions of an Assessing Officer conferred on or assigned to him under orders or directions issued by the Board or by the Chief Commissioner or Director General or Commissioner authorised by the Board in this behalf under section 120 of the Income-tax Act read with section 7 of this Act;

(b) “record” includes all records relating to any proceeding under this Act available at the time of examination by the Commissioner;

(c) where any order referred to in this sub-section and passed by the Assessing Officer had been the subject-matter of any appeal, the powers of the Commissioner under this sub-section shall extend to such matters as had not been considered and decided in such appeal.’

69. In section 35 of the Gift-tax Act, for sub-sections (3) and (4), the following sub-sections shall be substituted with effect from the 1st day of April, 1989, namely:—

Amendment of section 35.

“(3) A person shall not be proceeded against for an offence under this Act except with the previous sanction of the Chief Commissioner or Director General or Commissioner.

Provided that no such sanction shall be required if the prosecution is at the instance of the Commissioner (Appeals).

(4) Any such offence may, either before or after the institution of proceedings, be compounded by—

(a) the Board or a Chief Commissioner or a Director General authorised by the Board in this behalf, in a case where the prosecution would lie at the instance of the Commissioner (Appeals);

(b) the Chief Commissioner or Director General or Commissioner, in any other case.”

Amendment of section 36.

70. In section 36 of the Gift-tax Act, after sub-section (1), the following sub-section shall be inserted with effect from the 1st day of June, 1988, namely:—

“(1A) If the Director General or Director or Deputy Director or Assistant Director has reason to suspect that any gifts chargeable to tax under this Act have been concealed, or are likely to be concealed, by any person or class of persons within his jurisdiction, then, for the purposes of making any inquiry or investigation relating thereto, it shall be competent for him to exercise the powers conferred under sub-section (1) on the gift-tax authorities referred to in that sub-section, notwithstanding that no proceedings with respect to such person or class of persons are pending before him or any other gift-tax authority.”

Amendment of section 42.

71. In section 42 of the Gift-tax Act, for the words “any order made”, the words “any proceeding taken or order made” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of March, 1988.

Expenditure-tax

Substitution of new authorities.

72. In the Expenditure-tax Act, 1987 (hereinafter referred to as the Expenditure-tax Act), save as otherwise expressly provided herein, the references to any authorities specified in column (1) of the Table below shall be substituted by references to the authority or authorities specified in the corresponding entries in column (2) of the said Table and such consequential changes, as the rules of grammar may require, shall also be made.

35 of 1987

TABLE

(1)	(2)
Commissioner	Chief Commissioner or Commissioner
Inspecting Assistant Commissioner	Deputy Commissioner
Income-tax Officer	Assessing Officer

Provided that nothing contained in this section shall apply to the reference to “Commissioner” occurring in sections 21 and 23.

73. In section 6 of the Expenditure-tax Act,—

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

“(1) Every Director General of Income-tax, Chief Commissioner of Income-tax, Director of Income-tax, Commissioner of Income-tax, Commissioner of Income-tax (Appeals), Deputy Director of Income-tax, Deputy Commissioner of Income-tax, Assistant Director of Income-tax, Assistant Commissioner of Income-tax, Income-tax Officer, Tax Recovery 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.”;

(b) in sub-section (3), for the words “Director of Inspection or by the Commissioner”, the words “Director General or Director or by the Chief Commissioner or Commissioner” shall be substituted.

74. In section 13 of the Expenditure-tax Act, in sub-section (3), for the words and figures “the Commissioner, or, as the case may be, the order under section 22 or section 23 is received by the Commissioner”, the words and figures “the Commissioner, or the order is received by the Chief Commissioner or Commissioner, as the case may be, under section 22 or section 23” shall be substituted.

75. In section 24 of the Expenditure-tax Act,—

(a) for the figures, brackets, letters and words “2(43B) and (44), 118, 125, 125A, 128 to 136 (both inclusive)”, the figures, brackets and words “2(44), 118, 120, 129, 131 to 136 (both inclusive)” shall be substituted;

(b) the figures “231.” shall be omitted.

CHAPTER IV

INDIRECT TAXES

Customs

76. The Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act), shall be amended in the manner specified in the Second Schedule.

77. (1) In the case of goods mentioned in the First Schedule to the Customs Tariff Act, or in that Schedule, as amended from time to time, there shall be levied and collected as an auxiliary duty of customs an amount equal to fifty per cent. of the value of the goods as determined in accordance with the provisions of section 14 of the Customs Act, 1962 (hereinafter referred to as the Customs Act).

(2) Sub-section (1) shall cease to have effect after the 31st day of March, 1989, 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.

Amendment of section 6.

Amendment of section 13.

Amendment of section 24.

Amendment of Act 51 of 1975.

Auxiliary duties of customs.

52 of 1962.

10 of 1897.

(3) The auxiliary duties of customs referred to in sub-section (1) shall be in addition to any duties of customs chargeable on such goods under the Customs Act, or any other law for the time being in force.

(4) The provisions of the Customs Act and the rules and regulations made thereunder, including those relating to refunds and exemptions from duties, shall, as far as may be, apply in relation to the levy and collection of the auxiliary duties of customs leviable under this section in respect of any goods as they apply in relation to the levy and collection of the duties of customs on such goods under that Act or those rules and regulations, as the case may be.

Amend-
ment of
section
27.

78. In section 27 of the Customs Act, after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) Notwithstanding anything contained in any other law, the provisions of this section shall also apply to a claim for refund of any amount collected as duty of customs made on the ground that the goods in respect of which such amount was collected were not leviable to such duty or were entitled to exemption from duty and no court shall have any jurisdiction in respect of such claim.”

Amend-
ment of
section
115.

79. In section 115 of the Customs Act, in sub-section (2), in the opening paragraph, the words “and that each of them had taken all such precautions against such use as are for the time being specified in the rules” shall be omitted.

Amend-
ment of
section
156.

80. In section 156 of the Customs Act, in sub-section (2), clause (c) shall be omitted.

Excise

Amend-
ment of
Act 5 of
1986.

81. The Central Excise Tariff Act, 1985 (hereinafter referred to as the Central Excise Tariff Act), shall be amended in the manner specified in the Third Schedule.

Special
duties of
excise.

82. (1) In the case of goods chargeable with a duty of excise under the Central Excises and Salt Act, 1944 (hereinafter referred to as the Central Excises Act), as amended from time to time, read with any notification for the time being in force issued by the Central Government in relation to the duty so chargeable (not being a notification providing for any exemption for giving credit with respect to, or reduction of duty of excise under the said Act on such goods equal to, any duty of excise under the said Act, or the additional duty under section 3 of the Customs Tariff Act, already paid on the raw material or component parts used in the production or manufacture of such goods), there shall be levied and collected a special duty of excise equal to five per cent. of the amount so chargeable on such goods.

1 of 1944.

(2) Sub-section (1) shall cease to have effect after the 31st day of March, 1989, except as respects things done or omitted to be done before such cesser; and section 6 of the General Clauses Act, 1897, shall apply upon such cesser as if the said sub-section had then been repealed by a Central Act.

10 of 1897.

(3) The special duties of excise referred to in sub-section (1) shall be in addition to any duties of excise chargeable on such goods under the Central Excises Act, or any other law for the time being in force.

(4) The provisions of the Central Excises Act, and the rules made thereunder, including those relating to refunds and exemptions from duties, shall, as far as may be, apply in relation to the levy and collection of the special duties of excise leviable under this section in respect of any goods as they apply in relation to the levy and collection of the duties of excise on such goods under that Act or those rules, as the case may be.

33. The Additional Duties of Excise (Goods of Special Importance) Act, 1957 (hereinafter referred to as the Additional Duties of Excise Act), shall be amended in the manner specified in the Fourth Schedule.

34. (1) The notification of the Government of India in the Ministry of Finance (Department of Revenue) No. G.S.R. 97(III), dated the 23rd day of February, 1988, which was issued in exercise of the powers conferred by sub-rule (1) of rule 8 of the Central Excise Rules, 1944, read with sub-section (3) of section 3 of the Additional Duties of Excise Act, providing for withdrawal of exemptions from additional Duty of excise in relation to certain varieties of sugar (hereafter in this section referred to as sugar), shall be deemed to have, and to have always had, effect on and from the 10th day of September, 1986.

(2) Any action or thing taken or done or purported to have been taken or done on or after the 10th day of September, 1986 and before the 23rd day of February, 1988, in relation to sugar under the Additional Duties of Excise Act, shall be deemed to be, and to have always been, for all purposes as validly and effectively taken or done as if the provisions of sub-section (1) had been in force at all material times and such action or thing had been taken or done under the Additional Duties of Excise Act read with the notification dated the 23rd day of February, 1988, referred to in sub-section (1), and, accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,—

(a) all additional duties of excise levied, assessed or collected or purporting to have been levied, assessed or collected on or after the 10th day of September, 1986 and before the 23rd day of February, 1988, on sugar, shall be deemed to be, and shall be deemed to have always been, as validly levied, assessed or collected as if the provisions of this section had been in force at all material times;

(b) no suit or other proceeding shall be maintained or continued in any court, tribunal or other authority, for the refund of, and no enforcement shall be made by any court, tribunal or other authority, of any decree or order directing the refund of, any such additional duties of excise which have been collected and which would have been validly collected if the provisions of this section had been in force at all material times;

(c) recovery shall be made of all such additional duties of excise which have not been collected or, as the case may be, which have been refunded but which would have been collected or, as the case

Amendment of Act 58 of 1957.

Provision as to additional duties of excise on certain varieties of sugar in relation to a certain period and validation.

may be, would not have been refunded, if the provisions of this section had been in force at all material times.

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

CHAPTER V

MISCELLANEOUS

Amendment of Act 74 of 1956.

85. In section 14 of the Central Sales Tax Act, 1956,—

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

“(iia) cotton fabrics covered under heading Nos. 52.05, 52.06, 52.07, 52.08, 52.09, 52.10, 52.11, 52.12, 58.01, 58.02, 58.03, 58.04, 58.05, 59.01, 59.03, 59.05, 59.06 and 60.01 of the Schedule to the Central Excise Tariff Act, 1985;”

5 of 1986.

(b) for items (vii), (viii), (ix) and (x), the following items shall be substituted, namely:—

“(vii) man-made fabrics covered under heading Nos. 54.08, 54.09, 54.10, 54.11, 54.12, 55.07, 55.08, 55.09, 55.10, 55.11, 55.12, 58.01, 58.02, 58.03, 58.04, 58.05, 59.01, 59.02, 59.03, 59.05, 59.06 and 60.01 of the Schedule to the Central Excise Tariff Act, 1985;

5 of 1986.

“(viii) sugar covered under sub-heading Nos. 1701.20, 1701.31, 1701.39 and 1702.11 of the Schedule to the Central Excise Tariff Act, 1985;

5 of 1986.

“(ix) unmanufactured tobacco and tobacco refuse covered under sub-heading No. 2401.00, cigars and cheroots of tobacco covered under heading No. 24.02, cigarettes and cigarillos of tobacco covered under sub-heading Nos. 2403.11 and 2403.21, and other manufactured tobacco covered under sub-heading Nos. 2404.11, 2404.12, 2404.13, 2404.19, 2404.21, 2404.29, 2404.31, 2404.39, 2404.41 and 2404.50, of the Schedule to the Central Excise Tariff Act, 1985;

5 of 1986.

“(x) woven fabrics of wool covered under heading Nos. 51.06, 51.07, 58.01, 58.02, 58.03 and 58.05 of the Schedule to the Central Excise Tariff Act, 1985.”

5 of 1986.

Amendment of Act 57 of 1972.

86. After section 35 of the General Insurance Business (Nationalisation) Act, 1972, the following section shall be inserted with effect from the 1st day of June, 1988, namely:—

Deduction of income-tax not to be made on interest or dividend payable to the Corporation, etc.

“35A. Notwithstanding anything contained in section 193 or section 194 of the Income-tax Act, 1961, no deduction of income-tax shall be made on any interest or dividend payable to the Corporation or to any of the four new companies formed by virtue of the schemes framed under sub-section (1) of section 16, in respect of any securities or shares owned by the Corporation or such company or in which the Corporation or such company has full beneficial interest.”

43 of 1961.

87. In section 40 of the Finance Act, 1983,—

(i) in sub-section (1), before the *Explanation*, the following proviso shall be inserted, namely:—

“Provided that the amount of wealth-tax computed in accordance with the provisions of this sub-section shall, in relation to the assessment year commencing on the 1st day of April, 1988, be increased by a surcharge calculated at the rate of ten per cent. of such wealth-tax.”;

(ii) in sub-section (3), with effect from the 1st day of April, 1989,—

(a) in clause (i), the words “, not being any such precious metal or alloy held for use as raw material in industrial production” shall be inserted at the end;

(b) to clause (v), the following proviso shall be added, namely:—

“Provided that nothing in this clause shall apply to any unused land held by the assessee for industrial purposes for a period of two years from the date of its acquisition by him.”;

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

(vi) building or land appurtenant thereto, other than building or part thereof used by the assessee as factory, godown, warehouse, cinema house, hotel or office for the purposes of its business or as a hospital, creche, school, canteen, library, recreational centre, shelter, rest-room or lunch room mainly used for the welfare of its employees or used as residential accommodation, except as provided in clauses (via) and (vib), and the land appurtenant to such building or part;

(via) any building used as residential accommodation in the nature of a guest house and land appurtenant thereto;

(vib) any building and the land appurtenant to such building used as residential accommodation by any director, manager, secretary or any other employee of the assessee, such employee holding not less than one per cent. of the equity share of the assessee or by any relative of any person who holds not less than one per cent. of the equity share of the assessee.

Explanation.—For the purposes of this clause, “relative” shall have the meaning assigned to it in clause (b) of *Explanation 1* to section 80F of the *Income-tax Act*;

(d) after clause (viii), the following proviso and *Explanation* shall be inserted, namely:—

“Provided that this section shall not apply to any asset referred to in clause (i), (ii), (iii), (iv), (v) or (vi), which

is held by the assessee as stock-in-trade in a business carried on by it or, in the case of motor-cars referred to in clause (vii), they are held as stock-in-trade in such business or registered as taxis and used as such in a business of running motor-cars on hire carried on by the assessee.

Explanation.—Where any question arises as to whether all or any of the assets referred to in clause (i), (ii), (iii) or (iv) are held by the assessee as stock-in-trade in a business carried on by it, the question shall be decided in accordance with such directions as the Board may, by general or special order, issue for the guidance of the Assessing Officer, having regard to the ratio which the yearly turnover of a business of trading in such assets bears to the average of the stocks of such assets held from time to time during the year in such business, ordinarily and other relevant factors.”

Amend-
ment of
Act 4 of
1988.

88. In the Direct Tax Laws (Amendment) Act, 1987,—

(a) in section 36, clause (a) shall be omitted;

(b) in section 37,—

(i) in clause (a), after the words, brackets and figure “in sub-section (I),” the words, figures and letters “with effect from the 1st day of April, 1988,” shall be inserted;

(ii) in clause (b), the words, figures and letters “with effect from the 1st day of April, 1988” shall be inserted at the end;

(c) in section 38, the words, figures and letters “with effect from the 1st day of April, 1988” shall be inserted at the end;

(d) section 92 shall be omitted;

(e) in section 128,—

(i) in clause (i), the words, figures and letters “with effect from the 1st day of April, 1988” shall be inserted at the end;

(ii) in clause (ii), after the words “shall be inserted”, the words, figures and letters “with effect from the 1st day of April, 1988” shall be inserted;

(iii) in clause (iii), the words, figures and letters “with effect from the 1st day of April, 1988” shall be inserted at the end;

(iv) in clause (vii), after the words “shall be substituted”, the words, figures and letters “with effect from the 1st day of April, 1988” shall be inserted;

(f) in section 153, clause (a) shall be omitted;

(g) in section 154,—

(i) in clause (d),—

(A) in sub-clause (b), the words, figures and letters “with effect from the 1st day of April, 1988” shall be inserted at the end;

(B) in sub-clause (f), the words, figures and letters "with effect from the 1st day of April, 1988" shall be inserted at the end;

(ii) in clause (2), in sub-clause (b), the words, figures and letters "with effect from the 1st day of April, 1988" shall be inserted at the end;

(h) in section 155, in clause (a), in sub-clause (ii), the words, figures and letters "with effect from the 1st day of April, 1988" shall be inserted at the end;

(i) in section 158, after the words "shall be inserted", the words, figures and letters "with effect from the 1st day of April, 1988" shall be inserted;

(j) in section 162,—

(i) in clause (a), the words, figures and letters "with effect from the 1st day of April, 1988" shall be inserted at the end;

(ii) in clause (b), after the words "shall be inserted", the words, figures and letters "with effect from the 1st day of April, 1988" shall be inserted;

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

"(c) (i) clauses (vi), (vii), (viii), (xiii), (xv), (xvi) and (xvii) shall be omitted with effect from the 1st day of April, 1988;

(ii) clause (xviii) shall be omitted;"

(iv) in clause (g), after the words "shall be inserted", the words, figures and letters "with effect from the 1st day of April, 1988" shall be inserted;

(k) in section 182, clause (a) shall be omitted.

THE FIRST SCHEDULE

(See section 2)

PART I**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. 18,000 | Nil; |
| (2) where the total income exceeds Rs. 18,000 but does not exceed Rs. 25,000 | 25 per cent. of the amount by which the total income exceeds Rs. 18,000; |
| (3) where the total income exceeds Rs. 25,000 but does not exceed Rs. 50,000 | Rs. 1,750 plus 30 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. 9,250 plus 40 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. 29,250 plus 50 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, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent. of such income-tax:

Provided that no such surcharge shall be payable by a non-resident.

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, 1988 exceeds Rs. 18,000,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 12,000 | Nil; |
| (2) where the total income exceeds Rs. 12,000 but does not exceed Rs. 20,000 | 25 per cent. of the amount by which the total income exceeds Rs. 12,000; |
| (3) where the total income exceeds Rs. 20,000 but does not exceed Rs. 40,000 | Rs. 2,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 20,000; |
| (4) where the total income exceeds Rs. 40,000 but does not exceed Rs. 60,000 | Rs. 8,000 plus 40 per cent. of the amount by which the total income exceeds Rs. 40,000; |
| (5) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,00,000 | Rs. 16,000 plus 50 per cent. of the amount by which the total income exceeds Rs. 60,000; |
| (6) where the total income exceeds Rs. 1,00,000 | Rs. 36,000 plus 55 per cent. of the amount by which the total income exceeds Rs. 1,00,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent. of such income-tax:

Provided that no such surcharge shall be payable by a non-resident.

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, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent. of such income-tax.

Paragraph C

Sub-Paragraph I

In the case of every registered firm, not being a case to which Sub-Paragraph II of this Paragraph applies,—

Rates of income-tax

- (1) where the total income does not exceed Rs. 10,000 Nil;
- (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 25,000 5 per cent. of the amount by which the total income exceeds Rs. 10,000;
- (3) where the total income exceeds Rs. 25,000 but does not exceed Rs. 50,000 Rs. 750 plus 7 per cent. of the amount by which the total income exceeds Rs. 25,000;
- (4) where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000 Rs. 2,500 plus 15 per cent. of the amount by which the total income exceeds Rs. 50,000;
- (5) where the total income exceeds Rs. 1,00,000 Rs. 10,000 plus 24 per cent. of the amount by which the total income exceeds Rs. 1,00,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent. of such income-tax.

Sub-Paragraph II

In the case of every registered firm whose total income includes

income derived from a profession carried on by it and the income so included is not less than fifty-one per cent. of such total income,—

Rates of income-tax

- (1) where the total income does not exceed Rs. 10,000 Nil;
- (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 25,000 4 per cent. of the amount by which the total income exceeds Rs. 10,000;
- (3) where the total income exceeds Rs. 25,000 but does not exceed Rs. 50,000 Rs. 600 plus 7 per cent. of the amount by which the total income exceeds Rs. 25,000;
- (4) where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000 Rs. 2,350 plus 13 per cent. of the amount by which the total income exceeds Rs. 50,000;
- (5) where the total income exceeds Rs. 1,00,000 Rs. 8,850 plus 22 per cent. of the amount by which the total income exceeds Rs. 1,00,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent. of such income-tax.

Explanation.—For the purposes of this Paragraph, "registered firm" includes an unregistered firm assessed as a registered firm under clause (b) of section 183 of the Income-tax Act.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income 50 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified shall, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent. of such income-tax.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company,—

- (1) where the company is a company in which the public are substantially interested 50 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 a trading company or an investment company 60 per cent. of the total income;
- (ii) in any other case 55 per cent. of the total income.

II. In the case of a company other than a domestic company,—

(i) on so much of the total income as consists of—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government

(ii) on the balance, if any, of the total income

50 per cent.;
65 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the provisions of item I of this Paragraph shall, in the case of every person having a total income exceeding fifty thousand rupees, 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:—

	Rate of Income-tax
1. In the case of a person other than a company—	
(a) where the person is resident in India—	
(i) on income by way of interest other than "Interest on securities"	10 per cent.;
(ii) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(iii) on income by way of winnings from horse races	40 per cent.;
(iv) on income by way of insurance commission	10 per cent.;
(v) on income by way of interest payable on—	10 per cent.;
(A) any security, other than a tax-free security, of the Central or a State Government;	
(B) any debentures or other securities for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act;	
(C) any debentures issued by a company where such debentures are listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 and any rules made thereunder;	
(vi) on any other income (excluding interest payable on a tax-free security)	20 per cent.;
(b) where the person is not resident in India—	
(i) In the case of a non-resident Indian—	
(A) on investment income and long-term capital gains	20 per cent.;
(B) on income by way of interest payable on a tax-free security	15 per cent.;
(C) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(D) on income by way of winnings from horse races	40 per cent.;
(E) on the whole of other income	income-tax at 30 per cent. of the amount of income or income-tax in respect of the income at the rates prescribed in Sub-Paragraph I of Paragraph A of Part III of this Schedule, if such income had been the total income, whichever is higher;

(ii) In the case of any other person—

- (A) on income by way of interest payable on a tax-free security 15 per cent.;
- (B) on income by way of winnings from lotteries and crossword puzzles 40 per cent.;
- (C) on income by way of winnings from horse races 40 per cent.;
- (D) on the whole of the other income Income-tax at 30 per cent. of the amount of income or 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;

2. In the case of a company—

(a) where the company is a domestic company—

- (i) on income by way of interest other than "Interest on securities" 20 per cent.;
- (ii) on income by way of winnings from lotteries and crossword puzzles 40 per cent.;
- (iii) on income by way of winnings from horse races 40 per cent.;
- (iv) on any other income (excluding interest payable on tax-free security) 21.5 per cent.;

(b) where the company is not a domestic company—

- (i) on income by way of dividends payable by any domestic company 25 per cent.;
- (ii) on income by way of winnings from lotteries and crossword puzzles 40 per cent.;
- (iii) on income by way of winnings from horse races 40 per cent.;
- (iv) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency 25 per cent.;
- (v) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1976, where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern 30 per cent.;
- (vi) on income by way of royalty [not being royalty of the nature referred to in sub-item (b) (v)], payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and which has been approved by the Central Government,—
- (A) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976 50 per cent.;
- (B) where the agreement is made after the 31st day of March, 1976 30 per cent.;
- (vii) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and which has been approved by the Central Government—
- (A) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976 50 per cent.;

- (B) where the agreement is made after the 31st day of March, 1976 30 per cent.;
- (iii) on income by way of interest payable on a tax-free security 44 per cent.;
- (ix) on any other income 65 per cent.

Explanation.—For the purposes of this Part, “investment income”, “long-term capital gains” and “non-resident Indian” shall have the meanings assigned to them in Chapter XII-A of the Income-tax Act.

Surcharge on income-tax

The amount of income-tax deducted in accordance with the provisions of—

- (a) sub-item (a) of item 1 of this Part shall be increased by a surcharge for purposes of the Union, and
- (b) sub-item (a) of item 2 of this Part shall be increased by a surcharge,
- calculated at the rate of five per cent. of such income-tax.

PART III

RATES FOR CALCULATING OR CHARGING INCOME-TAX IN CERTAIN CASES, DEDUCTING INCOME-TAX FROM INCOME CHARGEABLE UNDER THE HEAD “SALARIES” AND COMPUTING “ADVANCE TAX”

In cases in which income-tax has to be 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 in which the “advance tax” payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, “advance tax” [not being “advance tax” in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act at the rates as specified in that Chapter or section or surcharge on such “advance tax” in respect of any income chargeable to tax under section 115B], shall be 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 (vi) 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. 18,000 Nil;
- (2) where the total income exceeds Rs. 18,000 but does not exceed Rs. 25,000 25 per cent. of the amount by which the total income exceeds Rs. 18,000;
- (3) where the total income exceeds Rs. 25,000 but does not exceed Rs. 50,000 Rs. 1,750 plus 30 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. 9,250 plus 40 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. 29,250 plus 50 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, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent. of such income-tax:

Provided that no such surcharge shall be payable by a non-resident.

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, 1989 exceeds Rs. 18,000,—

Rates of income-tax

- (1) where the total income does not exceed Rs. 12,000 Nil;
- (2) where the total income exceeds Rs. 12,000 but does not exceed Rs. 20,000 25 per cent. of the amount by which the total income exceeds Rs. 12,000;
- (3) where the total income exceeds Rs. 20,000 but does not exceed Rs. 40,000 Rs. 2,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 20,000;
- (4) where the total income exceeds Rs. 40,000 but does not exceed Rs. 60,000 Rs. 8,000 plus 40 per cent. of the amount by which the total income exceeds Rs. 40,000;
- (5) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,00,000 Rs. 16,000 plus 50 per cent. of the amount by which the total income exceeds Rs. 60,000;
- (6) where the total income exceeds Rs. 1,00,000 Rs. 36,000 plus 55 per cent. of the amount by which the total income exceeds Rs. 1,00,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent. of such income-tax:

Provided that no such surcharge shall be payable by a non-resident.

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, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent. of such income-tax.

Paragraph C**Sub-Paragraph I**

In the case of every registered firm, not being a case to which Sub-Paragraph II of this Paragraph applies,—

Rates of income-tax

- (1) where the total income does not exceed Rs. 10,000 Nil;
- (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 25,000 5 per cent. of the amount by which the total income exceeds Rs. 10,000;
- (3) where the total income exceeds Rs. 25,000 but does not exceed Rs. 50,000 Rs. 750 plus 7 per cent. of the amount by which the total income exceeds Rs. 25,000;
- (4) where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000 Rs. 2,500 plus 15 per cent. of the amount by which the total income exceeds Rs. 50,000;
- (5) where the total income exceeds Rs. 1,00,000 Rs. 10,000 plus 24 per cent. of the amount by which the total income exceeds Rs. 1,00,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent. of such income-tax.

Sub-Paragraph II

In the case of every registered firm whose total income includes income derived from a profession carried on by it and the income so included is not less than fifty-one per cent. of such total income,—

Rates of income-tax

- (1) where the total income does not exceed Rs. 10,000 *Nil*;
- (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 25,000 4 per cent. of the amount by which the total income exceeds Rs. 10,000;
- (3) where the total income exceeds Rs. 25,000 but does not exceed Rs. 50,000 Rs. 600 plus 7 per cent. of the amount by which the total income exceeds Rs. 25,000;
- (4) where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000 Rs. 2,350 plus 13 per cent. of the amount by which the total income exceeds Rs. 50,000;
- (5) where the total income exceeds Rs. 1,00,000 Rs. 8,850 plus 22 per cent. of the amount by which the total income exceeds Rs. 1,00,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent. of such income-tax.

Explanation.—For the purposes of this Paragraph, "registered firm" includes an unregistered firm assessed as a registered firm under clause (b) of section 183 of the Income-tax Act.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income

50 per cent

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified shall, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent. of such income-tax.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company,—

- (1) where the company is a company in which the public are substantially interested 50 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 a trading company or an investment company 60 per cent. of the total income;
 - (ii) in any other case 55 per cent. of the total income.

II. In the case of a company other than a domestic company,—

(i) on so much of the total income as consists of—

- (a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976, or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government

(ii) on the balance, if any, of the total income

Surcharge on income-tax

The amount of income-tax computed in accordance with the provisions of item I of this Paragraph shall, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge calculated at the rate of five per cent. of such income-tax.

PART IV

[See section 2 (9) (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, 36, 37, 38, 40, 40A [other than sub-sections (3) and (4) thereof], 41, 43, 43A and 43B 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.

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 a body of individuals and the share of the assessee in the agricultural income of the firm, association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

Rule 8.—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

Rule 9.—(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1988, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1980 or the 1st day of April, 1981 or the 1st day of April, 1982 or the 1st day of April, 1983 or the 1st day of April, 1984 or the 1st day of April, 1985 or the 1st day of April, 1986 or the 1st day of April, 1987, is a loss, then, for the purposes of sub-section (2) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1980 to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1981 or the 1st day of April, 1982 or the 1st day of April, 1983 or the 1st day of April, 1984 or the 1st day of April, 1985 or the 1st day of April, 1986 or the 1st day of April, 1987,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1981, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1982 or the 1st day of April, 1983 or the 1st day of April, 1984 or the 1st day of April, 1985 or the 1st day of April, 1986 or the 1st day of April, 1987,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1982, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1983 or the 1st day of April, 1984 or the 1st day of April, 1985 or the 1st day of April, 1986 or the 1st day of April, 1987,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1983, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1984 or the 1st day of April, 1985 or the 1st day of April, 1986 or the 1st day of April, 1987,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1984, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1985 or the 1st day of April, 1986 or the 1st day of April, 1987,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1985, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1986 or the 1st day of April, 1987,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1986, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1987, and

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1987,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1988:

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1989 or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than that previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1981 or the 1st day of April, 1982 or the 1st day of April, 1983 or the 1st day of April, 1984, or the 1st day of April, 1985 or the 1st day of April, 1986 or the 1st day of April, 1987 or the 1st day of April, 1988, is a loss, then, for the purposes of sub-section (8) of section 2 of this Act,

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1981, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1982 or the 1st day of April, 1983 or the 1st day of April, 1984 or the 1st day of April, 1985 or the 1st day of April, 1986 or the 1st day of April, 1987 or the 1st day of April, 1988,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1982, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1983 or the 1st day of April, 1984 or the 1st day of April, 1985 or the 1st day of April, 1986 or the 1st day of April, 1987 or the 1st day of April, 1988,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1983, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1984 or the 1st day of April, 1985 or the 1st day of April, 1986 or the 1st day of April, 1987 or the 1st day of April, 1988,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1984, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1985 or the 1st day of April, 1986 or the 1st day of April, 1987 or the 1st day of April, 1988,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1985, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1986 or the 1st day of April, 1987 or the 1st day of April, 1988,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1986, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1987 or the 1st day of April, 1988,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1987, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1988, and

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1989,

shall be set off against the agricultural income of the assessment year commencing on the 1st day of April, 1989.

(3) Where a change has occurred in the constitution of a firm, nothing in sub-rule (1) or sub-rule (2) shall entitle the firm to set off so much of the loss as is attributable to the share of a partner or deceased partner computed in the manner laid down in sub-section (1), sub-section (2) and sub-section (3) of section 67 of the Income-tax Act as exceeds his share of profits, if any, of the previous year, or entitle any partner to the benefit of any portion of the said loss (computed in the manner aforesaid) which is not apportionable to him.

(4) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (1) or sub-rule (2) shall entitle any person other than the person incurring the loss to have set off under sub-rule (1) or, as the case may be, sub-rule (2).

(5) Notwithstanding anything contained in this rule, no loss which has not been determined by the Assessing Officer under the provisions of these rules or the rules contained in Part IV of the First Schedule to the Finance (No. 2) Act, 1980, or of the First Schedule to the Finance Act, 1981, or of the First Schedule to the Finance Act, 1982, or of the First Schedule to the Finance Act, 1983, or of the First Schedule to the Finance Act, 1984, or of the First Schedule to the Finance Act, 1985, or of the First Schedule to the Finance Act, 1986, or of the First Schedule to the Finance Act, 1987, shall be set off under sub-rule (1) or, as the case may be, sub-rule (2).

- 44 of 1980.
- 16 of 1981.
- 14 of 1982.
- 11 of 1983.
- 21 of 1984.
- 32 of 1985.
- 23 of 1986.
- 11 of 1987.

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 Assessing Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

entry in column (4) the entry "100% per Kg." shall be substituted;

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1987, to the extent if any such loss has not been set off against the agricultural income for the previous year, and

THE SECOND SCHEDULE

(See section 76)

In the First Schedule to the Customs Tariff Act—

- (i) in Chapter 8—
 - (a) in sub-heading Nos. 0802.11 and 0802.12, for the entries in columns (4) and (5), the entries "100% plus Rs. 50 per Kg." and "90% plus Rs. 50 per Kg." shall, respectively, be substituted;
 - (b) in sub-heading No. 0802.50, for the entries in columns (4) and (5), the entries "200% plus Rs. 25 per Kg." and "190% plus Rs. 25 per Kg." shall, respectively, be substituted;
 - (c) in sub-heading No. 0806.20, for the entries in columns (4) and (5), the entries "100% plus Rs. 50 per Kg." and "90% plus Rs. 50 per Kg." shall, respectively, be substituted;
 - (d) in sub-heading No. 0813.50, for the entries in columns (4) and (5), the entries "200% plus Rs. 25 per Kg." and "190% plus Rs. 25 per Kg." shall, respectively, be substituted;
- (ii) in Chapter 12, in sub-heading No. 1207.10, for the entries in columns (4) and (5) the entries "200%" and "190%" shall, respectively, be substituted;
- (iii) in Chapter 22, in sub-heading No. 2208.10, for the entry in column (4) the entry "Rs. 80 per litre or 270%, whichever is higher" shall be substituted;
- (iv) in Chapter 26, in sub-heading Nos. 2620.11 and 2620.19, for the entry in column (4) the entry "150%" shall be substituted;
- (v) in Chapter 28, in sub-heading Nos. 2801.10, 2801.20, 2801.30, 2802.00, 2803.00, 2804.10, 2804.21, 2804.29, 2804.30, 2804.40, 2804.50, 2804.61, 2804.69, 2804.70, 2804.80, 2804.90, 2805.11, 2805.19, 2805.21, 2805.22, 2805.30, 2805.40, 2806.10, 2806.20, 2807.00, 2808.00, 2809.10, 2809.20, 2810.00, 2811.11, 2811.19, 2811.21, 2811.22, 2811.23, 2811.29, 2812.10, 2812.90, 2813.10, 2813.90, 2814.10, 2814.20, 2815.11, 2815.12, 2815.20, 2815.30, 2816.10, 2816.20, 2816.30, 2817.00, 2818.10, 2818.20, 2818.30, 2819.10, 2819.90, 2820.10, 2820.90, 2821.10, 2821.20, 2822.00, 2823.00, 2824.10, 2824.20, 2824.90, 2825.10, 2825.20, 2825.30, 2825.40, 2825.50, 2825.60, 2825.70, 2825.80, 2825.90, 2826.11, 2826.12, 2826.19, 2826.20, 2826.30, 2826.90, 2827.10, 2827.20, 2827.31, 2827.32, 2827.33, 2827.34, 2827.35, 2827.36, 2827.37, 2827.38, 2827.39, 2827.41, 2827.49, 2827.51, 2827.59, 2827.60, 2828.10, 2828.90, 2829.11, 2829.19, 2829.90, 2830.10, 2830.20, 2830.30, 2830.90, 2831.10, 2831.90, 2832.10, 2832.20, 2832.30, 2833.11, 2833.19, 2833.21, 2833.22, 2833.23, 2833.24, 2833.25, 2833.26, 2833.27, 2833.29, 2833.30, 2833.40, 2834.10, 2834.21, 2834.22, 2834.29, 2835.10, 2835.21, 2835.22, 2835.23, 2835.24, 2835.25, 2835.26, 2835.29, 2835.31, 2835.39, 2836.10, 2836.20, 2836.30, 2836.40, 2836.50, 2836.60, 2836.70, 2836.91, 2836.92, 2836.93, 2836.99, 2837.11, 2837.19, 2837.20, 2838.00, 2839.11, 2839.19, 2839.20, 2839.90, 2840.11, 2840.19, 2840.20, 2840.30, 2841.10, 2841.20, 2841.30, 2841.40, 2841.50, 2841.60, 2841.70, 2841.80, 2841.90, 2842.10, 2842.90, 2843.10, 2843.21, 2843.29, 2843.30, 2843.90, 2844.10, 2844.20, 2844.30, 2844.40, 2844.50, 2845.10, 2845.90, 2846.10, 2846.90, 2847.00, 2848.10, 2848.90, 2849.10, 2849.20, 2849.90, 2850.00 and 2851.00, for the entry in column (4), the entry "100% plus Rs. 25 per Kg." shall be substituted;

(vi) in Chapter 29, —

(1) in sub-heading Nos. 2901·10, 2901·21, 2901·22, 2901·23, 2901·24, 2901·29, 2902·11, 2902·19, 2902·41, 2902·42, 2902·43, 2902·50, 2902·70, 2902·90, 2903·11, 2903·12, 2903·13, 2903·14, 2903·15, 2903·16, 2903·19, 2903·21, 2903·22, 2903·23, 2903·29, 2903·30, 2903·40, 2903·51, 2903·59, 2903·61, 2903·62, 2903·69, 2904·10, 2904·20, 2904·90, 2905·11, 2905·12, 2905·13, 2905·14, 2905·15, 2905·17, 2905·19, 2905·21, 2905·22, 2905·29, 2905·31, 2905·32, 2905·39, 2905·41, 2905·42, 2905·43, 2905·44, 2905·49, 2905·50, 2906·11, 2906·12, 2906·13, 2906·14, 2906·19, 2906·21, 2906·29, 2907·11, 2907·12, 2907·13, 2907·14, 2907·15, 2907·19, 2907·21, 2907·22, 2907·23, 2907·29, 2907·30, 2908·10, 2908·20, 2908·90, 2909·11, 2909·19, 2909·20, 2909·30, 2909·41, 2909·42, 2909·43, 2909·44, 2909·49, 2909·50, 2909·60, 2910·10, 2910·20, 2910·30, 2910·90, 2911·00, 2912·01, 2912·02, 2912·03, 2912·19, 2912·21, 2912·29, 2912·30, 2912·41, 2912·42, 2912·43, 2912·44, 2912·45, 2912·46, 2912·47, 2912·48, 2912·49, 2912·50, 2912·51, 2912·52, 2912·53, 2912·54, 2912·55, 2912·56, 2912·57, 2912·58, 2912·59, 2912·60, 2912·61, 2912·62, 2912·63, 2912·64, 2912·65, 2912·66, 2912·67, 2912·68, 2912·69, 2912·70, 2912·71, 2912·72, 2912·73, 2912·74, 2912·75, 2912·76, 2912·77, 2912·78, 2912·79, 2912·80, 2912·81, 2912·82, 2912·83, 2912·84, 2912·85, 2912·86, 2912·87, 2912·88, 2912·89, 2912·90, 2912·91, 2912·92, 2912·93, 2912·94, 2912·95, 2912·96, 2912·97, 2912·98, 2912·99, 2913·00, 2914·11, 2914·12, 2914·13, 2914·19, 2914·22, 2914·23, 2914·29, 2914·30, 2914·41, 2914·49, 2914·50, 2914·61, 2914·70, 2915·11, 2915·12, 2915·13, 2915·21, 2915·22, 2915·23, 2915·24, 2915·29, 2915·31, 2915·32, 2915·33, 2915·34, 2915·39, 2915·40, 2915·50, 2915·60, 2915·70, 2915·90, 2916·11, 2916·12, 2916·13, 2916·14, 2916·15, 2916·19, 2916·20, 2916·31, 2916·32, 2916·33, 2916·39, 2917·11, 2917·12, 2917·13, 2917·14, 2917·19, 2917·20, 2917·31, 2917·32, 2917·33, 2917·34, 2917·35, 2917·39, 2918·11, 2918·12, 2918·13, 2918·14, 2918·15, 2918·16, 2918·17, 2918·19, 2918·21, 2918·22, 2918·23, 2918·29, 2918·30, 2918·90, 2919·00, 2920·10, 2920·90, 2921·11, 2921·12, 2921·19, 2921·21, 2921·22, 2921·29, 2921·30, 2921·49, 2921·49, 2921·51, 2922·11, 2922·12, 2922·13, 2922·19, 2922·21, 2922·22, 2922·29, 2922·30, 2922·41, 2922·42, 2922·49, 2923·10, 2923·20, 2923·90, 2924·10, 2924·21, 2924·29, 2925·10, 2925·20, 2925·29, 2926·10, 2926·20, 2926·90, 2927·00, 2928·00, 2929·10, 2929·90, 2930·10, 2930·20, 2930·30, 2930·40, 2930·90, 2931·00, 2932·11, 2932·12, 2932·13, 2932·19, 2932·21, 2932·29, 2932·90, 2933·11, 2933·19, 2933·21, 2933·29, 2933·31, 2933·39, 2933·40, 2933·51, 2933·59, 2933·61, 2933·69, 2933·70, 2933·90, 2934·10, 2934·20, 2934·30, 2934·90 and 2935·00, for the entry in column (4), the entry "100% plus Rs. 25 per Kg." shall be substituted;

(2) in sub-heading Nos. 2936·10, 2936·21, 2936·22, 2936·23, 2936·24, 2936·25, 2936·26, 2936·27, 2936·28, 2936·29 and 2936·90, for the entries in columns (4) and (5), the entries "100% plus Rs. 25 per Kg." and "94% plus Rs. 25 per Kg." shall, respectively, be substituted;

(3) in sub-heading Nos. 2937·10, 2937·21, 2937·22, 2937·29, 2937·91, 2937·92 and 2937·99, for the entries in columns (4) and (5), the entries "100% plus Rs. 25 per Kg." and "90% plus Rs. 25 per Kg." shall, respectively, be substituted;

(4) in sub-heading Nos. 2938·10, 2938·90, 2939·10, 2939·20, 2939·29 and 2939·90, for the entry in column (4), the entry "100% plus Rs. 25 per Kg." shall be substituted;

(5) in sub-heading Nos. 2939·40 and 2939·50, for the entries in columns (4) and (5), the entries "100% plus Rs. 25 per Kg." and "90% plus Rs. 25 per Kg." shall, respectively, be substituted;

(6) in sub-heading Nos. 2939·60, 2939·70, 2939·90 and 2940·00, for the entry in column (4), the entry "100% plus Rs. 25 per Kg." shall be substituted;

(7) in sub-heading Nos. 2941·10, 2941·20, 2941·30, 2941·40, 2941·50 and 2941·90, for the entries in columns (4) and (5), the entries "100% plus Rs. 25 per Kg." and "94% plus Rs. 25 per Kg." shall, respectively, be substituted;

(8) in sub-heading No. 2942·00, for the entry in column (4), the entry "100% plus Rs. 25 per Kg." shall be substituted;

(vii) in Chapter 38,—

(1) in sub-heading No. 3801-10, for the entries in columns (4) and (5), the entries "100% plus Rs. 25 per Kg." and "90% plus Rs. 25 per Kg." shall, respectively, be substituted;

(2) in sub-heading Nos. 3801-20, 3801-30 and 3801-90, for the entry in column (4), the entry "100% plus Rs. 25 per Kg." shall be substituted;

(3) in sub-heading No. 3802-10, for the entries in columns (4) and (5), the entries "100% plus Rs. 25 per Kg." and "90% plus Rs. 25 per Kg." shall, respectively, be substituted;

(4) in sub-heading Nos. 3803-00, 3803-10, 3803-20, 3803-30, 3803-40, 3803-50, 3803-60, 3803-70, 3803-80, 3803-90, 3804-00, 3804-10, 3804-20, 3804-30, 3804-40, 3804-50, 3804-60, 3804-70, 3804-80, 3804-90, 3805-00, 3805-10, 3805-20, 3805-30, 3805-40, 3805-50, 3805-60, 3805-70, 3805-80, 3805-90, 3806-00, 3806-10, 3806-20, 3806-30, 3806-40, 3806-50, 3806-60, 3806-70, 3806-80, 3806-90, 3807-00, 3807-10, 3807-20, 3807-30, 3807-40, 3807-50, 3807-60, 3807-70, 3807-80, 3807-90, 3808-00, 3808-10, 3808-20, 3808-30, 3808-40, 3808-50, 3808-60, 3808-70, 3808-80, 3808-90, 3809-00, 3809-10, 3809-20, 3809-30, 3809-40, 3809-50, 3809-60, 3809-70, 3809-80, 3809-90, 3810-00, 3810-10, 3810-20, 3810-30, 3810-40, 3810-50, 3810-60, 3810-70, 3810-80, 3810-90, 3811-00, 3811-10, 3811-20, 3811-30, 3811-40, 3811-50, 3811-60, 3811-70, 3811-80, 3811-90, for the entries in column (4) the entry "100% plus Rs. 25 per Kg." shall be substituted;

(5) in sub-heading Nos. 3812-10, for the entries in columns (4) and (5), the entries "100% plus Rs. 25 per Kg." and "90% plus Rs. 25 per Kg." shall, respectively, be substituted;

(6) in sub-heading Nos. 3813-00, 3813-10, 3813-20, 3813-30, 3813-40, 3813-50, 3813-60, 3813-70, 3813-80, 3813-90, 3814-00, for the entries in column (4), the entry "100% plus Rs. 25 per Kg." shall be substituted;

(7) in sub-heading Nos. 3815-11 and 3815-12, for the entries in columns (4) and (5), the entries "100% plus Rs. 25 per Kg." and "90% plus Rs. 25 per Kg." shall, respectively, be substituted;

(8) in sub-heading Nos. 3815-19, 3815-90, 3816-00, 3817-10, 3817-20, 3817-30, 3817-40, 3817-50, 3817-60, 3817-70, 3817-80, 3817-90, 3818-00, 3818-10, 3818-20, 3818-30, 3818-40, 3818-50, 3818-60, 3818-70, 3818-80, 3818-90, 3819-00, 3819-10, 3819-20, 3819-30, 3819-40, 3819-50, 3819-60, 3819-70, 3819-80, 3819-90, for the entry in column (4) the entry "100% plus Rs. 25 per Kg." shall be substituted;

(9) in Chapter 39, in sub-heading Nos. 3919-10 and 3919-90, for the entry in column (4), the entry "100% plus Rs. 100 per Kg." shall be substituted;

(10) in Chapter 39, for the entry in column (4), the entry "100% plus Rs. 25 per Kg." shall be substituted;

(11) for the word "NOTE", occurring below the title of the Chapter, the word "NOTE" shall be substituted; and in sub-heading Nos. 3919-10 and 3919-90, the existing Notes shall be numbered as Note 1, and after Note 1, as so numbered, the following Note shall be inserted, namely:—

2. In heading No. 89-08, "Light Displacement Tonnage (LDT)" means "LDT" in metric tonnes as per Builder's Registered LDT, referred to in the Stability Book on the builder's certificate at the time of initial commissioning of the vessel or the floating structure;

Provided that in case of any change in the LDT, the highest of the LDT indicated in any of the documents referred to, above shall be taken for the purpose of levy of duty;

(12) in Chapter 99, in heading No. 99-12, in column (3), for the words "TRADE CATALOGUES AND ADVERTISEMENTS, CIRCULARS" the words, "COMMERCIAL CATALOGUES IN BOOK FORM" shall be substituted;

(13) in sub-heading Nos. 99-90 and 99-00, for the entry in column (4), the entry "100% plus Rs. 25 per Kg." shall be substituted;

(14) in sub-heading Nos. 99-10, 99-20, 99-30, 99-40, 99-50, 99-60, 99-70, 99-80, 99-90, for the entries in columns (4) and (5), the entries "100% plus Rs. 25 per Kg." and "90% plus Rs. 25 per Kg." shall, respectively, be substituted;

(15) in sub-heading No. 99-00, for the entry in column (4), the entry "100% plus Rs. 25 per Kg." shall be substituted;

or XV even if they are intended for non-metallurgical purposes. Headings Nos. 26.01 to 26.17 do not, however, include minerals which have been admitted to processes not normal to the metallurgical industry.

THE THIRD SCHEDULE

(See section 81)

PART I

In the Schedule to the Central Excise Tariff Act, 1944—

- (1) in Chapter 9,
 - (a) in sub-heading No. 0902.10 for the entry in column (4), the entry "Rs. 2.50 per kilogram" shall be substituted;
 - (b) in sub-heading No. 0902.12 for the entry in column (4), the entry "Rs. 3.25 per kilogram" shall be substituted;
 - (c) in sub-heading No. 0902.13 for the entry in column (4), the entry "15%" shall be substituted;
- (2) in Chapter 15, in sub-heading No. 1508.90, for the entry in column (4) the entry "Rs. 11,900 per tonne" shall be substituted;
- (3) in Chapter 21,
 - (a) in sub-heading No. 2101.10, for the entry in column (4), the entry "30%" shall be substituted;
 - (b) in sub-heading No. 2101.20, for the entry in column (4), the entry "15%" shall be substituted;
 - (c) in sub-heading No. 2106.11, for the entry in column (4), the entry "25% plus Rs. 40 per kilogram" shall be substituted;
- (4) in Chapter 22,
 - (a) in sub-heading Nos. 2201.11 and 2201.12 in column (4), for the figures and word "25 paise" the figures and word "50 paise" shall be substituted;
 - (b) in sub-heading No. 2202.11, for the entry in column (4), the entry "75 paise" shall be substituted;
 - (c) in sub-heading No. 2202.12, for the entry in column (4), the entry "80 paise" shall be substituted;
 - (d) in sub-heading No. 2202.13, for the entry in column (4), the entry "90 paise" shall be substituted;
 - (e) in sub-heading No. 2202.14, in column (4), for the figures and word "65 paise", the figures and word "90 paise" shall be substituted;
- (5) in Chapter 26, for Nos. 2 and 3, the following Nos. shall be substituted, namely:—
 - "2. For the purposes of heading Nos. 26.01 to 26.17, the term "Ores" means minerals of mineralogical species actually used in the metallurgical industry for the extraction of mercury, of the metals of heading No. 28.44 or of the metals of Section XIV.

or XV, even if they are intended for non-metallurgical purposes. Heading Nos. 26.01 to 26.17 do not, however, include minerals which have been submitted to processes not normal to the metallurgical industry.

3. Heading No. 26.20 applies only to ash and residues of a kind used in industry either for the extraction of metals or as a basis for the manufacture of chemical compounds of metals.”;

(6) in Chapter 27:—

(a) in NOTE 3, for the figures and word “2707.91, 2707.92, 2707.93, 2707.94 and 2707.95”, the figures and word “2707.10, 2707.20, 2707.30, 2707.40 and 2707.50” shall be substituted;

(b) in sub-heading Nos. 2701.00, 2702.00, 2703.00, 2704.00, 2705.00, 2707.40, 2708.19 and 2709.00, for the entry in column (4), the entry “15%” shall be substituted;

(c) in sub-heading No. 2710.50, for the entry in column (4), the entry “Rs. 145 per kilolitre at 15°C” shall be substituted;

(d) in sub-heading No. 2710.94, for the entry in column (4), the entry “Rs. 620 per tonne” shall be substituted;

(e) in sub-heading Nos. 2711.11 and 2711.21, for the entry in column (4), the entry “15%” shall be substituted;

(f) in sub-heading No. 2713.21, for the entry in column (4), the entry “Rs. 160 per tonne” shall be substituted;

(g) in sub-heading No. 2713.22, for the entry in column (4), the entry “Rs. 140 per tonne” shall be substituted;

(h) in sub-heading No. 2714.11, for the entry in column (4), the entry “Rs. 160 per tonne” shall be substituted;

(i) in sub-heading No. 2714.12, for the entry in column (4), the entry “Rs. 110 per tonne” shall be substituted;

(j) in sub-heading No. 2714.90, for the entry in column (4), the entry “15%” shall be substituted;

(k) in sub-heading No. 2715.11, for the entry in column (4), the entry “Rs. 160 per tonne” shall be substituted;

(l) in sub-heading No. 2715.90, for the entry in column (4), the entry “15%” shall be substituted;

(7) in Chapter 29, in sub-heading Nos. 2941.10, 2941.20, 2941.30, 2941.40, 2941.50 and 2941.90, for the entry in column (4) the entry “15%” shall be substituted;

(8) in Chapter 30, Note 6 shall be omitted;

(9) in Chapter 36, in sub-heading No. 3602.00, for the entry in column (4), the entry “20%” shall be substituted;

(10) in Chapter 37:—

(a) in sub-heading Nos. 3701.20 and 3702.20, for the entry in column (4), the entry “Rs. 1.50 per metre” shall be substituted;

(b) in sub-heading No. 3702.90, for the entry in column (4), the entry "20% plus Rs. 24 per square metre" shall be substituted;

(71) in Chapter 39,—

(a) for NOTE 6, the following NOTE shall be substituted, namely:—

6. (a) In heading Nos. 39.01 to 39.14, the expression "primary forms" applies only to the following forms:—

(i) Liquids and pastes, including dispersions (emulsions and suspensions) and solutions;

(ii) Blocks of irregular shape, lumps, powders (including moulding powders), granules, flakes and similar bulk forms.

(b) Notwithstanding anything contained in NOTE 3 to this Chapter, heading Nos. 39.01 to 39.14 shall also include primary forms obtained from conversion of another primary form, falling under the same heading, and such conversion shall amount to "manufacture";

(b) for NOTE 13, the following NOTE shall be substituted, namely:—

13. Notwithstanding anything contained in NOTE 12 to this Chapter, in heading Nos. 39.09, 39.21, 39.23, 39.24, 39.25 and 39.26, "rigid polyurethane foam" means cellular polyurethane with compressive strength of 0.418 to 28.14 Kg./Cm² and flexural strength of 1.05 to 28.14 Kg./Cm² when tested in accordance with American Standard (Designation ASTM D-2341);

(c) after NOTE 14, the following NOTE shall be inserted, namely:—

15. For the purposes of heading Nos. 39.19, 39.20 and 39.21, the expression "film" means sheetings of thickness not exceeding 0.25 millimetres.;

(d) in sub-heading Nos. 3909.60 and 3926.10, in column (4), for the figures and abbreviation "75%", the figures, abbreviations and words "60% plus Rs. 40 per kilogram" shall be substituted;

(12) in Chapter 40, in sub-heading No. 4011.10, for the entry in column (4), the entry "60%" shall be substituted;

(13) in Chapter 48,—

(a) for NOTE 3, the following NOTE shall be substituted, namely:—

3. In this Chapter "newsprint" means paper intended for the printing of newspapers.;

(b) for NOTE 8, the following NOTES shall be substituted, namely:—

"8. Heading No. 48.20 does not cover loose sheets or cards, cut to size, whether or not printed, embossed or perforated.

9. Heading No. 48.23 applies, *inter alia*, to perforated paper or paperboard cards for jacquard or similar machines and paper lace.

10. Except for the goods of heading No. 48.14 or 48.21, paper, paperboard, cellulose wadding and articles thereof, printed with motifs, characters or pictorial representations, which are not merely incidental to the primary use of the goods, fall in Chapter 49".

(c) in sub-heading No. 4811.90, in column (4), for the figures, abbreviations and word "10% plus Rs. 2,000", the figures, abbreviations and word "35% plus Rs. 2,000" shall be substituted;

(14) in Chapter 52,—

(a) NOTES 3 and 4 shall be omitted;

(b) NOTES 5 and 6 shall be renumbered as NOTES 3 and 4, respectively;

(c) in sub-heading No. 5203.33, for the entry in column (4), the entry "26.40 paise plus 3.52 paise per count per kilogram exceeding 35" shall be substituted;

(d) in sub-heading No. 5203.34, for the entry in column (4), the entry "61.60 paise plus 5.28 paise per count per kilogram exceeding 45" shall be substituted;

(e) in sub-heading No. 5203.35, for the entry in column (4), the entry "114.40 paise plus 2.64 paise per count per kilogram exceeding 55" shall be substituted;

(f) in sub-heading No. 5203.43, for the entry in column (4), the entry "114.40 paise plus 5.28 paise per count per kilogram exceeding 35" shall be substituted;

(g) sub-heading Nos. 5206.10 and 5206.20 and the entries relating thereto shall be omitted;

(h) sub-headings Nos. 5206.31, 5206.32, 5206.33, 5206.34, 5206.35 and 5206.36 shall be renumbered as sub-heading Nos. 5206.11, 5206.12, 5206.13, 5206.14, 5206.15 and 5206.16, respectively;

(15) in Chapter 70,—

(a) in NOTE 1, in item (c), for the words "fittings or insulating material", the words "fittings of insulating material" shall be substituted;

(b) in heading No. 70.14, in column (4), for the figures and abbreviation "30%", the figures and abbreviation "35%" shall be substituted;

(16) in Section XV, for the NOTE, the following NOTES shall be substituted, namely:—

NOTES

1. This Section does not cover:

- (a) Prepared paints, inks or other products with a basis of metallic flakes or power (heading Nos. 32.07 to 32.10, 32.12, 32.13 or 32.15);
- (b) Ferro-cerium or other pyrophoric alloys (heading No. 36.06);
- (c) Headgear or parts thereof of Chapter 65;
- (d) Umbrella frames or other articles of Chapter 66;
- (e) Goods of Chapter 71 (for example, precious metal alloys, base metal clad with precious metal, imitation jewellery);
- (f) Articles of Section XVI (machinery, mechanical appliances and electrical goods);
- (g) Assembled railway or tramway track (heading No. 86.08) or other articles of Section XVII (vehicles, ships and boats, aircraft);
- (h) Instruments or apparatus of Section XVIII, including clock or watch springs;
- (i) Lead shot prepared for ammunition (heading No. 93.06) or other articles of Section XIX (arms and ammunition);
- (k) Articles of Chapter 94 (for example, furniture, mattress supports, lamps and lighting fittings, illuminated signs, prefabricated buildings);
- (l) Articles of Chapter 95 (for example, toys, games, sports requisites); or
- (m) Hand sieves, buttons, pens, pencil-holders, pen nibs or other articles of Chapter 96 (miscellaneous manufactured articles).

2. Throughout this Schedule, the expression "parts of general use" means:

- (a) Articles of heading No. 73.07, 73.12, 73.15, 73.17 or 73.18 and similar articles of other base metal;
- (b) Springs and leaves for springs, of base metal, other than clock or watch springs (heading No. 91.14); and
- (c) Articles of heading Nos. 83.01, 83.02, 83.08, 83.10 and frames and mirrors, of base metal, of heading No. 83.06.

In Chapters 73 to 76 and 78 to 82 (but not in heading No. 73.15) references to parts of goods do not include references to parts of general use as defined above.

Subject to the preceding paragraph and to NOTE 1 to Chapter 83, the articles of Chapter 82 or 83 are excluded from Chapters 72 to 76 and 78 to 81.

3. Classification of alloys (other than ferro-alloys and master alloys as defined in Chapters 72 and 74):

(a) An alloy of base metals, is to be classified as an alloy of the metal which predominates, by weight over each of the other metals;

(b) An alloy composed of base metals of this Section and of elements not falling within this Section is to be treated as an alloy of base metals of this Section if the total weight of such metals equals or exceeds the total weight of the other elements present;

(c) In this Section the term "alloys" includes sintered mixtures of metal powders, heterogeneous intimate mixtures obtained by melting (other than cermets) and intermetallic compounds.

4. Unless the context otherwise requires, any reference in this Schedule to a base metal includes a reference to alloys which, by virtue of NOTE 3 above, are to be classified as alloys of that metal.

5. Classification of composite articles:

Except where the headings otherwise require, articles of base metal (including articles of mixed materials treated as articles of base metal under the Interpretative Rules) containing two or more base metals are to be treated as articles of the base metal predominating by weight over each of the other metals. For this purpose:

(a) Iron and steel, or different kinds of iron or steel, are regarded as one and the same metal;

(b) An alloy is regarded as being entirely composed of that metal as an alloy of which, by virtue of NOTE 3, it is classified; and

(c) A cermet of heading No. 81.13 is regarded as a single base metal.

6. In this Section, the following expressions have the meanings hereby assigned to them:

(a) **WASTE AND SCRAP:**

Metal waste and scrap from the manufacture or mechanical working of metals, and metal goods definitely not usable as such because of breakage, cutting up, wear or other reasons.

(b) **POWDERS:**

Products of which 90% or more by weight passes through a sieve having a mesh aperture of 1 mm;

(17) in Chapter 72, for the Notes the following NOTES shall be substituted, namely:—

Notes

I. In this Chapter and, in the case of NOTES (d), (e) and (f) throughout this Schedule the following expressions have the meanings hereby assigned to them:

(a) PIG IRON:

Iron-carbon alloys not usefully malleable, containing more than 2% by weight of carbon and which may contain by weight one or more other elements within the following limits:

- not more than 10% of chromium
- not more than 6% of manganese
- not more than 3% of phosphorus
- not more than 8% of silicon

a total of not more than 10% of other elements.

(b) SPIEGELEISEN:

Iron-carbon alloys containing by weight more than 6% but not more than 30% of manganese and otherwise conforming to the specification at (a) above,

(c) FERRO-ALLOYS:

Alloys in pigs, blocks, lumps or similar primary forms, in forms obtained by continuous casting and also in granular or powder forms, whether or not agglomerated, commonly used as an additive in the manufacture of other alloys or as de-oxidants, de-sulphurising agents or for similar uses in ferrous metallurgy and generally not usefully malleable, containing by weight 4% or more of the element iron and one or more of the following:

- more than 10% of chromium
- more than 30% of manganese
- more than 3% of phosphorus
- more than 8% of silicon

a total of more than 10% of other elements, excluding carbon, subject to a maximum content of 10% in the case of copper.

(d) STEEL:

Ferrous materials other than those of heading No. 72.03 which (with the exception of certain types produced in the form of castings) are usefully malleable and which contain by weight 2% or less of carbon. However, chromium steels may contain higher proportions of carbon.

(e) STAINLESS STEEL:

Alloy steels containing, by weight, 1.2% or less of carbon and 10.5% or more of chromium, with or without other elements.

(f) OTHER ALLOY STEEL:

Steels not complying with the definition of stainless steel and containing by weight one or more of the following elements in the proportion shown:

- 0.3% or more of aluminium
- 0.0008% or more of boron
- 0.3% or more of chromium
- 0.3% or more of cobalt
- 0.4% or more of copper
- 0.4% or more of lead
- 1.65% or more of manganese
- 0.08% or more of molybdenum
- 0.3% or more of nickel
- 0.06% or more of niobium
- 0.6% or more of silicon
- 0.05% or more of titanium
- 0.3% or more of tungsten (wolfram)
- 0.1% or more of vanadium
- 0.05% or more of zirconium
- 0.1% or more of other elements (except sulphur, phosphorus, carbon and nitrogen), taken separately.

(g) REMELTING SCRAP INGOTS OF IRON OR STEEL:

Products roughly cast in the form of ingots without feeder-heads or hot tops, or of pigs, having obvious surface faults and not complying with the chemical composition of pig iron, spiegeleisen or ferro-alloys.

(h) GRANULES:

Products of which less than 90% by weight passes through a sieve with a mesh aperture of 1 mm and of which 90% or more by weight passes through a sieve with a mesh aperture of 5 mm.

(ij) SEMI-FINISHED PRODUCTS:

Continuous cast products of solid section, whether or not subjected to primary hot-rolling; and

Other products of solid section, which have not been further worked than subjected to primary hot-rolling or roughly shaped by forging, including blanks for angles, shapes or sections.

These products are not presented in coils.

(k) FLAT-ROLLED PRODUCTS:

Rolled products of solid rectangular (other than square) cross-section, which do not conform to the definition at (j) above in the form of:

- coils of successively superimposed layers, or straight lengths, which if of a thickness less than 4.75 mm are of a width measuring at least ten times the thickness or if of a thickness of 4.75 mm or more are of a width which exceeds 150 mm and measures at least twice the thickness.

Flat-rolled products include those with patterns in relief derived directly from rolling (for example, grooves, ribs, chequers, tears, buttons, lozenges) and those which have been perforated, corrugated or polished, provided that they do not thereby assume the character of articles or products of other headings.

Flat-rolled products of a shape other than rectangular or square, of any size are to be classified as products of a width of 600 mm or more, provided that they do not assume the character of articles or products of other headings.

(l) BARS AND RODS, HOT-ROLLED, IN IRREGULARLY WOUND COILS:

Hot-rolled products in irregularly wound coils, which have a solid cross-section in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles or other convex polygons. These products may have indentations, ribs, grooves or other deformations produced during the rolling process (reinforcing bars and rods);

(m) OTHER BARS AND RODS:

Products which do not conform to any of the definitions at (j), (k) or (l) above or to the definition of wire, which have a uniform solid cross-section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles or other convex polygons. These products may:

- have indentations, ribs, grooves or other deformations produced during the rolling process (reinforcing bars and rods);
- be twisted after rolling.

(n) ANGLES, SHAPES AND SECTIONS:

Products having a uniform solid cross-section along their whole length which do not conform to any of the definitions at (j), (k), (l) or (m) above or to the definition of wire.

Chapter 72 does not include products of heading No. 73.01 or 73.02.

(o) WIRE:

Cold-formed products in coils, of any uniform solid cross-section along their whole length, which do not conform to the definition of flat-rolled products.

(p) HOLLOW DRILL BARS AND RODS:

Hollow bars and rods of any cross-section, suitable for drills, of which the greatest external dimension of the cross-section exceeds 15 mm but does not exceed 52 mm, and of which the greatest internal dimension does not exceed one half of the greatest external dimension. Hollow bars and rods of iron or steel not conforming to this definition are to be classified in heading No. 73.04.

(q) SKELP:

Hot-rolled narrow strip of width not exceeding 600 mm with rolled (square, slightly round or bevelled) edges.

2. Ferrous metals clad with another ferrous metal are to be classified as products of the ferrous metal predominating by weight.

3. Iron or steel products obtained by electrolytic deposition, by pressure casting or by sintering are to be classified, according to their form, their composition and their appearance, in the headings of this Chapter appropriate to similar hot-rolled products.

SUP-HEADING NOTE

In this Chapter the following expressions have the meanings hereby assigned to them:

(a) Non-alloy free-cutting steel:

Non-alloy steel containing, by weight, one or more of the following elements in the specified proportions:

-0.08% or more of sulphur

-0.1% or more of lead

-more than 0.05% of selenium

-more than 0.01% of tellurium

-more than 0.05% of bismuth.

(b) Silicon-electrical steel:

Alloy steels containing by weight at least 0.6% but not more than 6% of silicon and not more than 0.03% of carbon. They may also contain by weight

not more than 1% of aluminium but no other element in a proportion that would give the steel the characteristics of another alloy steel.

(c) High speed steel

Alloy steels containing, with or without other elements, at least two of the three elements molybdenum, tungsten and vanadium with a combined content by weight of 7% or more, 0.6% or more of carbon and 3 to 6% of chromium.

(d) Silicon-manganese steel

Alloy steels containing by weight:

-0.35% or more but not more than 0.7% of carbon,

-0.5% or more but not more than 1.2% of manganese, and

-0.6% or more but not more than 2.3% of silicon, but not containing any other element in a proportion that would give the steel the characteristics of another alloy steel;

(18) in Chapter 73 for the NOTES, the following NOTES shall be substituted, namely:

NOTES

1. In this Chapter the expression "cast iron" applies to products obtained by casting in which iron predominates by weight over each of the other elements and which do not comply with the chemical composition of steel as defined in Note 1(d) to Chapter 72.

2. In this Chapter the word "wire" means hot or cold-formed products of any cross-sectional shape; of which no cross-sectional dimension exceeds 16 mm.;

(19) in Chapter 74, for the NOTES, the following NOTE shall be substituted, namely:—

Note

In this Chapter the following expressions have the meanings hereby assigned to them:

(a) REFINED COPPER:

Metal containing at least 99.85% by weight of copper; or Metal containing at least 97.5% by weight of copper provided that the content by weight of any

the ratio of any other element does not exceed the limit specified in the following table:

TABLE—OTHER ELEMENTS

Element	Limiting content % by weight	
Ag	Silver	0.25
As	Arsenic	0.5
Cd	Cadmium	1.3
Cr	Chromium	1.4
Mg	Magnesium	0.8
Pb	Lead	1.5
S	Sulphur	0.7
Sn	Tin	0.8
Te	Tellurium	0.8
Zn	Zinc	1
Zr	Zirconium	0.3
	Other elements*, each	0.3

*Other elements are, for example, Al, Be, Co, Fe, Mn, Ni, Si.

(b) COPPER ALLOYS:

Metallic substances other than unrefined copper in which copper predominates by weight over each of the other elements, provided that:

(i) the content by weight of at least one of the other elements shall be greater than the limit specified in the foregoing table; or

(ii) the total content by weight of such other elements exceeds 2.5%.

(c) MASTER ALLOYS:

Alloys containing with other elements more than 10% by weight of copper, not usefully malleable and commonly used as an additive in the manufacture of other alloys or as de-oxidants, de-sulphurising agents or for similar uses in the metallurgy of non-ferrous metals. However, copper phosphide (phosphor copper) containing more than 15% by weight of phosphorus falls in heading No. 28.48.

(d) BARS AND RODS:

Rolled, extruded, drawn or forged products, not in coils, which have a uniform solid cross-section along their whole length in the shape of circles, ovals, rectangles (including squares), equilateral triangles or regular convex polygons (including "flattened circles", and "modified rectangles", of which two opposite sides are convex arcs, the other two sides being straight, of equal length and parallel). Products with a rectangular (including square), triangular or polygonal, cross-section may have corners rounded along their whole length. The thickness of such

products which have a rectangular (including "modified rectangular") cross-section exceeds one-tenth of the width. The expression also covers cast or sintered products, of the same forms and dimensions, which have been subsequently worked after production (otherwise than by simple trimming or de-scaling), provided that they have not thereby assumed the character of articles or products of other headings.

Wire-bars and billets with their ends tapered or otherwise worked simply to facilitate their entry into machines for converting them into, for example, drawing stock (wire-rod) or tubes, are however to be taken to be unwrought copper of heading No. 74.03.

(e) **PROFILES:**

Rolled, extruded, drawn, forged or formed products, coiled or not, of a uniform cross-section along their whole length, which do not conform to any of the definitions, of bars, rods, wire, plates, sheets, strip, foil, tubes or pipes. The expression also covers cast or sintered products, of the same forms, which have been subsequently worked after production (otherwise than by simple trimming or de-scaling), provided that they have not thereby assumed the character of articles or products of other headings.

(f) **WIRE:**

Rolled, extruded or drawn products, in coils, which have a uniform solid cross-section along their whole length in the shape of circles, ovals, rectangles (including squares), equilateral triangles or regular convex polygons (including "flattened circles" and "modified rectangles", of which two opposite sides are convex arcs, the other two sides being straight, of equal length and parallel), Products with a rectangular (including square), triangular or polygonal cross-section may have corners rounded along their whole length. The thickness of such products which have a rectangular (including "modified rectangular") cross-section exceeds one-tenth of the width.

In the case of heading No. 74.14, however, the term "wire" applies only to products, whether or not in coils, of any cross-sectional shape, of which no cross-sectional dimension exceeds 6 mm.

(g) **PLATES, SHEETS, STRIP AND FOIL:**

Flat-surfaced products (other than the unwrought products of heading No. 74.03), coiled or not, of solid rectangular (other than square) cross-section with or

without rounded corners (including "modified rectangles" or which two opposite sides are convex arcs, the other two sides being straight, of equal length and parallel) of a uniform thickness, which are:

-of rectangular (including square) shape with a thickness not exceeding one-tenth of the width.

-of a shape other than rectangular or square, of any size provided that they do not assume the character of articles or products of other headings.

Heading Nos. 74.09 and 74.10 apply, *inter alia*, to plates, sheets, strips and foil with patterns (for example, grooves, ribs, chequers, tears, buttons, lozenges) and to such products which have been perforated, corrugated, polished or coated, provided that they do not thereby assume the character of articles or products of other headings.

(h) TUBES AND PIPES:

Hollow products, coiled or not, which have a uniform cross-section with only one enclosed void along their whole length in the shape of circles, ovals, rectangles (including squares), equilateral triangles or regular convex polygons, and which have a uniform wall thickness. Products with a rectangular (including square), equilateral triangular or regular convex polygonal cross-section, which may have corners rounded along their whole length, are also to be taken to be tubes and pipes provided the inner and outer cross-sections are concentric and have the same form and orientation. Tubes and pipes of the foregoing cross-sections may be polished, coated, bent, threaded, drilled, waisted, expanded, cone-shaped or fitted with flanges, collars or rings.

SUB-HEADING NOTE

In this Chapter the following expressions have the meanings hereby assigned to them:

(a) Copper-zinc base alloys (brasses):

Alloys of copper and zinc, with or without other elements. When other elements are present:

-zinc predominates by weight over each of such other elements;

-any nickel content by weight is less than 5% [see copper-nickel-zinc alloys (nickel silvers)];

and

-any tin content by weight is less than 3% [See copper-tin (bronzes)].

(b) Copper-tin base alloys (bronzes);

Alloys of copper and tin, with or without other elements. When other elements are present, tin predominates by weight over each of such other elements, except; that when the tin content is 3% or more the zinc content by weight may exceed that of tin but must be less than 10%.

(c) Copper-nickel-zinc based alloys (nickel silvers):

Alloys of copper, nickel and zinc, with or without other elements. The nickel content is 5% or more by weight [see copper-zinc alloys (brasses)].

(d) Copper-nickel base alloys:

Alloys of copper and nickel, with or without other elements but in any case containing by weight not more than 1% of zinc. When other elements are present, nickel predominates by weight over each of such other elements.

(20) in Chapter 75, below the title of the Chapter, the following Note shall be inserted, namely:—

NOTE

In this Chapter the following expressions have the meanings hereby assigned to them:

(a) BARS AND RODS:

Rolled, extruded, drawn or forged products, not in coils, which have a uniform solid cross-section along their whole length in the shape of circles, ovals, rectangles (including squares), equilateral triangles or regular convex polygons (including "flattened circles" and "modified rectangles", of which two opposite sides are convex arcs, the other two sides being straight, of equal length and parallel). Products with a rectangular (including square), triangular or polygonal cross-section may have corners rounded along their whole length. The thickness of such products which have a rectangular (including "modified rectangular") cross-section exceeds one-tenth of the width. The expression also covers cast or sintered products, of the same forms and dimensions, which have been subsequently worked after production (otherwise than by simple trimming or de-scaling, provided that they have not thereby assumed the character of articles of products of other headings.

(b) PROFILES:

Rolled, extruded, drawn, forged or formed products, coiled or not, of a uniform cross-section along their whole length, which do not conform to any of the definitions of bars, rods, wire, plates, sheets, strip, foil, tubes or pipes. The expression also covers cast or sintered products, of the same forms, which have been subsequently worked after production (otherwise than by simple trimming or de-scaling), provided that they have not thereby assumed the character of articles or products of other headings.

(c) WIRE:

Rolled, extruded or drawn products, in coils, which have a uniform solid cross-section along their whole length in the shape of circles, ovals, rectangles (including squares), equilateral triangles or regular convex polygons (including "flattened circles" and "modified rectangles", of which two opposite sides are convex arcs, the other two sides being straight, of equal length and parallel). Products with a rectangular (including square), triangular or polygonal cross-section may have corners rounded along their whole length. The thickness of such products which have a rectangular (including "modified rectangular") cross-section exceeds one-tenth of the width.

(d) PLATES, SHEETS, STRIP AND FOIL:

Flat-surfaced products (other than the unwrought products of heading No. 75.02), coiled or not, of solid rectangular (other than square) cross-section with or without rounded corners (including "modified rectangles" of which two opposite sides are convex arcs, the other two sides being straight, of equal length and parallel) of a uniform thickness, which

are: of rectangular (including square) shape with a thickness not exceeding one-tenth of the width,

of a shape other than rectangular or square, of any size provided that they do not assume the character of articles or products of other headings.

Heading No. 75.06 applies, *inter alia*, to plates, sheets, strip and foil with patterns (for example, grooves, ribs, chequers, tears, buttons, lozenges) and to such products which have been perforated, corrugated, polished or coated provided that they do not thereby assume the character of articles or products of other headings.

(e) TUBES AND PIPES:

Hollow products, coiled or not, which have a uniform cross-section with only one enclosed void along their whole length in the shape of circles, ovals, rectangles (including squares), equilateral triangles or regular convex polygons, and which have a uniform wall thickness. Products with a rectangular (including square), equilateral triangular or regular convex polygonal cross-section, which may have corners rounded along their whole length, are also to be considered as tubes and pipes provided the inner and outer cross-sections are concentric and have the same form and orientation. Tubes and pipes of the foregoing cross-sections may be polished, coated, bent, threaded, drilled, waisted, expanded, cone-shaped or fitted with flanges, collars or rings.

SUB-HEADING NOTE

In this Chapter the following expressions have the meanings hereby assigned to them:

(a) Nickel, not alloyed:

Metal containing by weight at least 98% of nickel plus cobalt, provided that:

(i) the cobalt content by weight does not exceed 1.5% and

(ii) the content by weight of any other element does not exceed the limit specified in the following table:

TABLE—OTHER ELEMENTS

Element	Limiting content % by weight
Iron	0.5
Oxygen	0.4
Other elements, each	0.3

(b) Nickel alloys:

Metallic substances in which nickel predominates by weight over each of the other elements provided that:

(i) the content by weight of cobalt exceeds 1.5%

(ii) the content by weight of at least one of the other elements is greater than the limit specified in the foregoing table, or

(iii) the total content by weight of elements other than nickel plus cobalt exceeds 1%;

(21) in Chapter 76, for the NOTES, the following NOTE shall be substituted, namely:—

NOTE

In this Chapter the following expressions have the meanings hereby assigned to them:

(a) BARS AND RODS:

Rolled, extruded, drawn or forged products, not in coils, which have a uniform solid cross-section along their whole length in the shape of circles, ovals, rectangles (including squares), equilateral triangles or regular convex polygons (including "flattened circles" and "modified rectangles", of which two opposite sides are convex arcs, the other two sides being straight, of equal length and parallel). Products with a rectangular (including square), triangular or polygonal cross-section may have corners rounded along their whole length. The thickness of such products which have a rectangular (including "modified rectangular") cross-section exceeds one-tenth of the width. The expression also covers cast or sintered products, of the same form and dimensions, which have been subsequently worked after production (otherwise than by simple trimming or de-scaling), provided that they have not thereby assumed the character of articles or products of other headings.

(b) PROFILES:

Rolled, extruded, drawn, forged or formed products, coiled or not, of a uniform cross-section along their whole length, which do not conform to any of the definitions of bars, rods, wire, plates, sheets, strip, foil, tubes or pipes. The expression also covers cast or sintered products, of the same forms, which have been subsequently worked after production (otherwise than by simple trimming or de-scaling), provided that they have not thereby assumed the character of articles or products of other headings.

(c) WIRE:

Rolled, extruded or drawn products, in coils, which have a uniform solid cross-section along their whole length in the shape of circles, ovals, rectangles (including squares), equilateral triangles or regular convex polygons (including "flattened circles" and "modified rectangles", of which two opposite sides are convex arcs, the other two sides being straight, of equal length and parallel). Products with a rectangular (including square), triangular or polygonal cross-section may have corners rounded along their

whole length. The thickness of such products which have a rectangular (including "modified rectangular") cross-section exceeds one-tenth of the width.

(d) PLATES, SHEETS, STRIP AND FOIL:

Flat-surfaced products (other than the unwrought products of heading No. 76.01), coiled or not, of solid rectangular (other than square) cross-section with or without rounded corners (including "modified rectangles" of which two opposite sides are convex arcs, the other two sides being straight, of equal length and parallel) of a uniform thickness, which are:

- of rectangular (including square) shape with a thickness not exceeding one-tenth of the width,
- of a shape other than rectangular or square, of any size provided that they do not assume the character of articles or products of other headings.

Heading Nos. 76.06 and 76.07 apply, *inter alia*, to plates, sheets, strip and foil with patterns (for example, grooves, ribs, chequers, tears, buttons, lozenges) and to such products which have been perforated, corrugated, polished or coated, provided that they do not thereby assume the character of articles or products of other headings.

(e) TUBES AND PIPES:

Hollow products, coiled or not, which have a uniform cross-section with only one enclosed void along their whole length in the shape of circles, ovals, rectangles (including squares), equilateral triangles or regular convex polygons, and which have a uniform wall thickness. Products with a rectangular (including square), equilateral triangular or regular convex polygonal cross-section, which may have corners rounded along their whole length, are also to be considered as tubes and pipes provided the inner and outer cross-sections are concentric and have the same form and orientation. Tubes and pipes of the foregoing cross-sections may be polished, coated, bent, threaded, drilled, waisted, expanded, cone-shaped or fitted with flanges, collars or rings.

SUB-HEADING NOTE

In this Chapter the following expressions have the meanings hereby assigned to them:

(a) Aluminium, not alloyed:

Metal containing by weight at least 99% of aluminium, provided that the content by weight of

any other element does not exceed the limit specified in the following table:

TABLE—OTHER ELEMENTS

Element	Limiting content % by weight
Fe+Si (iron plus silicon)	1
Other elements (1), each	0.1 (2)

(1) Other elements are, for example, Cr, Cu, Mg, Mn, Ni, Zn.

(2) Copper is permitted in a proportion greater than 0.1% but not more than 0.2%, provided that neither the chromium nor manganese content exceeds 0.05%.

(b) Aluminium alloys:

Metallic substances in which aluminium predominates by weight over each of the other elements, provided that:

(i) the content by weight of at least one of the other elements or of iron plus silicon taken together is greater than the limit specified in the foregoing table;

(ii) the total content by weight of such other elements exceeds 1%.

(22) in Chapter 78, for the NOTE, the following NOTE shall be substituted, namely:—

NOTE

In this Chapter the following expressions have the meanings hereby assigned to them:

(a) BARS AND RODS:

Rolled, extruded, drawn or forged products, not in coils, which have a uniform solid cross-section along their whole length in the shape of circles, ovals, rectangles (including squares), equilateral triangles or regular convex polygons (including "flattened circles" and "modified rectangles", of which two opposite sides are convex arcs, the other two sides being straight, of equal length and parallel). Products with a rectangular (including square), triangular or polygonal cross-section may have corners rounded along their whole length. The thickness of such products which have a rectangular (including "modified rectangular") cross-section exceeds one-tenth of the

width. The expression also covers cast or sintered products, of the same forms and dimensions, which have been subsequently worked after production (otherwise than by simple trimming or de-scaling), provided that they have not thereby assumed the character of articles or products of other headings.

(b) PROFILES:

Rolled, extruded, drawn, forged or formed products, coiled or not, of a uniform cross-section along their whole length, which do not conform to any of the definitions of bars, rods, wire, plates, sheets, strip, foil, tubes or pipes. The expression also covers cast or sintered products, of the same forms, which have been subsequently worked after production (otherwise than by simple trimming or de-scaling), provided that they have not thereby assumed the character of articles or products of other headings.

(a) WIRE:

Rolled, extruded or drawn products, in coils, which have a uniform solid cross-section along their whole length in the shape of circles, ovals, rectangles (including squares), equilateral triangles or regular convex polygons (including "flattened circles" and "modified rectangles", of which two opposite sides are convex arcs, the other two sides being straight, of equal length and parallel). Products with a rectangular (including square), triangular or polygonal cross-section may have corners rounded along their whole length. The thickness of such products which have a rectangular (including "modified rectangular") cross-section exceeds one-tenth of the width.

(d) PLATES, SHEETS, STRIP AND FOIL:

Flat-surfaced products (other than the unwrought products of heading No. 78.01), coiled or not, of solid rectangular (other than square) cross-section with or without rounded corners (including "modified rectangles" of which two opposite sides are convex arcs, the other two sides being straight, of equal length and parallel) of a uniform thickness, which are:

- of rectangular (including square) shape with a thickness not exceeding one-tenth of the width,
- of a shape other than rectangular or square, of any size provided that they do not assume the character of articles or products of other headings.

Heading No. 78.04 applies, *inter alia*, to plates, sheets, strip and foil with patterns (for example, grooves, ribs, chequers, tears, buttons, lozenges) and

to such products which have been perforated, corrugated, polished or coated, provided that they do not thereby assume the character of articles or products of other headings.

(e) TUBES AND PIPES:

Hollow products, coiled or not, which have uniform cross-section with only one enclosed void along their whole length in the shape of circles, ovals, rectangles (including squares), equilateral triangles or regular convex polygons, and which have a uniform wall thickness. Products with a rectangular (including square), equilateral triangular or regular convex polygonal cross-section, which may have corners rounded along their whole length, are also to be considered as tubes and pipes provided the inner and outer cross-sections are concentric and have the same form and orientation. Tubes and pipes of the foregoing cross-sections may be polished, coated, bent, threaded, drilled, waisted, expanded, cone-shaped or fitted with flanges, collars or rings.

SUB-HEADING NOTE

In this Chapter the expression "refined lead" means:

Metal containing by weight at least 99.9% of lead, provided that the content by weight of any other element does not exceed the limit specified in the following table:

TABLE—OTHER ELEMENTS

Element	Limit ing content % by weight
Ag	0.02
As	0.005
Bi	0.05
Ca	0.002
Cd	0.002
Cu	0.08
Fe	0.002
S	0.002
Sb	0.005
Sn	0.005
Zn	0.002
Other (for example Te), each	0.001*

(23) in Chapter 79, for the NOTES, the following Note shall be substituted, namely:—

Note

In this Chapter the following expressions have the meanings hereby assigned to them:

(a) BARS AND RODS:

Rolled, extruded, drawn or forged products, not in coils, which have a uniform solid cross-section along

their whole length in the shape of circles, ovals, rectangles (including squares), equilateral triangles or regular convex polygons (including "flattened circles" and "modified rectangles", of which two opposite sides are convex arcs, the other two sides being straight, of equal length and parallel). Products with a rectangular (including square), triangular or polygonal cross-section may have corners rounded along their whole length. The thickness of such products which have a rectangular (including "modified rectangular") cross-section exceeds one-tenth of the width. The expression also covers cast or sintered products, of the same forms and dimensions, which have been subsequently worked after production (otherwise than by simple trimming or de-scaling), provided that they have not thereby assumed the character of articles or products of other headings.

(b) PROFILES:

Rolled, extruded, drawn, forged or formed products, coiled or not, of a uniform cross-section along their whole length which do not conform to any of the definitions of bars, rods, wire, plates, sheets, strip, foil, tubes or pipes. The expression also covers cast or sintered products, of the same forms, which have been subsequently worked after production (otherwise than by simple trimming or de-scaling), provided that they have not thereby assumed the character of articles or products of other headings.

(c) WIRE:

Rolled, extruded or drawn products, in coils, which have a uniform solid cross-section along their whole length in the shape of circles, ovals, rectangles (including squares), equilateral triangles or regular convex polygons (including "flattened circles" and "modified rectangles" of which two opposite sides are convex arcs, the other two sides being straight of equal length and parallel). Products with a rectangular (including square), triangular or polygonal cross-section may have corners rounded along their whole length. The thickness of such products which have a rectangular (including "modified rectangular") cross-section exceeds one-tenth of the width.

(d) PLATES, SHEETS, STRIP AND FOIL:

Flat-surfaced products (other than the unwrought products of heading No. 79.01), coiled or not, of solid rectangular (other than square) cross-section with or without rounded corners (including "modified rectangles" of which two opposite sides are convex arcs, the other two sides being straight, of equal

length and parallel) of a uniform thickness, which are

-of rectangular (including square) shape with a thickness not exceeding one-tenth of the width,

-of a shape other than rectangular or square, of any size, provided that they do not assume the character of articles or products of other headings.

Heading No. 79.05 applies, *inter alia*, to plates, sheets, strip and foil with patterns (for example, grooves, ribs, chequers, tears, buttons, lozenges) and to such products which have been perforated, corrugated, polished or coated, provided that they do not thereby assume the character of articles or products of other headings.

(e) TUBES AND PIPES:

Hollow products, coiled or not, which have a uniform cross-section with only one enclosed void along their whole length in the shape of circles, ovals, rectangles (including squares), equilateral triangles or regular convex polygons, and which have a uniform wall thickness. Products with a rectangular (including square), equilateral triangular or regular convex polygonal cross-section, which may have corners rounded along their whole length, are also to be considered as tubes and pipes provided the inner and outer cross-sections are concentric and have the same form and orientation. Tubes and pipes of the foregoing cross-sections may be polished, coated, bent, threaded, drilled, waisted, expanded, cone-shaped or fitted with flanges, collars or rings.

SUB-HEADING NOTE

In this Chapter the following expressions have the meanings hereby assigned to them.

(a) Zinc, not alloyed:

Metal containing by weight at least 97.5% of zinc.

(b) Zinc alloys:

Metallic substances in which zinc predominates by weight over each of the other elements, provided that the total content by weight of such other elements exceeds 2.5%.

(c) Zinc dust:

Dust obtained by condensation of zinc vapour, consisting of spherical particles which are finer than zinc

powders. At least 80% by weight of the particles pass through a sieve with 63 micrometres (microns) mesh. It must contain at least 85% by weight of metallic zinc.:

(24) in Chapter 80, below the title of the Chapter, the following Note shall be inserted, namely:—

Note

In this Chapter the following expressions have the meanings hereby assigned to them:

(a) **BARS AND RODS:**

Rolled, extruded, drawn or forged products, not in coils, which have a uniform solid cross-section along their whole length in the shape of circles, ovals, rectangles (including squares), equilateral triangles or regular convex polygons (including "flattened circles" and "modified rectangles" of which two opposite sides are convex arcs, the other two sides being straight, of equal length and parallel). Products with a rectangular (including square), triangular or polygonal cross-section may have corners rounded along their whole length. The thickness of such products which have a rectangular (including "modified rectangular") cross-section exceeds one-tenth of the width. The expression also covers cast or sintered products of the same forms and dimensions, which have been subsequently worked after production (otherwise than by simple trimming or de-scaling), provided that they have not thereby assumed the character of articles or products of other headings.

(b) **PROFILES:**

Rolled, extruded, drawn, forged or formed products coiled or not, of a uniform cross-section along their whole length, which do not conform to any of the definitions of bars, rods, wire, plates, sheets, strip, foil, tubes or pipes. The expression also covers cast or sintered products of the same forms, which have been subsequently worked after production (otherwise than by simple trimming or de-scaling), provided that they have not thereby assumed the character of articles or products of other headings.

(c) **WIRE:**

Rolled, extruded, or drawn products in coils, which have uniform solid cross-section along their whole length in the shape of circles, ovals, rectangles (including squares), equilateral triangles or regular convex polygons (including "flattened circles" and "modified rectangles", of which two opposite sides are convex arcs, the other two sides being straight, of

equal length and parallel). Products with a rectangular (including square), triangular or polygonal cross-section may have corners rounded along their whole length. The thickness of such products which have a rectangular (including "modified rectangular") cross-section exceeds one-tenth of the width.

(d) PLATES, SHEETS, STRIP AND FOIL:

Flat-surfaced products (other than the unwrought products of heading No. 80.01), coiled or not, of solid rectangular (other than square) cross-section with or without rounded corners (including "modified rectangles" of which two opposite sides are convex arcs, the other two sides being straight of equal length and parallel) of a uniform thickness, which are:

- of rectangular (including square) shape with a thickness not exceeding one-tenth of the width,
- of a shape other than rectangular or square, of any size provided that they do not assume the character of articles or products of other headings.

Headings Nos. 80.04 and 80.05 apply, *inter alia*, to plates, sheets, strip and foil with patterns (for example, grooves, ribs, chequers, tears, buttons, lozenges) and to such products which have been perforated, corrugated, polished or coated, provided that they do not thereby assume the character of articles or products of other headings.

(e) TUBES AND PIPES:

Hollow products, coiled or not, which have a uniform cross-section with only one enclosed void along their whole length in the shape of circles, ovals, rectangles (including squares), equilateral triangles or regular convex polygons, and which have uniform wall thickness. Products with a rectangular (including square), equilateral triangular or regular convex polygonal cross-section, which may have corners rounded along their whole length, are also to be considered as tubes and pipes provided the inner and outer cross-sections are concentric and have the same form and orientation. Tubes and pipes of the foregoing cross-sections may be polished, coated, bent, threaded, drilled, waisted, expanded, cone-shaped or fitted with flanges, collars or rings.

SUB-HEADING NOTE

In this Chapter the following expressions have the meanings hereby assigned to them:

(a) Tin, not alloyed:

Metal containing by weight at least 99% of tin, pro-

vided that the content by weight of any bismuth or copper in less than the limit specified in the following table:

TABLE—OTHER ELEMENTS

Element	Limiting content % by waight
Bi Bismuth	0.1
Cu Copper	0.4

(b) Tin alloys:

Metallic substances, in which tin predominates by weight over each of the other elements, provided that:

- (i) the total content by weight of such other elements exceeds 1%; or
- (ii) the content by weight of either bismuth or copper is equal to or greater than the limit specified in the foregoing table.;

(25) in Chapter 81, below the title of the Chapter, the following NOTE shall be inserted, namely:—

NOTE

NOTE 1 to Chapter 74, defining “bears and rods”, “profiles”, “wire” and “plates, sheets, strip and foil” applies, *mutatis mutandis*, to this Chapter.;

(26) in Chapter 82, after NOTE 2, the following NOTE shall be inserted, namely:—

“3. Sets consisting of one or more knives of heading No. 82.11 and at least an equal number of articles of heading No. 82.15 are to be classified in heading No. 82.15.”;

(27) in Chapter 83, for the NOTES, the following NOTES shall be substituted, namely:—

Notes

1. For the purposes of this Chapter, parts of base metal are to be classified with their parent articles. However, articles of iron and steel of heading No. 73.12, 73.15, 73.17, 73.18 or 73.20, or similar articles of other base metal (Chapters 74 to 76 and 78 to 81) are not to be taken as parts of articles of this Chapter.

2. For the purposes of heading No. 83.02, the word “castors” means those having a diameter (including, where appropriate, tyres) not exceeding 75 mm, or those having a diameter (including, where appropriate, tyres) exceeding 75 mm.

provided that the width of the wheel or tyre fitted thereto is less than 30 mm.;

(28) in Section XVI,—

(a) in NOTE 1,—

(i) for item (h), the following item shall be substituted, namely:—

“(h) Drill Pipe (heading No. 73.04);”;

(ii) in item (n), for the figures “82.02”, the figures “82.07” shall be substituted;

(b) after NOTE 5, the following NOTE shall be inserted, namely:—

“6. In respect of goods covered by this Section, conversion of an article which is incomplete or unfinished but having the essential character of the complete or finished article (including ‘blank’, that is, an article, not ready for direct use, having the approximate shape or outline of the finished article or part, and which can only be used, other than in exceptional cases, for completion into the finished article or part), into complete or finished article shall amount to ‘manufacture’.”;

(29) in Chapter 84,—

(a) in NOTE 1, for item (d), the following item shall be substituted, namely:—

“(d) articles of heading No. 73.21 or 73.22 or similar articles of other base metals (Chapters 74 to 76 or 78 to 81);”;

(b) for NOTE 6, the following NOTE shall be substituted, namely:—

“6. Heading No. 84.82 applies, *inter alia*, to polished steel balls, the maximum and minimum diameters of which do not differ from the nominal diameter by more than 1% or by more than 0.05 mm, whichever is less. Other steel balls are to be classified in heading No. 73.26.”;

(30) in Section XVII,—

(a) in NOTE 2, in item (d), for the figures “83.15”, the figures “83.06” shall be substituted;

(b) after NOTE 5, the following NOTE shall be inserted, namely:—

“6. In respect of goods covered by this Section, conversion of an article which is incomplete or unfinished but having essential character of the complete or finished article (including ‘blank’, that is, an article, not ready for direct use, having the approximate shape or outline of the finished article or part, and which can only be used, other than in exceptional cases, for completion into the finished article or part), into complete or finished article shall amount to ‘manufacture’.”;

(31) in Chapter 87, in heading No. 87.16, in column (4), for the figures and abbreviation "15%", the figures and abbreviation "20%" shall be substituted;

(32) in Chapter 89,—

(a) for the word "NOTE", occurring below the title of the Chapter, the word "NOTES" shall be substituted;

(b) the existing NOTE shall be numbered as NOTE 1, and after NOTE 1, as so numbered, the following NOTE shall be inserted, namely:—

"2. In heading No. 89.08, "Light Displacement Tonnage (LDT)" means LDT in metric tonnes as per Builder's Registered LDT referred to in the Stability Book or the builder's certificate at the time of initial commissioning of the vessel or the floating structure;

Provided that in case of any change in the LDT, the highest of the LDT indicated in any of the documents referred to above shall be taken for the purpose of levy of duty.;

(33) in Chapter 90, in NOTE 1, in item (c), for the figures "83.15", the figures "83.06" shall be substituted;

(34) in Chapter 94, in heading No. 94.03, in column (4), for the figures and abbreviation "25%", the figures and abbreviation "30%" shall be substituted.

PART II

Heading No.	Sub-heading No.	Description of goods	Rate of duty
(1)	(2)	(3)	(4)
In the Schedule to the Central Excise Tariff Act,—			
(x) in Chapter 26, for heading Nos. 26.01 to 26.02, the following headings shall be substituted, namely:—			
26.01	2601.00	IRON ORES AND CONCENTRATES, INCLUDING ROASTED IRON PYRITES	12%
26.02	2602.00	MANGANESE ORES AND CONCENTRATES, INCLUDING MANGANI-FERROUS IRON ORES AND CONCENTRATES WITH A MANGANESE CONTENT OF 20% OR MORE, CALCULATED ON THE DRY WEIGHT	12%
26.03	2603.00	COPPER ORES AND CONCENTRATES	12%
26.04	2604.00	NICKEL ORES AND CONCENTRATES	12%
26.05	2605.00	COBALT ORES AND CONCENTRATES	12%
26.06	2606.00	ALUMINIUM ORES AND CONCENTRATES	12%
26.07	2607.00	LEAD ORES AND CONCENTRATES	12%
26.08	2608.00	ZINC ORES AND CONCENTRATES	12%
26.09	2609.00	TIN ORES AND CONCENTRATES	12%
26.10	2610.00	CHROMIUM ORES AND CONCENTRATES	12%

(1)	(2)	(3)	(4)
26.11	2611.00	TUNGSTEN ORES AND CONCENTRATES	12%
26.12	2612.00	URANIUM OR THORIUM ORES AND CONCENTRATES	12%
26.13	2613.00	MOLYBDENUM ORES AND CONCENTRATES	12%
26.14	2614.00	TITANIUM ORES AND CONCENTRATES	12%
26.15	2615.00	NIOBIUM, TANTALUM, VANADIUM OR ZIRCONIUM ORES AND CONCENTRATES	12%
26.16	2616.00	PRECIOUS METAL ORES AND CONCENTRATES	12%
26.17	2617.00	OTHER ORES AND CONCENTRATES	12%
26.18	2618.00	GRANULATED SLAG (SLAG SAND) FROM THE MANUFACTURE OF IRON OR STEEL	12%
26.19	2619.00	SLAG, DROSS (OTHER THAN GRANULATED SLAG), SCALINGS AND OTHER WASTE FROM THE MANUFACTURE OF IRON OR STEEL	12%
26.20	2620.00	ASH AND RESIDUES (OTHER THAN FROM THE MANUFACTURE OF IRON OR STEEL), CONTAINING METALS OR METALLIC COMPOUNDS	12%
26.21	2621.00	OTHER SLAG AND ASH, INCLUDING SEA-WEED ASH (KELP)	12%

(3) In Chapter 27,—

(a) after sub-heading No. 2710.13, the following sub-headings shall be inserted, namely:—

"2710.14 - Raw Naphtha Rs. 2,750 per kilo litre at 15° C";

(b) for sub-headings Nos. 2710.41 and 2710.49, the following sub-heading shall be substituted, namely:—

"2710.40 - Diesel oil, not elsewhere specified, that is to say, any hydrocarbon oil, which satisfies the following requirements:—

(i) has a smoke point of less than 10 millimetres;

(ii) leaves carbon residue of not less than 1/8 per cent. by weight when tested by Ranzbottom Carbon Residue Apparatus;

(iii) is as dark as, or darker than, 0.04 Normal Iodine solution when tested by colour comparison test; and

(iv) possesses a viscosity of less than 100 seconds by Redwood I Viscometer at 37.8° C.

(c) for sub-headings Nos. 2713.31, 2713.32 and 2713.39, the following sub-heading shall be substituted, namely:—

"2713.30 - Other residues of petroleum oils or of oils obtained from bituminous minerals, including Heavy Petroleum Stock, Low Sulphur Heavy Stock and other residual fuel oils Rs. 155 per tonne";

(3) In Chapter 30, for heading No. 30.03, the following heading shall be substituted, namely:—

"30.03 MEDICAMENTS (INCLUDING VETERINARY MEDICAMENTS)

3003.10 - Patent or proprietary medicaments, other than those medicaments which are exclusively Ayurvedic, Unani, Siddha, Homoeopathic or Bio-chemic 15%

(1)	(2)	(3)	(4)
3903.20	-Medicaments (other than patent or proprietary) other than those which are exclusively used in Ayurvedic, Unani, Siddha, Homoeopathic or Bio-chemic systems		Nil
3903.30	-Medicaments, including those used in Ayurvedic, Unani, Siddha, Homoeopathic or Bio-chemic systems		Nil

(g) In Chapter 39,—

(a) for heading Nos. 39.01 and 39.02, the following headings shall be substituted, namely:—

39.01	POLYMERS OF ETHYLENE IN PRIMARY FORMS		
3901.10	-Polyethylene having a specific gravity of less than 0.94		60%
3901.20	-Polyethylene having a specific gravity of 0.94 or more		60%
3901.30	-Ethylene-vinyl acetate copolymers		60%
3901.90	-Other		60%
39.02	POLYMERS OF PROPYLENE OR OF OTHER OLEFINS, IN PRIMARY FORMS		
3902.10	-Polypropylene		60%
3902.20	-Polyisobutylene		60%
3902.30	-Propylene copolymers		60%
3902.90	-Other		60%

(b) for heading No. 39.04, the following heading shall be substituted, namely:—

39.04	POLYMERS OF VINYL CHLORIDE OR OF OTHER HALOGENATED OLEFINS, IN PRIMARY FORMS		
3904.10	- Polyvinyl chloride, not mixed with any other substances		60%
	-Other polyvinyl chloride:		
3904.21	- -Non-plasticised		60%
3904.22	- -Plasticised		60%
3904.30	-Vinyl chloride-vinyl acetate copolymers		60%
3904.40	-Other vinyl chloride copolymers		60%
3904.50	-Vinylidene chloride polymers		60%
	-Fluoro-polymers:		
3904.61	- -Polytetrafluoroethylene		60%
3904.69	- -Other		60%
3904.90	-Other		60%

(c) for heading Nos. 39.07 and 39.08, the following headings shall be substituted, namely:—

39.07	POLYACETALS, OTHER POLYETHERS AND EPOXIDE RESINS, IN PRIMARY FORMS, POLYCARBONATES, ALKYD RESINS, POLYALLYL ESTERS AND OTHER POLYESTERS, IN PRIMARY FORMS		
3907.10	-Polyacetals		60%
3907.20	-Other polyethers		60%
3907.30	-Epoxy resins		60%
3907.40	-Polycarbonates		60%
3907.50	-Alkyd resins including maleic resins and fumaric resins		60%

(1)	(2)	(3)	(4)
	3907.60	-Polyethylene terephthalate	60%
	3907.70	-Diallylphthalate resins	60%
	3907.80	-Polybutylene terephthalate	60%
		-Other polyesters :	
	3907.91	--Unsaturated	60%
	3907.99	--Other	60%
39.08		POLYAMIDES IN PRIMARY FORMS	
	3908.10	-Polyamide-6, -11, -12, -6, 6, -6, 9, -6, 10 or -6, 12	60%
	3908.90	-Other	60%";
		(d) for heading Nos. 39.11, 39.12 and 39.13, the following headings shall be substituted, namely:—	
"39.11		PETROLEUM RESINS, COUMARONE-INDENE RESINS, POLYTERPENES, POLYSULPHIDES, POLYSULPHONES AND OTHER PRODUCTS SPECIFIED IN NOTE 3 TO THIS CHAPTER, NOT ELSEWHERE SPECIFIED OR INCLUDED, IN PRIMARY FORMS	
	3911.10	-Petroleum resins, coumarone, indene or coumarone-indene resins and polyterpenes.	60%
	3911.20	-Polysulphones	60%
	3911.90	-Other	60%
39.12		CELLULOSE AND ITS CHEMICAL DERIVATIVES, AND CELLULOSE ETHERS, NOT ELSEWHERE SPECIFIED OR INCLUDED IN PRIMARY FORMS	
		-Cellulose acetates :	
	3912.11	--Non-plasticised	60%
	3912.12	--Plasticised	60%
	3912.20	-Cellulose nitrates (including colloidous)	60%
		-Cellulose ethers :	
	3912.31	--Carboxymethyl cellulose and its salts	60%
	3912.39	--Other	60%
	3912.90	-Other	60%
39.13		NATURAL POLYMERS (FOR EXAMPLE, ALGINIC ACID) AND MODIFIED NATURAL POLYMERS (FOR EXAMPLE, HARDENED PROTEINS, CHEMICAL DERIVATIVES OF NATURAL RUBBER), NOT ELSEWHERE SPECIFIED OR INCLUDED, IN PRIMARY FORMS	
	3913.10	-Alginic acid, its salts and esters	60%
	3913.20	-Dextran	60%
	3913.30	-Chlorinated rubber	60%
	3913.90	-Other	60%";
		(e) for heading No. 39.15, the following heading shall be substituted, namely:—	
"39.15		WASTE, PARINGS AND SCRAP, OF PLASTICS	
	3915.10	-Of polymers of ethylene	60%
	3915.20	-Of polymers of styrene	60%
	3915.30	-Of polymers of vinyl chloride	60%
	3915.90	-Of other plastics	60% plus Rs. 40 per kilogram";
		(f) for heading No. 39.18, the following heading shall be substituted, namely:—	
"39.18		FLOOR COVERINGS OF PLASTICS, WHETHER OR NOT SELF ADHESIVE, IN ROLLS OR IN THE FORM OF TILES, WALL OR CEILING COVERINGS OF PLASTICS, AS DEFINED IN NOTE 9 TO THIS CHAPTER	
	3918.10	-Of polymers of vinyl chloride	60%
	3918.90	-Of other plastics	60%";
		(g) for heading Nos. 39.20, 39.21, 39.22, 39.23, 39.24 and 39.25, the following headings shall be substituted, namely:—	
"39.20"		OTHER PLATES, SHEETS, FILM, FOIL AND STRIP, OF PLASTICS, NON-CELLULAR, WHETHER LACQUERED OR METALLISED OR LAMINATED, SUPPORTED OR SIMILARLY	

(1)	(2)	(3)	(4)
		COMBINED WITH OTHER MATERIALS OR NOT	
		-Of polymers of vinyl chloride:	
	3920.11	-Rigid, plain	60%
	3920.12	-Flexible, plain	60%
	3920.13	-Rigid, lacquered	60%
	3920.14	-Flexible, lacquered	60%
	3920.15	-Rigid, metallised	60%
	3920.16	-Flexible, metallised	60%
	3920.17	-Rigid, laminated	60%
	3920.18	-Flexible, laminated	60%
	3920.19	-Other	60%
		-Of regenerated cellulose :	
	3920.21	-Film, plain	60%
	3920.22	-Film, lacquered	60%
	3920.23	-Film, metallised	60%
	3920.24	-Film, laminated	60%
	3920.25	-Sheet, plain	60%
	3920.26	-Sheet, lacquered	60%
	3920.27	-Sheet, metallised	60%
	3920.28	-Sheet, laminated	60%
	3920.29	-Other	60%
		-Of other plastics :	
	3920.31	-Rigid, plain	60%
	3920.32	-Flexible, plain	60%
	3920.33	-Rigid, lacquered	60%
	3920.34	-Flexible, lacquered	60%
	3920.35	-Rigid, metallised	60%
	3920.36	-Flexible, metallised	60%
	3920.37	-Rigid, laminated	60%
	3920.38	-Flexible, laminated	60%
	3920.39	-Other	60%
39.21		OTHER PLATES, SHEETS, FILM, FOIL AND STRIP, OF PLASTICS	
		-Cellular :	
	3921.11	-Of polyurethanes	60% plus Rs. 40 per kilogram
	3921.19	-Of other plastics	60%
	3921.90	-Other	60%
39.22		BATHS, SHOWER-BATHS, WASH-BASINS, BIDETS, LAVATORY PANS, SEATS AND COVERS, FLUSHING CISTERNS AND SIMILAR SANITARY WARE, OF PLASTICS	
	3922.10	-Baths, shower-baths and wash-basins	30%
	3922.20	-Lavatory seats and covers	30%
	3922.90	-Other	30%
39.23		ARTICLES FOR THE CONVEYANCE OR PACKING OF GOODS, OF PLASTICS; STOPPERS, LIDS, CAPS AND OTHER CLOSURES, OF PLASTICS	
		-Cellular :	
	3923.11	-Of polyurethanes	60% plus Rs. 40 per kilogram
	3923.19	-Of other plastics	30%
	3923.90	-Other	30%
39.24		TABLEWARE, KITCHENWARE, OTHER HOUSEHOLD ARTICLES AND TOILET ARTICLES, OF PLASTICS	
		-Cellular :	
	3924.11	-Of polyurethanes	60% plus Rs. 40 per kilogram

(1)	(2)	(3)	(4)
	3924.19	--Of other plastics	30%
	3924.90	-Other	30%
39.25		BUILDERS' WARE OF PLASTICS, NOT ELSEWHERE SPECIFIED OR INCLUDED	
	3925.10	-Reservoirs, tanks, vats and similar containers, of a capacity exceeding 300 litres	30%
	3925.20	-Doors, windows and their frames and thresholds; for doors	30%
	3925.30	-Shutters, blinds (including venetian blinds) and similar articles and parts thereof	30%
		-Other:	
	3925.91	-Of polyurethanes	60% plus Rs. 40 per kilogram
	3925.99	-Other	30%;
(5)	In Chapter 48,—		
	(a) for sub-heading Nos. 4811.31 and 4811.39, the following sub-heading shall be substituted, namely:—		
	"4811.30	-Paper and paperboard coated, impregnated or covered with plastic (excluding adhesives)	35% plus Rs. 1,600 per tonne";
	(b) for heading Nos. 48.17 and 48.18, the following headings shall be substituted, namely:—		
"48.17	4817.00	ENVELOPES, LETTER CARDS, PLAIN POST-CARDS AND CORRESPONDENCE CARDS, OF PAPER OR PAPERBOARD; BOXES, POUCHES, WALLETS AND WRITING COMPENDIUMS, OF PAPER OR PAPER BOARD, CONTAINING AN ASSORTMENT OF PAPER STATIONERY	12%
48.18	4818.00	TOILET PAPER, HANDKERCHIEFS, CLEANING TISSUES, TOWELS, TABLECLOTHES, SERVIETTES, NAFKINS FOR BABIES, TAMPOONS, BEDSHEETS AND SIMILAR HOUSEHOLD, SANITARY OR HOSPITAL ARTICLES, ARTICLES OF APPAREL AND CLOTHING ACCESSORIES, OF PAPER PULP, PAPER, CELLULOSE WADDING OR WEBS OF CELLULOSE FIBRES,	12%
48.19		CARTONS, BOXES, CASES, BAGS AND OTHER PACKING CONTAINERS OF PAPER, PAPERBOARD, CELLULOSE WADDING OR WEBS OF CELLULOSE FIBRES; BOX FILES, LETTER TRAYS, AND SIMILAR ARTICLES, OF PAPER OR PAPERBOARD OF A KIND USED IN OFFICES, SHOPS OR THE LIKE	
		-Cartons, boxes, containers and cases (including flattened or folded boxes and flattened or folded cartons), whether in assembled or unassembled condition:	
	4819.11	--Intended for packing of match sticks	Nil
	4819.12	--Printed cartons, boxes, containers and cases	30%
	4819.19	--Other	Nil
	4819.90	-Other	12%
48.20	4820.00	REGISTERS, ACCOUNT BOOKS, NOTE BOOKS, ORDER BOOKS, RECEIPT BOOKS, LETTER PADS, MEMORANDUM PADS, DIARIES AND SIMILAR ARTICLES, EXERCISE BOOKS, BLOTTING-PADS, BINDERS (LOOSE-LEAF OR OTHER), FOLDERS, FILE COVERS, MANIFOLD BUSINESS FORMS, INTERLEAVED CARBON SETS AND OTHER ARTICLES	12%

(1)	(2)	(3)	(4)
		OF STATIONERY, OF PAPER OR PAPERBOARD; ALBUMS FOR SAMPLES OR FOR COLLECTIONS AND BOOK COVERS, OF PAPER OR PAPERBOARD	
48.21	4821.00	PAPER OR PAPERBOARD LABELS OF ALL KINDS, WHETHER OR NOT PRINTED	12%
48.22	4822.00	BOBBINS, SPOOLS, COFS AND SIMILAR SUPPORTS OF PAPER PULP, PAPER OR PAPERBOARD (WHETHER OR NOT PERFORATED OR HARDENED)	12%
48.23		OTHER PAPER, PAPERBOARD, CELLULOSE WADDING AND WEBS OF CELLULOSE FIBRES, CUT TO SIZE OR SHAPE; OTHER ARTICLES OF PAPER PULP, PAPER, PAPERBOARD, CELLULOSE WADDING OR WEBS OF CELLULOSE FIBRES	
		-Other paper, paperboard, cellulose wadding and webs of cellulose fibres, cut to size or shape	
	4823.11	-- Gunned or adhesive paper in strips or rolls	10% plus Rs. 1,600 per tonne
	4823.12	--Cards, not punched, for punchcard machines, whether or not in strips	10% plus Rs. 1,600 per tonne
	4823.13	--Braille paper	NH
	4823.14	--Blotting paper	10% plus Rs. 1,200 per tonne
	4823.19	--Other	10% plus Rs. 1,600 per tonne
	4823.90	--Other	12%
<p>(6) In Chapter 52, for heading Nos. 52.07 and 52.08, the following headings shall be substituted, namely:—</p>			
52.07	5207.00	COTTON FABRICS (EXCLUDING FABRICS COVERED UNDER HEADING NOS. 52.09, 52.10 AND 52.11),— (a) WOVEN ON LOOMS OTHER THAN HANDLOOMS, AND (b) SUBJECTED TO THE PROCESS OF BLEACHING, MERCERISING, DYING, PRINTING, WATER-PROOFING, SHRINK-PROOFING, ORGANDIE PROCESSING OR ANY OTHER PROCESS OR ANY TWO OR MORE OF THESE PROCESSES, WITHOUT THE AID OF POWER OR STEAM	Fifty per cent. of the duty leviable under sub-heading Nos. 5206.11 to 5206.94, as the case may be, depending upon the average count of yarn in the fabric and the value per square metre of the fabric.
52.08		COTTON FABRICS (EXCLUDING FABRICS COVERED UNDER HEADING NOS. 52.09, 52.10, 52.11 AND 52.12),— (a) WOVEN ON HANDLOOMS, AND (b) SUBJECTED TO THE PROCESS OF BLEACHING, MERCERISING, DYEING, PRINTING, WATER-PROOFING, SHRINK-PROOFING, ORGANDIE PROCESSING OR ANY OTHER PROCESS OR ANY TWO OR MORE OF THESE PROCESSES	
	5208.10	--Processed without the aid of power or steam	Fifty per cent. of the duty leviable under sub-heading Nos. 5206.11 to 5206.94, as the case may be, depending upon the average count of the yarn in the fabric and the value per square metre of the fabric

(1)	(2)	(3)	(4)
		- Processed with the aid of power or steam :	
5208.21	-- Processed by an independent processor approved in this behalf by the Government of India on the recommendation of the Development Commissioner for Handlooms		Forty per cent. of the duty leviable under sub-heading Nos. 5206.11 to 5206.16 and 5206.91 to 5206.94, as the case may be, depending upon the average count of the yarn in the fabric and the value per square metre of the fabric
5208.22	-- Processed by a factory owned by a registered handloom co-operative society or any organisation set up or approved by the Government for the purpose of development of handlooms		Nil
5208.23	-- Other		Duty leviable under sub-heading Nos. 5206.11 to 5206.16 and 5206.91 to 5206.94, as the case may be, depending upon the average count of the yarn in the fabric and the value per square metre of the fabric";
(7) In Chapter 72, for heading Nos. 72.01 to 72.15, the following headings shall be substituted, namely:—			
"I—PRIMARY MATERIALS; PRODUCTS IN GRANULAR OR POWDER FORM			
72.01	7201.00	PIG IRON AND SPIEGELEISEN IN PIGS, BLOCKS OR OTHER PRIMARY FORMS	Rs. 100 per tonne
72.02	7202.00	FERRO-ALLOYS	12%
72.03	7203.00	FERROUS PRODUCTS OBTAINED BY DIRECT REDUCTION OF IRON ORE AND OTHER SPONGY FERROUS PRODUCTS, IN LUMPS, PELLETS OR SIMILAR FORMS; IRON HAVING A MINIMUM PURITY BY WEIGHT OF 99.94% IN LUMPS, PELLETS OR SIMILAR FORMS	Rs. 100 per tonne
72.04		FERROUS WASTE AND SCRAP; REMELTING SCRAP INGOTS OF IRON OR STEEL	
	7204.10	- Of iron	Rs. 100 per tonne
	7204.20	- Of stainless steel	Rs. 1,500 per tonne
	7204.30	- Of other alloy steel	Rs. 1,500 per tonne
	7204.90	- Other	Rs. 400 per tonne
72.05		GRANULES AND POWDERS, OF PIG IRON, SPIEGELEISEN, IRON OR STEEL	
	7205.10	- Of iron	Rs. 100 per tonne
	7205.20	- Of alloy steel	Rs. 1,500 per tonne
	7205.90	- Other	Rs. 400 per tonne
II—IRON AND NON-ALLOY STEEL			
72.06		IRON AND NON-ALLOY STEEL IN INGOTS OR OTHER PRIMARY FORMS (EXCLUDING IRON OF HEADING NO. 72.03)	
	7206.10	- Of iron	Rs. 100 per tonne
	7206.90	- Other	Rs. 400 per tonne

(1)	(2)	(3)	(4)
72.07	SEMI-FINISHED PRODUCTS OF IRON OR NON-ALLOY STEEL		
	7207.10 - Of iron		Rs. 400 per tonne
	7207.90 - Other		Rs. 550 per tonne
72.08	FLAT-ROLLED PRODUCTS OF IRON OR NON-ALLOY STEEL, OF A WIDTH OF 600 MM OR MORE, HOT-ROLLED, NOT CLAD, PLATED OR COATED		
	- Plates and universal plates :		
	7208.11 -- Exceeding 5 mm in thickness		Rs. 400 per tonne
	7208.19 -- Other		Rs. 550 per tonne
	- Sheets :		
	7208.21 -- Exceeding 5 mm in thickness		Rs. 400 per tonne
	7208.29 -- Other		Rs. 550 per tonne
	- Strips :		
	7208.31 -- Exceeding 5 mm in thickness		Rs. 400 per tonne
	7208.39 -- Other		Rs. 550 per tonne
	7208.40 - Skelp		Rs. 550 per tonne
	- Other flat products :		
	7208.91 -- Exceeding 5 mm in thickness		Rs. 400 per tonne
	7208.99 -- Other		Rs. 550 per tonne
72.09	FLAT-ROLLED PRODUCTS OF IRON OR NON-ALLOY STEEL OF A WIDTH OF 600 MM OR MORE, COLD-ROLLED (COLD-REDUCED), NOT CLAD, PLATED OR COATED		
	7209.10 - Plates		Rs. 800 per tonne
	7209.20 - Sheets		Rs. 800 per tonne
	7209.30 - Strips		Rs. 800 per tonne
	7209.90 - Other		Rs. 800 per tonne
72.10	FLAT-ROLLED PRODUCTS OF IRON OR NON-ALLOY STEEL, OF A WIDTH OF 600 MM OR MORE, CLAD, PLATED OR COATED		
	- Plated or coated with zinc :		
	7210.11 -- Corrugated		Rs. 1,200 per tonne
	7210.19 -- Other		Rs. 1,200 per tonne
	7210.20 - Plated or coated with tin		Rs. 1,200 per tonne
	7210.30 - Painted, lacquered, varnished or plastic coated		Rs. 1,500 per tonne
	7210.90 - Other		15%
72.11	FLAT-ROLLED PRODUCTS OF IRON OR NON-ALLOY STEEL, OF A WIDTH OF LESS THAN 600 MM, NOT CLAD, PLATED OR COATED		
	- Flats :		
	7211.11 -- Exceeding 5 mm in thickness		Rs. 400 per tonne
	7211.19 -- Other		Rs. 550 per tonne
	- Universal plates :		
	7211.21 -- Exceeding 5 mm in thickness		Rs. 400 per tonne
	7211.29 -- Other		Rs. 550 per tonne
	7211.30 - Hoops		Rs. 550 per tonne

(1)	(2)	(3)	(4)
	-Sheets :		
	7211.41 --Cold-rolled (cold-reduced)		Rs. 800 per tonne
	7211.42 --Hot-rolled, exceeding 5 mm in thickness		Rs. 400 per tonne
	7211.49 --Other		Rs. 550 per tonne
	-Strips :		
	7211.51 --Cold-rolled (cold-reduced)		Rs. 800 per tonne
	7211.52 --Hot-rolled, exceeding 5 mm in thickness		Rs. 400 per tonne
	7211.59 --Other		Rs. 550 per tonne
	7211.60 -Skelp		Rs. 550 per tonne
	--Other flat products :		
	7211.91 --Cold-rolled (cold-reduced)		Rs. 800 per tonne
	7211.92 --Hot-rolled, exceeding 5 mm in thickness		Rs. 400 per tonne
	7211.99 --Other		Rs. 550 per tonne
72.12	FLAT-ROLLED PRODUCTS OF IRON OR NON-ALLOY STEEL, OF WIDTH OF LESS THAN 600 MM. CLAD, PLATED OR COATED		
	-Plated or coated with zinc :		
	7212.11 --Corrugated		Rs. 1,200 per tonne
	7212.19 --Other		Rs. 1,200 per tonne
	7212.20 -Plated or coated with tin		Rs. 1,200 per tonne
	7212.30 -Painted, lacquered, varnished or plastic coated		Rs. 1,500 per tonne
	7212.90 -Other		15%
72.13	BARS AND RODS, HOT-ROLLED, IN IRREGULARLY WOUND COILS, OF IRON OR NON-ALLOY STEEL		
	7213.10 -Of free-cutting steel		Rs. 400 per tonne
	7213.90 -Other		Rs. 400 per tonne
72.14	OTHER BARS AND RODS OF IRON OR NON-ALLOY STEEL, NOT FURTHER WORKED THAN FORGED, HOT-ROLLED, HOT-DRAWN OR HOT-EXTRUDED BUT INCLUDING THOSE TWISTED AFTER ROLLING		
	7214.10 -Forged		Rs. 550 per tonne
	7214.20 -Of free-cutting steel		Rs. 400 per tonne
	7214.90 -Other		Rs. 400 per tonne
72.15	OTHER BARS AND RODS OF IRON OR NON-ALLOY STEEL		
	7215.10 -Of free-cutting steel not further worked than cold-formed or cold-finished		Rs. 800 per tonne
	7215.20 -Other, not further worked than cold-formed or cold-finished		Rs. 800 per tonne
	7215.30 -Plated or coated with zinc		Rs. 1,200 per tonne
	7215.40 -Plated or coated with other base metals		Rs. 1,200 per tonne
	7215.90 -Other		Rs. 400 per tonne
72.16	ANGLES, SHAPES AND SECTIONS OF IRON OR NON-ALLOY STEEL		
	7216.10 -Not further worked than hot-rolled, hot-drawn or extruded		Rs. 400 per tonne
	7216.20 -Not further worked than cold-formed or cold-finished		Rs. 800 per tonne
	7216.30 -Plated or coated with zinc		Rs. 1,200 per tonne
	7216.40 -Plated or coated with other base metals		Rs. 1,200 per tonne
	7216.50 -Slotted angles and slotted channels		15%
	7216.60 -Forged		Rs. 550 per tonne
	7216.90 -Other		Rs. 400 per tonne

(1)	(2)	(3)	(4)	(5)
72.17		WIRE OF IRON OR NON-ALLOY STEEL		
	7217.10	-Electric resistance wire (including electric resistance heating wire)	10%	
	7217.90	-Other		Rs. 400 per tonne
		III—STAINLESS STEEL		
72.18	7218.00	STAINLESS STEEL IN INGOTS OR OTHER PRIMARY FORMS; SEMI-FINISHED PRODUCTS OF STAINLESS STEEL		Rs. 1,500 per tonne
72.19		FLAT-ROLLED PRODUCTS OF STAINLESS STEEL, OF A WIDTH OF 600 MM OR MORE		
	7219.10	-Not further worked than hot-rolled, whether or not in coils		Rs. 1,500 per tonne
	7219.20	-Not further worked than cold-rolled (cold-reduced)		Rs. 1,500 per tonne
	7219.90	-Other		Rs. 1,500 per tonne
72.20		FLAT-ROLLED PRODUCTS OF STAINLESS STEEL, OF A WIDTH OF LESS THAN 600 MM		
	7220.10	-Not further worked than hot-rolled, whether or not in coils		Rs. 1,500 per tonne
	7220.20	-Not further worked than cold-rolled (cold-reduced)		Rs. 1,500 per tonne
	7220.90	-Other		Rs. 1,500 per tonne
72.21	7221.00	BARS AND RODS, HOT-ROLLED, IN IRREGULARLY WOUND COILS, OF STAINLESS STEEL		Rs. 1,500 per tonne
72.22		OTHER BARS AND RODS OF STAINLESS STEEL; ANGLES, SHAPES AND SECTIONS OF STAINLESS STEEL		
	7222.10	-Bars and rods, not further worked than hot-rolled, hot-drawn or extruded		Rs. 1,500 per tonne
	7222.20	-Bars and rods, not further worked than cold-formed or cold-finished		Rs. 1,500 per tonne
	7222.30	-Other bars and rods		Rs. 1,500 per tonne
	7222.40	-Angles, shapes and sections		Rs. 1,500 per tonne
72.23	7223.00	WIRE OF STAINLESS STEEL		Rs. 1,500 per tonne
		IV—OTHER ALLOY STEEL; HOLLOW DRILL BARS AND RODS, OF ALLOY OR NON-ALLOY STEEL		
72.24	7224.00	OTHER ALLOY STEEL IN INGOTS OR OTHER PRIMARY FORMS; SEMI-FINISHED PRODUCTS OF OTHER ALLOY STEEL		Rs. 1,500 per tonne
72.25		FLAT-ROLLED PRODUCTS OF OTHER ALLOY STEEL, OF A WIDTH OF 600 MM OR MORE		
	7225.10	-Of silicon-electrical steel		Rs. 1,500 per tonne
	7225.20	-Of high speed steel		Rs. 1,500 per tonne
	7225.30	-Other, not further worked than hot-rolled, whether or not in coils		Rs. 1,500 per tonne
	7225.40	-Other, not further worked than cold-rolled (cold-reduced)		Rs. 1,500 per tonne
	7225.90	-Other		Rs. 1,500 per tonne
72.26		FLAT-ROLLED PRODUCTS OF OTHER ALLOY STEEL, OF A WIDTH OF LESS THAN 600 MM		

(1)	(2)	(3)	(4)
	7226.10	-Of silicon-electrical steel	Rs. 1,500 per tonne
	7226.20	-Of high speed steel	Rs. 1,500 per tonne
		-Other :	
	7226.91	--Not further worked than hot-rolled	Rs. 1,500 per tonne
	7226.92	--Not further worked than cold-rolled (cold-reduced)	Rs. 1,500 per tonne
	7226.99	--Other	Rs. 1,500 per tonne
72.27		BARS AND RODS, HOT-ROLLED, IN IRREGULARLY WOUND COILS, OF OTHER ALLOY STEEL	
	7227.10	-Of high speed steel	Rs. 1,500 per tonne
	7227.20	-Of silico-manganese steel	Rs. 1,500 per tonne
	7227.90	-Other	Rs. 1,500 per tonne
72.28		OTHER BARS AND RODS OF OTHER ALLOY STEEL; ANGLES, SHAPES AND SECTIONS; OF OTHER ALLOY STEEL; HOLLOW DRILL BARS AND RODS OF ALLOY OR NON-ALLOY STEEL	
	7228.10	-Bars and rods of high speed steel	Rs. 1,500 per tonne
	7228.20	-Bars and rods of silico-manganese steel	Rs. 1,500 per tonne
	7228.30	-Other bars and rods not further worked than hot-rolled, hot-drawn or extruded	Rs. 1,500 per tonne
	7228.40	-Other bars and rods, not further worked than forged	Rs. 1,500 per tonne
	7228.50	-Other bars and rods, not further worked than cold-formed or cold-finished	Rs. 1,500 per tonne
	7228.60	-Other bars and rods	Rs. 1,500 per tonne
		-Angles, shapes and sections :	
	7228.71	--Not further worked than hot-rolled, hot-drawn or extruded	Rs. 1,500 per tonne
	7228.72	--Not further worked than cold-formed or cold-finished	Rs. 1,500 per tonne
	7228.79	--Other	Rs. 1,500 per tonne
		-Hollow drill bars and rods :	
	7228.81	--Of alloy steel	Rs. 1,500 per tonne
	7228.82	--Of non-alloy steel forged	Rs. 550 per tonne
	7228.89	--Other	Rs. 400 per tonne
72.29		WIRE OF OTHER ALLOY STEEL	
	7229.10	-Of high speed steel	Rs. 1,500 per tonne
	7229.20	-Of silico-manganese steel	Rs. 1,500 per tonne
	7229.30	-Electric resistance wire (including electric resistance heating wire)	10%
	7229.90	-Other	Rs. 1,500 per tonne
72.30	7230.00	GOODS AND MATERIALS OF CHAPTER 72 OBTAINED BY BREAKING UP OF SHIPS, BOATS AND OTHER FLOATING STRUCTURES	Rs. 1,800 per tonne";

(8) In Chapter 73, for heading Nos. 73.01 to 73.09, the following headings shall be substituted, namely:—

"73.01		SHEET PILING OF IRON OR STEEL, WHETHER OR NOT DRILLED, PUNCHED OR MADE FROM ASSEMBLED ELEMENTS; WELDED ANGLES, SHAPES AND SECTIONS, OF IRON OR STEEL	
	7301.10	-Sheet piling	Rs. 400 per tonne
	7301.20	-Angles, shapes and sections	Rs. 400 per tonne

(1)	(2)	(3)	(4)
73.02	RAILWAY OR TRAMWAY TRACK CONSTRUCTION MATERIAL OF IRON OR STEEL, THE FOLLOWING: RAILS, CHECK-RAILS AND RACK RAILS, SWITCH BLADES, CROSSING FROGS, POINT RODS AND OTHER CROSSING PIECES, SLEEPERS (CROSS-TIES), FISH-PLATES, CHAIRS, CHAIR WEDGES, SOLE PLATES (BASE PLATES), RAIL CLIPS, BEDPLATES, TIES AND OTHER MATERIAL SPECIALIZED FOR JOINTING OR FIXING RAILS		
	7302.10	-Rails	Rs. 400 per tonne
	7302.20	-Sleepers (cross-ties)	Rs. 400 per tonne
	7302.90	-Other	15%
73.03	7303.00	TUBES, PIPES AND HOLLOW PROFILES, OF CAST IRON	Rs. 100 per tonne
73.04	TUBES, PIPES AND HOLLOW PROFILES, SEAMLESS, OF IRON (OTHER THAN CAST IRON) OR STEEL		
	7304.10	-Of iron	Rs. 100 per tonne
	7304.90	-Other	Rs. 1,500 per tonne
73.05	OTHER TUBES AND PIPES (FOR EXAMPLE, WELDED, RIVETED OR SIMILARLY CLOSED), HAVING INTERNAL AND EXTERNAL CIRCULAR CROSS-SECTIONS, THE EXTERNAL DIAMETER OF WHICH EXCEEDS 406.4 MM., OF IRON OR STEEL		
	7305.10	-Of iron	Rs. 100 per tonne
	7305.90	-Other	Rs. 1,500 per tonne
73.06	OTHER TUBES, PIPES AND HOLLOW PROFILES (FOR EXAMPLE, OPEN SEAM OR WELDED, RIVETED OR SIMILARLY CLOSED), OF IRON OR STEEL		
	7306.10	-Of iron	Rs. 100 per tonne
	7306.90	-Other	Rs. 1,500 per tonne
73.07	7307.00	TUBE OR PIPE FITTINGS (FOR EXAMPLE, COUPLINGS, ELBOWS, SLEEVES), OF IRON OR STEEL	15%
73.08	STRUCTURES (EXCLUDING PREFABRICATED BUILDINGS OF HEADING NO. 94.06) AND PARTS OF STRUCTURES (FOR EXAMPLE, BRIDGES, AND BRIDGE SECTIONS, LOCKGATES, TOWERS, LATTICE MASTS, ROOFS, ROOFING FRAMEWORKS, DOORS AND WINDOWS AND THEIR FRAMES AND THRESHOLDS FOR DOORS, SHUTTERS, BALUSTRADES, PILLARS AND COLUMNS), OF IRON OR STEEL; PLATES, RODS, ANGLES, SHAPES, SECTIONS, TUBES AND THE LIKE, PREPARED FOR USE IN STRUCTURES, OF IRON OR STEEL		
	7308.10	-Bridges and bridge sections	15%
	7308.20	-Towers and lattice masts	15%
	7308.30	-Doors, windows and their frames and thresholds for doors	5%
	7308.40	-Props and similar equipment for scaffolding, shuttering or pit-propping	15%
	7308.90	-Other	15%

(1)	(2)	(3)	(4)
73.09	7309.00	RESERVOIRS, TANKS, VATS AND SIMILAR CONTAINERS FOR ANY MATERIAL (OTHER THAN COMPRESSED OR LIQUEFIED GAS), OF IRON OR STEEL, OF A CAPACITY EXCEEDING 300 L, WHETHER OR NOT LINED OR HEAT-INSULATED, BUT NOT FITTED WITH MECHANICAL OR THERMAL EQUIPMENT	15%
73.10	7310.00	TANKS, CASKS, DRUMS, CANS, BOXES, AND SIMILAR CONTAINERS, FOR ANY MATERIAL (OTHER THAN COMPRESSED OR LIQUEFIED GAS), OF IRON OR STEEL, OF A CAPACITY NOT EXCEEDING 300 L, WHETHER OR NOT LINED OR HEAT-INSULATED, BUT NOT FITTED WITH MECHANICAL OR THERMAL EQUIPMENT	20% plus Rs. 100 per container
73.11	7311.00	CONTAINERS FOR COMPRESSED OR LIQUEFIED GAS, OF IRON OR STEEL	20% plus Rs. 100 per container
73.12		STRANDED WIRE, ROPES, CABLES, PLAATED BANDS, SLINGS AND THE LIKE, OF IRON OR STEEL, NOT ELECTRICALLY INSULATED	
	7312.10	-Stranded wire, ropes and cables	15%
	7312.90	-Other	15%
73.13	7313.00	BARBED WIRE OF IRON OR STEEL; TWISTED HOOP OR SINGLE FLAT WIRE, BARBED OR NOT, AND LOOSELY TWISTED DOUBLE WIRE, OF A KIND USED FOR FENCING, OF IRON OR STEEL	15%
73.14	7314.00	CLOTH (INCLUDING ENDLESS BANDS), GRILL, NETTING AND FENCING, OF IRON OR STEEL WIRE; EXPANDED METAL OF IRON OR STEEL	15%
73.15	7315.00	CHAIN AND PARTS THEREOF, OF IRON OR STEEL	15%
73.16	7316.00	ANCHORS, GRAPNELS AND PARTS THEREOF, OF IRON OR STEEL	15%
73.17	7317.00	NAILS, TACKS, DRAWING PINS, CORRUGATED NAILS, STAPLES (OTHER THAN THOSE OF HEADING NO. 83.05) AND SIMILAR ARTICLES, OF IRON OR STEEL, WHETHER OR NOT WITH HEADS OF OTHER MATERIAL, BUT EXCLUDING SUCH ARTICLES WITH HEADS OF COPPER	15%
73.18		SCREWS, BOLTS, NUTS, COACH-SCREWS, SCREW HOOKS, RIVETS, COTTERS, COTTER PINS, WASHERS (INCLUDING SPRING WASHERS) AND SIMILAR ARTICLES, OF IRON OR STEEL	
	7318.10	-Threaded articles -Non-threaded articles :	20%
	7318.21	--Circlips	20%
	7318.29	--Other	15%
	7318.90	-Other	15%
73.19	7319.00	SEWING NEEDLES, KNITTING NEEDLES, BODKINS, CROCHET HOOKS, EMBROIDERY STILETTOS AND SIMILAR ARTICLES, FOR USE IN THE HAND, OF IRON OR STEEL; SAFETY PINS AND OTHER PINS OF IRON OR STEEL, NOT ELSEWHERE SPECIFIED OR INCLUDED	15%
73.20	7320.00	SPRINGS AND LEAVES FOR SPRINGS, OF IRON OR STEEL	15%

(1)	(2)	(3)	(4)
73.21		STOVES, RANGES, GRATES, COOKERS (INCLUDING THOSE WITH SUBSIDIARY BOILERS FOR CENTRAL HEATING), BAR-BECUES, BRAZIER, GAS-RINGS, PLATE WARMERS AND SIMILAR NON-ELECTRIC DOMESTIC APPLIANCES, AND PARTS THEREOF, OF IRON OR STEEL	
	7321.10	-Cooking appliances and plate warmers	15%
	7321.20	-Other appliances	15%
	7321.90	-Parts	20%
73.22	7322.00	RADIATORS FOR CENTRAL HEATING, NOT ELECTRICALLY HEATED, AND PARTS THEREOF, OF IRON OR STEEL; AIR HEATERS AND HOT AIR DISTRIBUTORS WHICH CAN ALSO DISTRIBUTE FRESH OR CONDITIONED AIR, NOT ELECTRICALLY HEATED, INCORPORATING A MOTOR-DRIVEN FAN OR BLOWER, AND PARTS THEREOF OF IRON OR STEEL	15%
73.23	7323.00	TABLE, KITCHEN OR OTHER HOUSEHOLD ARTICLES AND PARTS THEREOF, OF IRON OR STEEL; IRON OR STEEL WOOL; POT SCOURERS AND SCOURING OR POLISHING PADS, GLOVES AND THE LIKE OF IRON OR STEEL	15%
73.24	7324.00	SANITARY WARE AND PARTS THEREOF, OF IRON OR STEEL	15%
73.25		OTHER CAST ARTICLES OF IRON OR STEEL	
	7325.10	-Of iron	Rs. 100 per tonne
	7325.20	-Of alloy steel	Rs. 1,500 per tonne
	7325.30	-Of stainless steel	Rs. 1,500 per tonne
	7325.90	-Other	Rs. 400 per tonne
73.26		OTHER ARTICLES OF IRON OR STEEL	
		-Forged or stamped, but not further worked;	
	7326.11	--Grinding balls and similar articles for mills	15%
	7326.19	--Other	15%
	7326.20	-Articles of iron or steel wire	15%
	7326.90	-Other	15%
73.27	7327.00	GOODS AND MATERIALS OF CHAPTER 73 OBTAINED BY THE BREAKING UP OF SHIPS, BOATS AND OTHER FLOATING STRUCTURES	Rs. 1,800 per tonne ⁽⁹⁾
(9) in Chapter 74, for heading Nos. 74.01 to 74.13, the following headings shall be substituted, namely:—			
74.01		COPPER MATTES; CEMENT COPPER (PRECIPITATED COPPER)	
	7401.10	- Copper mattes	Rs. 6,200 per tonne
	7401.20	- Cement copper (precipitated copper)	Rs. 6,200 per tonne
74.02	7402.00	UNREFINED COPPER; COPPER ANODES FOR ELECTROLYTIC REFINING	Rs. 6,200 per tonne
74.03		REFINED COPPER AND COPPER ALLOYS, UNWROUGHT	
		- Refined Copper:	
	7403.11	--Cathodes and sections of cathodes	Rs. 6,200 per tonne
	7403.12	-- Wire-bars	Rs. 6,200 per tonne
	7403.13	-- Billets	Rs. 6,200 per tonne
	7403.19	-- Other	Rs. 6,200 per tonne

(1)	(2)	(3)	(4)
		- Copper alloys :	
	7403.21	-- Copper-zinc base alloys (brass)	Rs. 6,200 per tonne
	7403.22	-- Copper-tin base alloys (bronze)	Rs. 6,200 per tonne
	7403.23	-- Copper-nickel base alloys (cupro-nickel) or copper-nickel-zinc base alloys (nickel silver)	Rs. 6,200 per tonne
	7403.29	-- Other copper alloys (other than master alloys of heading No. 74.05)	Rs. 6,200 per tonne
74.04	7404.00	COPPER WASTE AND SCRAP	Rs. 6,200 per tonne
74.05	7405.00	MASTER ALLOYS OF COPPER	Rs. 6,200 per tonne
74.06	7406.00	COPPER POWDERS AND FLAKES	15%
74.07		COPPER BARS, RODS AND PROFILES	
		- Bars and rods :	
	7407.11	-- Of refined copper	Rs. 6,200 per tonne
	7407.12	-- Of copper alloys	Rs. 6,200 per tonne
		- Profiles :	
	7407.21	-- Hollow profiles	15%
	7407.29	-- Other	Rs. 7,400 per tonne
74.08		COPPER WIRE	
		- Of refined copper:	
	7408.11	-- Of which the maximum cross-sectional dimension exceeds 6 mm	Rs. 6,200 per tonne]
	7408.19	-- Other	20%
		- Of copper alloys :	
	7408.21	-- Of which the maximum cross-sectional dimension exceeds 6 mm	Rs. 6,200 per tonne
	7408.29	-- Other	20%
74.09		COPPER PLATES, SHEETS (INCLUDING CIRCLES) AND STRIP, OF A THICKNESS EXCEEDING 0.15 MM	
	7409.10	- Of refined copper	Rs. 7,400 per tonne
	7409.20	- Of copper-zinc base alloys (brass)	Rs. 7,400 per tonne
	7409.30	- Of copper-tin base alloys (bronze)	Rs. 7,400 per tonne
	7409.40	- Of copper-nickel base alloys (cupro-nickel) or copper-nickel-zinc base alloys (nickel silver)	Rs. 7,400 per tonne
	7409.90	- Of other copper alloys	Rs. 7,400 per tonne
74.10		COPPER FOIL (WHETHER OR NOT PRINTED OR BACKED WITH PAPER, PAPERBOARD, PLASTICS OR SIMILAR BACKING MATERIALS) OF A THICKNESS (EXCLUDING ANY BACKING) NOT EXCEEDING 0.15 MM	
		- Not backed :	
	7410.11	-- Of refined copper	Rs. 7,400 per tonne
	7410.12	-- Of copper alloys	Rs. 7,400 per tonne
		- Backed :	
	7410.21	-- Of refined copper	Rs. 7,400 per tonne
	7410.22	-- Of copper alloys	Rs. 7,400 per tonne
74.11		COPPER TUBES AND PIPES	
	7411.10	- Of refined copper	15%

(1)	(2)	(3)	(4)	(5)
		Of copper alloys		
	7411.21	-- Of copper-zinc base alloys (brass)	15%	
	7411.22	- Of copper-nickel base alloys (copper-nickel) or copper-nickel-zinc base alloys (nickel silver)	15%	10.25
	7411.29	-- Other	15%	
74.12		COPPER TUBE OR PIPE FITTINGS (FOR EXAMPLE, COUPLINGS, ELBOWS, SLEEVES)		
	7412.10	- Of refined copper	15%	
	7412.20	- Of copper alloys	15%	
74.13	7413.00	STRANDED WIRE, CABLES, PLATED BANDS AND THE LIKE, OF COPPER, NOT ELECTRICALLY INSULATED	20%	
74.14		CLOTH (INCLUDING ENDLESS BANDS), GRILL AND NETTING, OF COPPER WIRE; EXPANDED METAL OF COPPER		
	7414.10	- Endless bands, for machinery	15%	
	7414.90	- Other	15%	
74.15		NAILS, TACKS, DRAWING PINS, STAPLES (OTHER THAN THOSE OF HEADING NO. 83.05), AND SIMILAR ARTICLES, OF COPPER OR OF IRON OR STEEL WITH HEADS OF COPPER; SCREWS, BOLTS, NUTS, SCREW HOOKS, RIVETS, COTTERS, COTTER-PINS, WASHERS (INCLUDING SPRING WASHERS) AND SIMILAR ARTICLES, OF COPPER		
	7415.10	- Nails and tacks, drawing pins, staples and similar articles	15%	
		- Other articles, not threaded		
	7415.21	-- Washers (including spring washers)	15%	
	7415.29	-- Other	15%	
		- Other threaded articles		
	7415.31	-- Screws for wood	20%	
	7415.32	-- Other screws, bolts and nuts	20%	
	7415.39	-- Other	20%	
74.16	7416.00	COPPER SPRINGS	15%	
74.17	7417.00	COOKING OR HEATING APPARATUS OF A KIND USED FOR DOMESTIC PURPOSES, NON-ELECTRIC AND PARTS THEREOF OF COPPER	15%	
74.18		TABLE, KITCHEN OR OTHER HOUSEHOLD ARTICLES AND PARTS THEREOF, OF COPPER; POT SCOURERS AND SCOURING OR POLISHING PADS, GLOVES AND THE LIKE, OF COPPER; SANITARY WARE AND PARTS THEREOF, OF COPPER		
	7418.10	- Table, kitchen or other household articles and parts thereof; pot scourers and scouring or polishing pads, gloves and the like	15%	
	7418.20	- Sanitary ware and parts thereof	15%	
74.19		OTHER ARTICLES OF COPPER		
	7419.10	- Chain and parts thereof	15%	
		- Other :		
	7419.91	-- Cast, moulded, stamped or forged, but not further worked	15%	
	7419.99	-- Other	15%;	

(1)	(2)	(3)	(4)
		(ro) In Chapter 75, for heading No. 75.01, the following headings shall be substituted, namely:—	
75.01		NICKEL MATTES, NICKEL OXIDE SINTERS AND OTHER INTERMEDIATE PRODUCTS OF NICKEL METALLURGY	
	7501.10	- Nickel mattes	15%
	7501.20	- Nickel oxide sinters and other intermediate products of nickel metallurgy	15%
75.02		UNWROUGHT NICKEL	
	7502.10	- Nickel, not alloyed	15%
	7502.20	- Nickel alloys	15%
75.03	7503.00	NICKEL WASTE AND SCRAP	15%
75.04	7504.00	NICKEL POWDERS AND FLAKES	15%
75.05		NICKEL BARS, RODS, PROFILES AND WIRE	
		- Bars, rods and profiles :	
	7505.11	-- Of nickel, not alloyed	15%
	7505.12	-- Of nickel alloys	15%
		- Wire :	
	7505.21	-- Of nickel, not alloyed	15%
	7505.22	-- Of nickel alloys	15%
75.06		NICKEL PLATES, SHEETS, STRIP AND FOIL	
	7506.10	- Of nickel, not alloyed	15%
	7506.20	- Of nickel alloys	15%
75.07		NICKEL TUBES, PIPES AND TUBE OR PIPE FITTINGS (FOR EXAMPLE, COUPLINGS, ELBOWS, SLEEVES)	
		- Tubes and pipes :	
	7507.11	-- Of nickel, not alloyed	15%
	7507.12	-- Of nickel alloys	15%
	7507.20	- Tube or pipe fittings	15%
75.08	7508.00	OTHER ARTICLES OF NICKEL	15%

(ri) In Chapter 76, for heading Nos. 76.01 to 76.13, the following headings shall be substituted, namely:—

76.01		UNWROUGHT ALUMINIUM, WHETHER OR NOT ALLOYED	
	7601.10	- Ingots, billets	50% plus Rs. 4,000 per tonne
	7601.20	- Wire-bars	50% plus Rs. 4,000 per tonne
	7601.30	- Wire-rods	50% plus Rs. 4,000 per tonne
	7601.90	- Other	50% plus Rs. 4,000 per tonne
76.02	7602.00	ALUMINIUM WASTE AND SCRAP	50% plus Rs. 4,000 per tonne
76.03	7603.00	ALUMINIUM POWDERS AND FLAKES	50% plus Rs. 4,000 per tonne

(1)	(2)	(3)	(4)
76.04	ALUMINIUM BARS, RODS AND PROFILES, WHETHER OR NOT ALLOYED		
	7604.10	-Wire rods	50% plus Rs. 4,000 per tonne
		-Profiles :	
	7604.21	-Hollow	50% plus Rs. 4,000 per tonne
	7604.29	-Other	50% plus Rs. 4,000 per tonne
	7604.30	-Bars and other rods	50% plus Rs. 4,000 per tonne
76.05	ALUMINIUM WIRE		
		-Of aluminium, not alloyed :	
	7605.11	-Of which the maximum cross-sectional dimension exceeds 6 mm	50% plus Rs. 4,000 per tonne
	7605.19	-Other	50% plus Rs. 4,000 per tonne
		-Of aluminium alloys :	
	7605.21	-Of which the maximum cross-sectional dimension exceeds 6 mm	50% plus Rs. 4,000 per tonne
	7605.29	-Other	50% plus Rs. 4,000 per tonne
76.06	ALUMINIUM PLATES, SHEETS (INCLUDING CIRCLES) AND STRIP OF A THICKNESS EXCEEDING 0.2 MM		
	7606.10	-Of aluminium, not alloyed	50% plus Rs. 4,000 per tonne
	7606.20	-Of aluminium alloys	50% plus Rs. 4,000 per tonne
76.07	ALUMINIUM FOIL (WHETHER OR NOT PRINTED OR BACKED WITH PAPER, PAPERBOARD, PLASTICS OR SIMILAR BACKING MATERIALS) OF A THICKNESS (EXCLUDING ANY BACKING) NOT EXCEEDING 0.2 MM		
	7607.10	-Plain	50% plus Rs. 4,000 per tonne
	7607.20	-Embossed	50% plus Rs. 4,000 per tonne
	7607.30	-Perforated or cut-to-shape	50% plus Rs. 4,000 per tonne
	7607.40	-Coated	50% plus Rs. 4,000 per tonne
	7607.50	-Printed	50% plus Rs. 4,000 per tonne
	7607.60	-Backed	50% plus Rs. 4,000 per tonne
	7607.90	-Other	50% plus Rs. 4,000 per tonne
76.08	ALUMINIUM TUBES AND PIPES		
	7608.10	-Of aluminium, not alloyed	50% plus Rs. 4,000 per tonne
	7608.20	-Of aluminium alloys	50% plus Rs. 4,000 per tonne
76.09	7609.00	ALUMINIUM TUBE OR PIPE FITTINGS (FOR EXAMPLE, COUPLINGS, ELBOWS, SLEEVES)	20%

(1)	(2)	(3)	(4)	(5)
76.10		ALUMINIUM STRUCTURES (EXCLUDING PREFABRICATED BUILDINGS OR HEADING NO. 94.06) AND PARTS OF STRUCTURES (FOR EXAMPLE, BRIDGES, AND BRIDGE-SECTIONS, TOWERS, LATTICE MASTS, ROOFS, ROOFING FRAMEWORKS, DOORS AND WINDOWS AND THEIR FRAMES AND THRESHOLDS FOR DOORS, BALUSTRADES, PILARS AND COLUMNS); ALUMINIUM PLATES, RODS, PROFILES, TUBES AND THE LIKE, PREPARED FOR USE IN STRUCTURES		
	7610.10	-Doors, windows and their frames and thresholds for doors	20%	
	7610.90	-Other	20%	
76.11	7611.00	ALUMINIUM RESERVOIRS, TANKS, VATS AND SIMILAR CONTAINERS, FOR ANY MATERIAL (OTHER THAN COMPRESSED OR LIQUEFIED GAS) OF A CAPACITY EXCEEDING 300 L, WHETHER OR NOT LINED OR HEAT-INSULATED, BUT NOT FITTED WITH MECHANICAL OR THERMAL EQUIPMENT	20%	
76.12		ALUMINIUM CASKS, DRUMS, CANS, BOXES AND SIMILAR CONTAINERS (INCLUDING RIGID OR COLLAPSIBLE TUBULAR CONTAINERS), FOR ANY MATERIAL (OTHER THAN COMPRESSED OR LIQUEFIED GAS), OF A CAPACITY NOT EXCEEDING 300 L, WHETHER OR NOT LINED OR HEAT-INSULATED, BUT NOT FITTED WITH MECHANICAL OR THERMAL EQUIPMENT		
		-Collapsible tubular containers:		
	7612.11	-- Plain	20%	
	7612.12	-- Lacquered	20%	
	7612.13	-- Printed	20%	
	7612.19	-Other	20%	
	7612.91	-- Plain	20%	
	7612.92	-- Lacquered	20%	
	7612.93	-- Printed	20%	
	7612.99	-- Other	20%	
76.13		ALUMINIUM CONTAINERS FOR COMPRESSED OR LIQUEFIED GAS		
	7613.10	-Plain	20%	
	7613.20	-Lacquered	20%	
	7613.30	-Printed	20%	
	7613.90	-Other	20%	
76.14		STRANDED WIRE, CABLES, PLATED BANDS AND THE LIKE, OF ALUMINIUM, NOT ELECTRICALLY INSULATED		
	7614.10	-With steel core	20%	
	7614.90	-Other	20%	
76.15		TABLE, KITCHEN OR OTHER HOUSEHOLD ARTICLES AND PARTS THEREOF OF ALUMINIUM; POT SCOURERS AND SCOURING OR POLISHING PADS, GLOVES AND THE LIKE, OF ALUMINIUM; SANITARY WARE AND PARTS THEREOF, OF ALUMINIUM		
	7615.10	-Table, kitchen or other household articles and parts thereof, pot scourers and scouring or polishing pads, gloves and the like	20%	
	7615.20	-Sanitary ware and parts thereof	20%	

(1)	(2)	(3)	(4)	(5)
76.16	OTHER ARTICLES OF ALUMINIUM			
7616.10	-Nails, tacks, staples (other than those of heading No. 85.05), screws, bolts, nuts, screw hooks, rivets, cotters, cotter pins, washers and similar articles		20%	
7616.90	-Other		25%	
(72) In Chapter 78, for heading Nos. 78.01 to 78.08, the following headings shall be substituted, namely:—				
78.01	UNWROUGHT LEAD			
7801.10	-Refined lead		Rs. 930 per tonne	
7801.90	-Other		Rs. 930 per tonne	
78.02	LEAD WASTE AND SCRAP			
7802.00			Rs. 930 per tonne	
78.03	LEAD BARS, RODS, PROFILES AND WIRE			
7803.10	-Lead bars and rods		Rs. 1,100 per tonne	
	-Profiles :			
7803.21	-Hollow		17%	
7803.29	-Other		Rs. 1,100 per tonne	
7803.30	-Lead wire		Rs. 930 per tonne	
78.04	LEAD PLATES, SHEETS (INCLUDING CIRCLES), STRIP AND FOIL, LEAD POWDERS AND FLAKES			
7804.10	-Plates, sheets (including circles), strip and foil		Rs. 1,100 per tonne	
7804.20	-Powders and flakes		15%	
78.05	LEAD TUBES, PIPES AND TUBE OR PIPE FITTINGS (FOR EXAMPLE, COUPLINGS, ELBOWS, SLEEVES)			
7805.10	-Lead tubes and pipes		17%	
7805.20	-Lead tube or pipe fittings (for example, couplings, elbows, sleeves)		15%	
78.06	OTHER ARTICLES OF LEAD			
7806.00			15%	
(73) In Chapter 79, for heading Nos. 79.01 to 79.10, the following headings shall be substituted, namely:—				
79.01	UNWROUGHT ZINC			
7901.10	-Zinc, not alloyed		Rs. 3,600 per tonne	
7901.20	-Zinc alloys		Rs. 3,600 per tonne	
79.02	ZINC WASTE AND SCRAP			
7902.00			Rs. 3,600 per tonne	
79.03	ZINC DUST, POWDERS AND FLAKES			
7903.10	-Zinc dust		17%	
7903.90	-Other		17%	

(1)	(2)	(3)	(4)
79.04	ZINC BARS, RODS (INCLUDING WIRE RODS), PROFILES AND WIRE		
	7904.10	-Zinc bars and rods (including wire-rods)	Rs. 3,600 per tonne
		-Profiles :	
	7904.21	-Hollow	28%
	7904.29	-Other	Rs. 4,200 per tonne
	7904.30	-Zinc wire	Rs. 3,600 per tonne
79.05	ZINC PLATES, SHEETS (INCLUDING CIR- CLES AND CALOTS), STRIP AND FOIL		
	7905.10	-Zinc Calots	Rs. 5,225 Per tonne
	7905.90	-Other	Rs. 4,200 per tonne
79.06	ZINC TUBES, PIPES AND TUBE OR PIPE FITTINGS (FOR EXAMPLE, COUPLINGS, ELBOWS, SLEEVES)		
	7906.10	-Zinc tubes and pipes	28%
	7906.20	-Zinc tube or pipe fittings (for example, coup- lings, elbows, sleeves)	15%
79.07	OTHER ARTICLES OF ZINC		
	7907.10	-Gutters, roof capping, skylight frames and other fabricated building components	15%
	7907.90	-Other	15%";
(14) In Chapter 80, for heading No. 80.01, the following headings shall be sub- stituted, namely:--			
80.01	UNWROUGHT TIN		
	8001.10	-Tin, not alloyed	15%
	8001.20	-Tin alloys	15%
80.02	8002.00	TIN WASTE AND SCRAP	15%
80.03	8003.00	TIN BARS, RODS, PROFILES AND WIRE	15%
80.04	8004.00	TIN PLATES, SHEETS AND STRIP OF A THICKNESS EXCEEDING 0.2 MM	15%
80.05	TIN FOIL (WHETHER OR NOT PRINTED OR BACKED WITH PAPER, PAPERBOARD, PLA- STICS OR SIMILAR BACKING MATERIALS), OF A THICKNESS (EXCLUDING ANY BACK- ING) NOT EXCEEDING 0.2 MM; TIN POW- DERS AND FLAKES		
	8005.10	-Foil	15%
	8005.20	-Powders and flakes	15%
80.06	8006.00	TIN TUBES, PIPES AND TUBE OR PIPE FITTINGS (FOR EXAMPLE, COUPLINGS, ELBOWS, SLEEVES)	15%
80.07	8007.00	OTHER ARTICLES OF TIN	15%";

(1)	(2)	(3)	(4)
(15) In Chapter 81, for heading No. 81.01, the following headings shall be substituted, namely:—			
81.01	8101.00	TUNGSTEN (WOLFRAM) AND ARTICLES THEREOF, INCLUDING WASTE AND SCRAP	15%
81.02	8102.00	MOLYBDENUM AND ARTICLES THEREOF, INCLUDING WASTE AND SCRAP	15%
81.03	8103.00	TANTALUM AND ARTICLES THEREOF, INCLUDING WASTE AND SCRAP	15%
81.04	8104.00	MAGNESIUM AND ARTICLES THEREOF, INCLUDING WASTE AND SCRAP	15%
81.05	8105.00	COBALT MATTER AND OTHER INTERMEDIATE PRODUCTS OF COBALT METALLURGY; COBALT AND ARTICLES THEREOF, INCLUDING WASTE AND SCRAP	15%
81.06	8106.00	BISMUTH AND ARTICLES THEREOF, INCLUDING WASTE AND SCRAP	15%
81.07	8107.00	CADMIUM AND ARTICLES THEREOF, INCLUDING WASTE AND SCRAP	15%
81.08	8108.00	TITANIUM AND ARTICLES THEREOF, INCLUDING WASTE AND SCRAP	15%
81.09	8109.00	ZIRCONIUM AND ARTICLES THEREOF, INCLUDING WASTE AND SCRAP	15%
81.10	8110.00	ANTIMONY AND ARTICLES THEREOF, INCLUDING WASTE AND SCRAP	15%
81.11	8111.00	MANGANESE AND ARTICLES THEREOF, INCLUDING WASTE AND SCRAP	15%
81.12	8112.00	BERYLLIUM, CHROMIUM, GERMANIUM, VANADIUM, GALLIUM, HAFNIUM, INDIUM, NIOBIUM, COLUMBIUM, RHENIUM AND THALLIUM; AND ARTICLES OF THESE METALS, INCLUDING WASTE AND SCRAP	15%
81.13	8113.00	CERMETS AND ARTICLES THEREOF, INCLUDING WASTE AND SCRAP	15%
(16) In Chapter 82, for heading Nos. 82.01 to 82.08, the following headings shall be substituted, namely:—			
82.01	8201.00	HAND TOOLS, THE FOLLOWING: SPADES, SHOVELS, MATTOCKS, PICKS, HOES, FORKS AND RAKES; AXES, BILL HOOKS AND SIMILAR HEWING TOOLS; SECATORS OF ANY KIND; SCYTHES, SICKLES, HAY KNIVES, HEDGE SHEARS, TIMBER WEDGES AND OTHER TOOLS OF A KIND USED IN AGRICULTURE, HORTICULTURE OR FORESTRY	20%
82.02	8202.00	HAND SAWS; BLADES FOR SAWS OF ALL KINDS (INCLUDING SLITTING, SLOTTING OR TOOTHLESS SAW BLADES)	20%
82.03	8203.00	FILES, RASPS, PLIERS (INCLUDING CUTTING PLIERS), PINCERS, TWEEZERS, METAL CUTTING SHEARS, PIPE CUTTERS, BOLT CROPPERS, PERFORATING PUNCHES AND SIMILAR HAND TOOLS	20%
82.04	8204.00	HAND-OPERATED SPANNERS AND WRENCHES (INCLUDING TORQUE METER WRENCHES BUT NOT INCLUDING TAP WRENCHES); INTERCHANGEABLE SPANNER SOCKETS, WITH OR WITHOUT HANDLES	20%

(1)	(2)	(3)	(4)	(5)
82.05	8205.00	HAND TOOLS (INCLUDING GLAZIERS' DIAMONDS), NOT ELSEWHERE SPECIFIED OR INCLUDED; BLOW LAMPS; VICES, CLAMPS AND THE LIKE, OTHER THAN ACCESSORIES FOR AND PARTS OF MACHINE TOOLS; ANVILS; PORTABLE FORGES; HAND OR PEDAL-OPERATED GRINDING WHEELS WITH FRAMEWORKS	20%	
82.06	8206.00	TOOLS OF TWO OR MORE OF THE HEADINGS NOS. 82.02 TO 82.05, PUT UP IN SETS	20%	
82.07	8207.00	INTERCHANGEABLE TOOLS FOR HAND TOOLS, WHETHER OR NOT POWER-OPERATED, OR FOR MACHINE TOOLS (FOR EXAMPLE, FOR PRESSING, STAMPING, PUNCHING, TAPPING, THREADING, DRILLING, BORING, BROACHING, MILLING, TURNING, OR SCREWDRIVING), INCLUDING DIES FOR DRAWING OR EXTRUDING METAL, AND ROCK DRILLING OR EARTH BORING TOOLS	20%	
82.08	8208.00	KNIVES AND CUTTING BLADES, FOR MACHINES OR FOR MECHANICAL APPLIANCES	20%	
82.09	8209.00	PLATES, STICKS, TIPS AND THE LIKE FOR TOOLS, UNMOUNTED, OF SINTERED METAL, CARBIDES OR CERMETS	20%	
82.10	8210.00	HAND-OPERATED MECHANICAL APPLIANCES, WEIGHING 10 KG OR LESS, USED IN THE PREPARATION, CONDITIONING OR SERVING OF FOOD OR DRINK	20%	
82.11	8211.00	KNIVES WITH CUTTING BLADES, SERRATED OR NOT (INCLUDING PRUNING KNIVES), OTHER THAN KNIVES OF HEADING NO. 82.08, AND BLADES THEREFOR	20%	
82.12	8212.00	RAZORS AND RAZOR BLADES (INCLUDING RAZOR BLADE BLANKS, IN STRIPS)	20%	
82.13	8213.00	SCISSORS, TAILORS' SHEARS, AND SIMILAR SHEARS, AND BLADES THEREFOR	20%	
82.14	8214.00	OTHER ARTICLES OF CUTLERY (FOR EXAMPLE, HAIR CLIPPERS, BUTCHERS' OR KITCHEN CLEAVERS, CHOPPERS AND MINCING KNIVES, PAPER KNIVES), MANICURE OR PEDICURE SETS AND INSTRUMENTS (INCLUDING NAIL FILES)	20%	
82.15	8215.00	SPOONS, FORKS, LADLES, SKIMMERS, CAKE SERVERS, FISH KNIVES, BUTTERKNIVES, SUGAR TONGS AND SIMILAR KITCHEN OR TABLEWARE	20%	
(17) in Chapter 83, for heading Nos. 83.01 to 83.15, the following headings shall be substituted, namely :-				
"83.01	8301.00	PADLOCKS AND LOCKS (KEY COMBINATION OR ELECTRICALLY OPERATED), OF BASE METAL; CLASPS AND FRAMES, WITH CLASPS, INCORPORATING LOCKS, OF BASE METAL; KEYS FOR ANY OF THE FOREGOING ARTICLES, OF BASE METAL	15%	
83.02	8302.00	BASE METAL MOUNTINGS, FITTINGS AND SIMILAR ARTICLES SUITABLE FOR FURNITURE, DOORS, STAIR CASES, WINDOWS, BLINDS, COACHWORK, SADDLERY, TRUNKS, CHESTS, CASKETS OR THE LIKE; BASE METAL HAT RACKS, HAT PEGS, BRACKETS AND SIMILAR FIXTURES; CASATORS WITH MOUNTINGS OF BASE METAL; AUTOMATIC DOOR CLOSERS OF BASE METAL	25%	

(1)	(2)	(3)	(4)	(5)
83.03	8303.00	ARMoured OR REINFORCED SAFES, STRONG BOXES AND DOORS AND DRAWERS POSIT LOCKERS FOR STRONG-ROOMS, CASH OR DEED BOXES AND THE LIKE, OF BASE METAL	35%	
83.04	8304.00	FILING CABINETS, CARD-INDEX CABINETS, PAPER TRAYS, PAPER RESTS, PEN TRAYS, OFFICE-STAMP STANDS AND SIMILAR OFFICE OR DESK EQUIPMENT, OF BASE METAL, OTHER THAN OFFICE FURNITURE	25%	
83.05	8305.00	FITTINGS FOR LOOSE-LEAF BINDERS OR FILES, LETTER CLIPS, LETTER CORNERS, PAPER CLIPS, INDEXING TAGS AND SIMILAR OFFICE ARTICLES, OF BASE METAL; STAPLES IN STRIPS (FOR EXAMPLE, FOR OFFICES, UPHOLSTERY, PACKAGING), OF BASE METAL	15%	
83.06	8306.00	BELLS, GONGS AND THE LIKE, NON-ELECTRIC, OF BASE METAL; STATUETTES AND OTHER ORNAMENTS; OF BASE METAL; PHOTOGRAPH, PICTURE OR SIMILAR FRAMES, OF BASE METAL; MIRRORS OF BASE METAL	20%	
83.07	8307.00	FLEXIBLE TUBING OF BASE METAL, WITH OR WITHOUT FITTINGS	15%	
83.08	8308.00	GRASPERS, FRAMES WITH CLASPS, BUCKLES, BUCKLE CLASPS, HOOKS, EYES, BELTS AND THE LIKE, OF BASE METAL OR OF A KIND USED FOR CLOTHING, FOOTWEAR, AWNINGS, HANDBAGS, TRAVEL GOODS OR OTHER MADE UP ARTICLES; TUBULAR OR BIFURCATED RIVETS, OF BASE METAL; BEADS AND SPANGLES, OF BASE METAL	15%	
83.09		STOPPERS, CAPS AND LIDS (INCLUDING CROWN CORKS, SCREW CAPS AND PURGING STOPPERS), CAPSULES FOR BOTTLES, THREADED BUNGS, BUNG COVERS, SEALS AND OTHER PACKING ACCESSORIES, OF BASE METAL		
	8309.10	- Crown corks with or without washers or other fittings of cork, rubber, polyethylene or any other material		5 paise each
	8309.20	- Pilfer proof caps for packaging, all sorts, with or without washers or other fittings of cork, rubber, polyethylene or any other material		5 paise each
	8309.90	- Other		15%
83.10	8310.00	SIGN-PLATES, NAME-PLATES, ADDRESS-PLATES AND SIMILAR PLATES, NUMBERS, LETTERS AND OTHER SYMBOLS, OF BASE METAL, EXCLUDING THOSE OF HEADING NO. 94.05	15%	
83.11	8311.00	WIRE, RODS, TUBES, PLATES, ELECTRODES AND SIMILAR PRODUCTS OF BASE METAL OR OF METAL CARBIDES, COATED OR CORED WITH FLUX MATERIAL, OF A KIND USED FOR SOLDERING, BRAZING, WELDING OR DEPOSITION OF METAL OR OF METAL CARBIDES; WIRE AND RODS, OF AGGLOMERATED BASE METAL POWDER, USED FOR METAL SPRAYING	20%	
83.12	8312.00	ELECTRICAL STAMPINGS AND LAMINATIONS, OF BASE METAL, ALL SORTS	20%	

(1)	(2)	(3)	(4)	(5)
<p>(18) in Chapter 85, for heading Nos. 85.23 and 85.24, the following headings shall be substituted, namely:—</p>				
85.23		PREPARED UNRECORDED MEDIA FOR SOUND RECORDING OF SIMILAR RECORDING OF OTHER PHENOMENA OTHER THAN PRODUCTS OF CHAPTER 37		
		- Magnetic tapes		
8523.11		--Audio tapes in the form of jumbo rolls, pancakes, mini-pancakes, hubs or reels	25% plus Rs. 4 per square metre	
8523.12		--Audio cassettes	25% plus Rs. 2 per cassette	
8523.13		--Video tapes in the form of jumbo rolls, pancakes, mini-pancakes, hubs or reels	25% plus Rs. 8 per square metre	
8523.14		--Video cassettes	25% plus Rs. 30 per cassette	
8523.19		--Other	25%	
8523.20		-Magnetic discs	25%	
8523.90		-Other	25%	
85.24		RECORDS, TAPES (AND) OTHER RECORDED MEDIA FOR SOUND OR OTHER SIMILARLY RECORDED PHENOMENA, INCLUDING MATRICES AND MASTERS FOR THE PRODUCTION OF RECORDS, BUT EXCLUDING PRODUCTS OF CHAPTER 37		
8524.10		-Gramophone records	30%	
		-Magnetic tapes		
8524.21		--Audio tapes in any form	30% plus Rs. 4 per square metre	
8524.22		--Audio cassettes	30% plus Rs. 2 per cassette	
8524.23		--Video tapes in any form	30% plus Rs. 8 per square metre	
8524.24		--Video cassettes	30% plus Rs. 30 per cassette	
8524.29		--Other	30%	
8524.30		-Magnetic discs	30%	
8524.90		-Other	30%	
<p>(19) In Chapter 89, after heading No. 89.07, the following heading shall be inserted, namely:—</p>				
89.08	8908.00	VESSELS AND OTHER FLOATING STRUCTURES FOR BREAKING UP		Rs. 400 per Light Displacement Tonnage

THE FOURTH SCHEDULE

(See section 83)

PART I

In the First Schedule to the Additional Duties of Excise Act,—

(1) sub-heading Nos. 5206.10 and 5206.20 and the entries relating thereto shall be omitted;

(2) sub-heading Nos. 5206.31, 5206.32, 5206.33, 5206.34, 5206.35 and 5206.36 shall be, renumbered as sub-heading Nos. 5206.11, 5206.12, 5206.13, 5206.14, 5206.15 and 5206.16, respectively

PART II

Head- ing No.	Sub-head- ing No.	Description of goods	Rate of additional duty
(1)	(2)	(3)	(4)

In the First Schedule to the Additional Duties of Excise Act:—

(1) for heading No. 52.07, the following heading shall be substituted, namely:—

<p>“52.07</p>	<p>5207.00</p>	<p>COTTON FABRICS (EXCLUDING FABRICS COVERED UNDER HEADING NOS. 52.09, 52.10 AND 52.11),—</p> <p>(a) WOVEN ON LOOMS OTHER THAN HAND-LOOMS, AND</p> <p>(b) SUBJECTED TO THE PROCESS OF BLEACHING, MERCERISING, DYEING, PRINTING WATER-PROOFING, SHRINK PROOFING, ORGANDIE PROCESSING OR ANY OTHER PROCESS OR ANY TWO OR MORE OF THESE PROCESSES, WITHOUT THE AID OF POWER OR STEAM</p>	<p>Fifty per cent. of the duty leviable under sub-heading Nos. 5206.11 to 5206.16 and 5206.91 to 5206.94, as the case may be depending upon the average count of they are in the fabric and the value per square metre of the fabric”;</p>
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(2) for heading No. 52.08, the following heading shall be substituted, namely:—

<p>“52.08</p>	<p>COTTON FABRICS (EXCLUDING FABRICS COVERED UNDER HEADING NOS. 52.09, 52.10, 52.11 AND 52.12),—</p> <p>(a) WOVEN ON HANDLOOMS, AND</p> <p>(b) SUBJECTED TO THE PROCESS OF BLEACHING, MERCERISING, DYEING, PRINTING, WATER-PROOFING, SHRINK - PROOFING, ORGANDIE PROCESSING OR ANY OTHER PROCESS OR ANY TWO OR MORE OF THESE PROCESSES</p>
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5208.10 -Processed without the aid of power or steam

Fifty per cent. of the duty leviable under sub-heading Nos. 5206.11 to 5206.16 and 5206.91 to 5206.94, as the case may be, depending upon the average count of the yarn in the fabric and the value per square metre of the fabric

(1)	(2)	(3)	(4)
-Processed with the aid of power or steam:			
5208.21	--Processed by an independent processor approved in this behalf by the Government of India on the recommendation of the Development Commissioner for Handlooms	Forty per cent of the duty leviable under sub-heading Nos. 5206.11 to 5206.16 and 5206.91 to 5206.94, as the case may be, depending upon the average count of the yarn in the fabric and the value per square metre of the fabric	
PART I			
5208.22	--Processed by a factory owned by a registered handloom co-operative society or any organisation set up or approved by the Government for the purpose of development of handlooms	Nil	
PART II			
5208.29	--Other	Duty leviable under sub-heading Nos. 5206.11 to 5206.16 and 5206.91 to 5206.94, as the case may be, depending upon the average count of the yarn in the fabric and the value per square metre of the fabric	

...the following shall be substituted, namely:-

...FIFTY PER CENT OF THE DUTY LEVIA...
 ...SUB-HEADING NOS. 5206.11 TO 5206.16 AND 5206.91 TO 5206.94, AS THE CASE MAY BE, DEPENDING UPON THE AVERAGE COUNT OF THE YARN IN THE FABRIC AND THE VALUE PER SQUARE METRE OF THE FABRIC...

...COTTON FABRIC...
 ...DUTY LEVIA...
 ...SUB-HEADING NOS. 5206.11 TO 5206.16 AND 5206.91 TO 5206.94, AS THE CASE MAY BE, DEPENDING UPON THE AVERAGE COUNT OF THE YARN IN THE FABRIC AND THE VALUE PER SQUARE METRE OF THE FABRIC...

THE CUSTOMS (AMENDMENT) ACT, 1988

No. 27 of 1988

[18th May, 1988.]

[18th May, 1988.]

An Act further to amend the Customs Act, 1962. Enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows.

1. (1) This Act may be called the Customs (Amendment) Act, 1988.

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.

52 of 1962.

2. In section 14 of the Customs Act, 1962 (hereinafter referred to as the principal Act),—

Amendment of section 14

(a) in sub-section (1),—

(i) in clause (a), the brackets and letter "(a)" shall be omitted;

(ii) clause (b) shall be omitted;

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

"(1A) Subject to the provisions of sub-section (1), the price referred to in that sub-section in respect of imported goods shall be determined in accordance with the rules made in this behalf.";

(c) in sub-section (2), after the words, brackets and figure "in sub-section (1)", the words, brackets, figure and letter "of sub-section (1A)" shall be inserted.

3. In section 156 of the principal Act, in sub-section (2), for clause (a), the following clause shall be substituted, namely:—

Amendment of section 156.

"(a) the manner of determining the price of imported goods under sub-section (1A) of section 14;"

1. 16-8-1988: Vide Notifications No. G.S.R. 799(E), dated 18-7-1988, Gazette of India, Extraordinary, 1988, Part II, sec. 3(i).

THE APPROPRIATION (No. 3) Act, 1988

No. 28 of 1988

[18th May, 1988.]

An Act to provide for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet the amounts spent on certain services during the financial year ended on the 31st day of March, 1986, in excess of the amounts granted for those services and for that year.

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

Short title.

Issue of Rs. 248,33,38,949 out of the Consolidated Fund of India to meet certain excess expenditure for the year ended on the 31st March, 1986.

Appropriation.

1. This Act may be called the Appropriation (No. 3) Act, 1988.

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 two hundred and forty-eight crores, thirty-three lakhs, thirty-eight thousand, nine hundred and forty-nine rupees shall be deemed to have been authorised to be paid and applied to meet the amount spent for defraying the charges in respect of the services specified in column 2 of the Schedule during the financial year ended on the 31st day of March, 1986, in excess of the amounts granted for those services and for that year.

3. The sums deemed to have been authorised to be paid and applied from and out of the Consolidated Fund of India under this Act shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial year ended on the 31st day of March, 1986.

THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3 Excess		
		Voted portion	Charged portion	Total
		Rs.	Rs.	Rs.
4	Animal Husbandry and Dairy Development . Revenue	..	7,647	7,647
12	Textiles, Handloom and Handicrafts . Capital	1,93,33,402	..	1,93,33,402
17	Telecommunication Services Capital	2,17,34,604	..	2,17,34,604
19	Defence—Pensions . Revenue	12,01,56,527	..	12,01,56,527
20	Defence Services—Army Revenue	22,90,53,508	..	22,90,53,508
22	Defence Services—Air Force Revenue	57,37,36,680	..	57,37,36,680
23	Capital Outlay on Defence Services . Capital	24,29,81,834	..	24,29,81,834
36	Pensions Revenue	9,56,18,020	..	9,56,18,020
	CHARGED.—Interest payments Revenue	..	111,88,30,927	111,88,30,927
53	Chandigarh Capital	..	46,83,000	46,83,000
62	Broadcasting Capital	34,16,418	..	34,16,418
90	Public Works Revenue	4,25,27,067	..	4,25,27,067
92	Housing and Urban Development Revenue	..	5,97,332	5,97,332
	Capital	..	1,06,61,983	1,06,61,983
	TOTAL	134,85,58,060	113,47,80,889	248,33,38,949

THE CUSTOMS AND CENTRAL EXCISES LAWS (AMENDMENT) ACT, 1988

(S. 1-7-1988)

No. 29 of 1988

[18th May 1988]

An Act further to amend the Customs Act, 1962, the Central Excises and Salt Act, 1944 and the Customs and Excise Revenues Appellate Tribunal Act, 1986.

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

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (1) This Act may be called the Customs and Central Excises Laws (Amendment) Act, 1988.

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

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

CHAPTER II

AMENDMENTS TO THE CUSTOMS ACT, 1962

Amendment of section 3.

2. In section 3 of the Customs Act, 1962 (hereafter in this Chapter referred to as the Customs Act) clause (a) shall be re-lettered as clause (aa), and before clause (aa) as so re-lettered, the following clause shall be inserted, namely:—

52 of 1962.

“(a) Principal Collectors of Customs;”.

Amendment of section 28A.

3. Section 28A of the Customs Act shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

“(2) Where any notification under sub-section (1) in respect of any goods has been issued, the whole of the duty paid on such goods, or, as the case may be, the duty paid in excess of that payable on such goods, which would not have been paid if the said notification had

1. 1-7-1988, *Vide* Notification No. G.S.R. 752(E), dated 29-6-1988 (in respect of all sections except sections 4, 5, 11, 12 and 16), Gazette of India, Extraordinary, 1988, Pt. II; Sec.3 (i).

subordinate to him has passed any decision or order of the nature referred to in sub-section (5) of section 129D for the purpose of satisfying himself as to the correctness, legality or propriety of such decision or order and may pass such order thereon as he thinks fit.

(3) (a) No decision or order under this section shall be made so as to prejudicially affect any person unless such person is given a reasonable opportunity of making representation and if, he so desires, of being heard in his defence.

(b) Where the Board or, as the case may be, the Collector of Customs is of the opinion that any duty has not been levied or has been short-levied or short-paid or erroneously refunded, no order requiring the affected person to pay any duty not levied or paid, short-levied or short-paid or erroneously refunded shall be passed under this section unless such person is given notice within the time limit specified in section 28 to show cause against the proposed order.

(4) No proceedings shall be initiated under sub-section (1) or sub-section (2) in respect of any decision or order after the expiry of a period of six months from the date of communication of such decision or order:

Provided that in respect of any decision or order passed before the commencement of the Customs and Central Excises Laws (Amendment) Act 1988, the provisions of this sub-section shall have effect as if for the words "six months", the words "one year" were substituted.

(5) Any person aggrieved by any decision or order passed under sub-section (1) or sub-section (2) may appeal to the Customs and Excise Revenues Appellate Tribunal established under section 3 of the Customs and Excise Revenues Appellate Tribunal Act, 1986, against such decision or order.

6. After section 138B of the Customs Act, the following section shall be inserted, namely:—

138C. (1) Notwithstanding anything contained in any other law for the time being in force,—

(a) a micro film of a document or the reproduction of the image or images embodied in such micro film (whether enlarged or not); or

(b) a facsimile copy of a document; or

(c) a statement contained in a document and included in a printed material produced by a computer (hereinafter referred to as a "computer print out"), if the conditions mentioned in sub-section (2) and the other provisions contained in this section are satisfied in relation to the statement and the computer in question.

shall be deemed to be also a document for the purposes of this Act and the rules made thereunder and shall be admissible in any proceedings thereunder, without further proof or production of the original, as

Insertion of new section 138C. Admissibility of micro films, facsimile copies of documents and computer print outs as documents and as evidence.

21 of 1987

21 of 1987

62 of 1987

Section 138C

evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.

(2) The conditions referred to in sub-section (1) in respect of a computer print-out shall be the following, namely:—

(a) the computer print-out containing the statement was produced by the computer during the period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over that period by the person having lawful control over the use of the computer;

(b) during the said period, there was regularly supplied to the computer in the ordinary course of the said activities, information of the kind contained in the statement or of the kind from which the information so contained is derived;

(c) throughout the material part of the said period, the computer was operating properly or, if not, then any respect in which it was not operating properly or was out of operation during that part of that period was not such as to affect the production of the document or the accuracy of the contents; and

(d) the information contained in the statement reproduces or is derived from information supplied to the computer in the ordinary course of the said activities.

(3) Where over any period, the function of storing or processing information for the purposes of any activities regularly carried on over that period as mentioned in clause (a) of sub-section (2) was regularly performed by computers, whether—

(a) by a combination of computers operating over that period; or

(b) by different computers operating in succession over that period; or

(c) by different combinations of computers operating in succession over that period; or

(d) in any other manner involving the successive operation over that period, in whatever orders of one or more computers and one or more combinations of computers,

all the computers used for that purpose during that period shall be treated for the purposes of this section as constituting a single computer; and references in this section to a computer shall be construed accordingly.

(4) In any proceedings under this Act and the rules made thereunder where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say,—

(a) identifying the document containing the statement and describing the manner in which it was produced;

(b) giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer;

Amendment of section 153

Amendment of section 154

Insertion of new section 155A

Power to grant exemption from duty of excise

(c) dealing with any of the matters to which the conditions mentioned in sub-section (2) relate,

and purporting to be signed by a person occupying a responsible official position in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate) shall be evidence of any matter stated in the certificate; and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

(5) For the purposes of this section,—

(a) information shall be taken to be supplied to a computer if it is supplied thereto in any appropriate form and whether it is so supplied directly or (with or without human intervention) by means of any appropriate equipment;

(b) whether in the course of activities carried on by any official, information is supplied with a view to its being stored or processed for the purposes of those activities by a computer operated otherwise than in the course of those activities, that information, if duly supplied to that computer, shall be taken to be supplied to it in the course of those activities;

(c) a document shall be taken to have been produced by a computer whether it was produced by it directly or (with or without human intervention) by means of any appropriate equipment.

(S) Explanation.—For the purposes of this section,—

(a) "computer" means any device that receives, stores and processes data, applying stipulated processes to the information and supplying results of these processes; and

(b) any reference to information being derived from other information shall be a reference to its being derived therefrom by calculation, comparison or any other process.

Amendment of section 152.

7. In section 152 of the Customs Act, in clause (a), for the words "a Collector of Customs" the words "a Principal Collector of Customs or a Collector of Customs" shall be substituted.

Amendment of section 159.

8. In section 159 of the Customs Act, after the figures "25," the figures and letter "29A" shall be inserted.

CHAPTER III

AMENDMENTS TO THE CENTRAL EXCISES AND SALT ACT, 1944

Insertion of new section 5A.

9. After section 5 of the Central Excises and Salt Act, 1944 (hereafter in this Chapter referred to as the Central Excises Act), the following section shall be inserted, namely:—

1 of 1944.

Power to grant exemption from duty of excise.

"5A. (1) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification in the Official Gazette, exempt generally either absolutely or subject to such conditions (to be fulfilled before or after removal) as may be specified in the notification, excisable goods of any specified description from the whole or any part of the duty of excise leviable thereon:

Provided that, unless specifically provided in such notification, no exemption therein shall apply to excisable goods which are produced or manufactured—

(i) in a free trade zone and brought to any other place in India; or

(ii) by a hundred per cent. export-oriented undertaking and allowed to be sold in India.

Explanation.—In this proviso, “free trade zone” and “hundred per cent. export-oriented undertaking” shall have the same meanings as in *Explanation 2* to sub-section (1) of section 3.

(2) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by special order in each case, exempt from the payment of duty of excise, under circumstances of an exceptional nature to be stated in such order, any excisable goods on which duty of excise is leviable.

(3) An exemption under sub-section (1) or sub-section (2) in respect of any excisable goods from any part of the duty of excise leviable thereon (the duty of excise leviable thereon being hereinafter referred to as the statutory duty) may be granted by providing for the levy of a duty on such goods at a rate expressed in a form or method different from the form or method in which the statutory duty is leviable and any exemption granted in relation to any excisable goods in the manner provided in this sub-section shall have effect subject to the condition that the duty of excise chargeable on such goods shall in no case exceed the statutory duty.

Explanation.—“Form or method”, in relation to a rate of duty of excise means the basis, namely, valuation, weight, number, length, area, volume or other measure with reference to which the duty is leviable.

(4) Every notification issued under sub-rule (1) and every order made under sub-rule (2), of rule 8 of the Central Excise Rules, 1944, and in force immediately before the commencement of the Customs and Central Excises Laws (Amendment) Act, 1988 shall be deemed to have been issued or made under the provisions of this section and shall continue to have the same force and effect after such commencement until it is amended, varied, rescinded or superseded under the provisions of this section.

10. Section 11C of the Central Excises Act shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

“(2) Where any notification under sub-section (1) in respect of any goods has been issued, the whole of the duty of excise paid on such goods, or, as the case may be, the duty of excise paid in excess of that payable on such goods, which would not have been paid if the said notification had been in force, shall be refunded in accordance with the said notification:

Provided that the person claiming the refund of such duty or, as the case may be, excess duty, makes an application in this behalf to the Assistant Collector of Central Excise before the expiry of six months from the date of issue of the said notification

Amend-
ment of
section

11C

Amend-
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349

Amend-
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section
11C

and proves to the satisfaction of the Assistant Collector of Central Excise that the incidence of such duty had not been passed on to any other person."

Amendment of section 35E.

11. In section 35E of the Central Excises Act, after sub-section (4), the following sub-section shall be inserted, namely:—

"(5) The provisions of this section shall not apply to any decision or order in which the determination of any question having a relation to the rate of duty of excise or to the value of goods for the purposes of assessment of any duty is in issue or is one of the points in issue.

Explanation.—For the purposes of this sub-section, the determination of a rate of duty in relation to any goods or valuation of any goods for the purposes of assessment of duty includes the determination of a question—

(a) relating to the rate of duty of excise for the time being in force, whether under the Central Excise Tariff Act, 1985 or under any other Central Act providing for the levy and collection of any duty of excise, in relation to any goods on or after the 28th day of February, 1986; or

(b) relating to the value of goods for the purposes of assessment of any duty of excise in cases where the assessment is made on or after the 28th day of February, 1986; or

(c) whether any goods are excisable goods or whether the rate of duty of excise on any goods is nil; or

(d) whether any goods fall under a particular heading or sub-heading of the Schedule to the Central Excise Tariff Act, 1985, or the Additional Duties of Excise (Goods of Special Importance) Act, 1957 or the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978 or that any goods are

or not covered by a particular notification or order issued by the Central Government or the Board, as the case may be, granting total or partial exemption from duty; or

(e) whether the value of any goods for the purposes of assessment of duty of excise shall be enhanced or reduced by the addition or reduction of the amounts in respect of such matters as are specifically provided in this Act"

12. After section 35E of the Central Excises Act, the following section shall be inserted, namely:—

35EA. (1) The Board may, of its own motion or on the application of any aggrieved person or otherwise, call for and examine the record of any proceeding in which a Collector of Central Excise has passed any decision or order [not being a decision or order referred to in sub-section (5) of section 35E for the purpose of satisfying itself as to correctness, legality or propriety of such decision or order and may pass such order thereon as it thinks fit,

Insertion of new section 35EA. Powers of revision of Board or Collector of Central Excise in certain cases.

5 of 1986.

5 of 1986.

58 of 1957.

40 of 1978.

(2) The Collector of Central Excise may, of his own motion or on the application of any aggrieved person or otherwise call for and examine the record of any proceeding in which an adjudicating authority subordinate to him has passed any decision or order of the nature referred to in sub-section (1) of section 35B for the purpose of satisfying himself as to the correctness, legality and propriety of such decision or order and may pass such order thereon as he thinks fit.

(3) (a) No decision or order under this section shall be made as to prejudicially affect any person unless such person is given a reasonable opportunity of making representation and if he so desires of being heard in his defence.

(b) Where the Board or, as the case may be, the Collector of Central Excise is of the opinion that any duty of excise has not been levied or has been short-levied or short-paid or erroneously refunded, no order requiring the affected person to pay any duty not levied or paid, short-levied or short-paid or erroneously refunded shall be passed under this section unless such person is given notice within the time limit specified in section 11A, to show cause against the proposed order.

(4) No proceedings shall be initiated under sub-section (1) or sub-section (2) in respect of any decision or order after the expiry of a period of six months from the date of communication of such decision or order.

Provided that in respect of any decision or order passed before the commencement of the Customs and Central Excises Laws (Amendment) Act, 1988, the provisions of this sub-section shall have effect as if for the words "six months", the words "one year" were substituted.

(5) Any person aggrieved by any decision or order passed under sub-section (1) or sub-section (2) may appeal to the Customs and Excise Revenues Appellate Tribunal established under section 3 of the Customs and Excise Revenues Appellate Tribunal Act, 1986, against such decision or order.

62 of 1986.

13. In Chapter VIB of the Central Excises Act, after section 36A, the following section shall be inserted, namely:—

Insertion of new section 36B.

36B. (1) Notwithstanding anything contained in any other law for the time being in force,—

Admissibility of micro films, facsimile copies of documents and computer print outs as documents and as evidence.

(a) a micro film of a document or the reproduction of the image or images embodied in such micro film (whether enlarged or not); or

(b) a facsimile copy of a document; or

(c) a statement contained in a document and included in a printed material produced by a computer (hereinafter referred to as a "computer print out"), if the conditions mentioned in sub-section (2) and the other provisions contained in this section are satisfied in relation to the statement and the computer in question.

shall be deemed to be also a document for the purposes of this Act and the rules made thereunder and shall be admissible in any proceedings thereunder, without further proof or production of the original as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.

(2) The conditions referred to in sub-section (1) in respect of a computer print out shall be the following, namely:—

(a) the computer print out containing the statement was produced by the computer during the period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over that period by the person having lawful control over the use of the computer;

(b) during the said period, there was regularly supplied to the computer in the ordinary course of the said activities, information of the kind contained in the statement or of the kind from which the information so contained is derived;

(c) throughout the material part of the said period, the computer was operating properly or, if not, then any respect in which it was not operating properly or was out of operation during that part of that period was not such as to affect the production of the document or the accuracy of the contents; and

(d) the information contained in the statement reproduces or is derived from information supplied to the computer in the ordinary course of the said activities.

(3) Where over any period, the function of storing or processing information for the purposes of any activities regularly carried on over that period as mentioned in clause (a) of sub-section (2) was regularly performed by computers, whether—

(a) by a combination of computers operating over that period; or

(b) by different computers operating in succession over that period; or

(c) by different combinations of computers operating in succession over that period; or

(d) in any other manner involving the successive operation over that period in whatever order of one or more computers and one or more combinations of computers,

all the computers used for that purpose during that period shall be treated for the purposes of this section as constituting a single computer; and references in this section to a computer shall be construed accordingly.

(4) In any proceedings under this Act and the rules made thereunder where it is desired to give a statement in evidence by virtue

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of this section, a certificate doing any of the following things, that is to say—

(a) identifying the document containing the statement and describing the manner in which it was produced;

(b) giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer;

(c) dealing with any of the matters to which the conditions mentioned in sub-section (2) relate.

and purporting to be signed by a person occupying a responsible official position in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate) shall be evidence of any matter stated in the certificate; and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

(5) For the purposes of this section—

(a) information shall be taken to be supplied to a computer if it is supplied thereto in any appropriate form and whether it is so supplied directly or (with or without human intervention) by means of any appropriate equipment;

(b) whether in the course of activities carried on by any official, information is supplied with a view to its being stored or processed for the purposes of those activities by a computer operated otherwise than in the course of those activities, that information, if duly supplied to that computer, shall be taken to be supplied to it in the course of those activities;

(c) a document shall be taken to have been produced by a computer whether it was produced by it directly or (with or without human intervention) by means of any appropriate equipment.

Explanation.—For the purposes of this section,—

(a) "computer" means any device that receives, stores and processes data, applying stipulated processes to the information and supplying results of these processes; and

(b) any reference to information being derived from other information shall be a reference to its being derived therefrom by calculation, comparison or any other process.'

14. In section 37A of the Central Excises Act, in clause (a), for the words "a Collector of Central Excise", the words "a Principal Collector of Central Excise or a Collector of Central Excise" shall be substituted.

Amendment of section 37A.

15. In section 38 of the Central Excises Act, for sub-section (2), the following sub-section shall be substituted, namely:—

Amendment of section 38.

"(2) Every rule made under this Act and every notification issued under sub-section (1) of section 5A and section 11C shall be laid, as

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

CHAPTER IV

AMENDMENTS TO THE CUSTOMS AND EXCISE REVENUES APPELLATE TRIBUNAL ACT, 1986

Amendment of section 14.

16. In section 14 of the Customs and Excise Revenues Appellate Tribunal Act, 1986, in sub-section (1),—

62 of 1986.

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

"(bb) a decision or order passed by the Board or the Collector of Central Excise under section 35EA of the Central Excises Act;" and

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

"(e) a decision or order passed by the Board or the Collector of Customs under section 129DA of the Customs Act."

Amendment to section 14A.

Amendment to section 15.

28.

THE RAJGHAT SAMADHI (AMENDMENT) ACT, 1988

No. 30 of 1988

[18th May 1988]

[18th May, 1988.]

An Act further to amend the Rajghat Samadhi Act, 1951.

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

1. This Act may be called the Rajghat Samadhi (Amendment) Act, 1988.

Short title.

41 of 1951.

2. In section 4 of the Rajghat Samadhi Act, 1951 (hereinafter referred to as the principal Act), after sub-section (4), the following sub-section shall be inserted, namely:—

Amendment of section 4.

(5) It is hereby declared that the office of member of the Committee shall not disqualify its holder for being chosen as, or for being, a member of either House of Parliament."

Amendment to section 5.

3. In section 7 of the principal Act, in sub-section (1), after the words "The Committee may" the words "by notification in the Official Gazette," shall be inserted.

Amendment of section 7.

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

Insertion of new section 7A.

7A. Every rule and every bye-law 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 the bye-law or both Houses agree that the rule or bye-law should not be made, the rule or bye-law 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 bye-law."

Rules and bye-laws to be laid before Parliament.

THE COMPANIES (AMENDMENT) ACT, 1988

No. 31 OF 1988

[24th May, 1988.]

An Act further to amend the Companies Act, 1956.

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

Short title and commencement.

1. (1) This Act may be called the Companies (Amendment) Act, 1988.

Amendment of section 2.

(2) Section 66 of this Act in so far as it relates to the insertion of new Schedule XIV to the principal Act shall be deemed to have come into force on the 2nd day of April, 1987, and the remaining provisions of this Act, shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

2. In section 2 of the Companies Act, 1956 (hereinafter referred to as the principal Act), for clause (45), the following clauses shall be substituted, namely:—

Amendment to section 2.

(45) "secretary" means a Company Secretary within the meaning of clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980, and includes any other individual possessing the prescribed qualifications and appointed to perform the duties which may be performed by a secretary under this Act and any other ministerial or administrative duties;

Rules and bye-laws to be laid before Parliament.

(45A) "secretary in whole-time practice" means a secretary who shall be deemed to be in practice within the meaning of sub-section (2) of section 2 of the Company Secretaries Act, 1980 and who is not in full-time employment;

The provisions of sections 3, 57(a), 63 and 67 (in so far as it relate to the prescribing of fees) of this Act shall come into force on 15-7-1988 vide notification No. G.S.R. 781(E), dated 13-7-1988.

The provisions of sections 30(a) (in so far as it relates to inclusion of particulars with respect to the conservation of energy, technology absorption, and foreign exchange earnings and outgo) of this Act shall come into force on 1-7-1989 vide Notification No. G.S.R. 1028, dated 16-12-1988.

The provisions of sections 19, 31 (in so far as it relates to clauses (a) and (b)), 51 and 52 of this Act shall come into force on 17-4-1989 vide Notifn. No. G.S.R. 448(E), dt. 17-4-1989.

The provisions of sections 2 (in so far as it relates to the definition of company secretary in whole-time practice), 7, 10, 11, 12, 13, 14, 15, 17(a), 18, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30(b), 32, 33, 34, 35, 45, 46, 47, 48, 49, 50, 54, 55, 56, 58, and 66 (in so far as it relates to the insertion of new Schedule XIII) of this Act shall come into force on 15-6-1988 vide Notification No. S.O. 559(E), dated 10-6-1988.

The provisions of section 4(c) (in so far as it relates to prescription of qualifications and experience of the members of the Company Law Board) of this Act shall come into force on 4-8-1989 vide notification No. G.S.R. 793(E), dated 4-8-1989.

The provisions of section 9 of this Act shall come into force on 1-9-1989 vide Notification No. G.S.R. 788(E), dated 28-8-1989.

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

Substitution of new section for section 5.

5. For the purpose of any provision in this Act which enacts that an officer of the company who is in default shall be liable to any punishment or penalty, whether by way of imprisonment, fine or otherwise, the expression "officer who is in default" means all the following officers of the company, namely:—

Meaning of "officer who is in default".

- (a) the managing director or managing directors;
- (b) the whole-time director or whole-time directors;
- (c) the manager;
- (d) the secretary;
- (e) any person in accordance with whose directions or instructions the Board of directors of the company is accustomed to act;
- (f) any person charged by the Board (with the responsibility of complying with that provision:

Provided that the person so charged has given his consent in this behalf to the Board;

(g) where any company does not have any of the officers specified in clauses (a) to (c), any director or directors who may be specified by the Board in this behalf or where no director is so specified, all the directors.

Provided that where the Board exercises any power under clause (f) or clause (g), it shall, within thirty days of the exercise of such powers, file with the Registrar a return in the prescribed form.

In section 10B of the principal Act, (a) for sub-section (1), the following sub-sections shall be substituted, namely:—

Amendment of section 10B

(1) As soon as may be after the commencement of the Companies (Amendment) Act, 1988, the Central Government shall, by notification in the Official Gazette, constitute a Board to be called the Board of Company Law Administration.

(1A) The Company Law Board shall exercise and discharge such powers and functions as may be conferred on it, by or under this Act or any other law, and shall also exercise and discharge such other powers and functions of the Central Government under this Act or any other law as may be conferred on it by the Central Government, by notification in the Official Gazette under the provisions of this Act or that other law.

Amendment of section 10B

(2) to sub-section (2), the following proviso shall be added, namely:—

"Provided that the Central Government may, by notification in the Official Gazette, continue the appointment of the chairman or any other member of the Company Law Board function-

38 of 1949.

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

Explanation.—For the purposes of this sub-section, "chartered accountant in whole-time practice in India" means a chartered accountant within the meaning of clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 who is practising in India and who is not in full-time employment.

7. In section 43A of the principal Act,—

(a) in sub-section (1), the following Explanation shall be added at the end, namely:—

Explanation.—For the purposes of this sub-section, "bodies corporate" means public companies, or private companies which had become public companies by virtue of this section;

(b) in sub-section (1A), for the words "less than rupees one crore", the words "less than such amount as may be prescribed" shall be substituted;

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

"(1C) Where, after the commencement of the Companies (Amendment) Act, 1988, a private company accepts, after an invitation is made by an advertisement, or renews, deposits from the public, other than its members, directors or their relatives, such private company shall, on and from the date on which such acceptance or renewal, as the case may be, is first made after such commencement, become a public company and thereupon all the 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."

(d) sub-sections (6) and (7) shall be omitted;

(e) in sub-section (8),—

(i) in clause (a), the word "or" at the end shall be omitted;

(ii) clause (b) shall be omitted;

(iii) in clause (c), for the words "rupees one crore or more", the words, brackets, figure and letter "such amount as is referred to in sub-section (1A) or more" shall be substituted;

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

"(d) that the private company did not accept or renew deposits from the public."

(f) after sub-section (9) and before the Explanation, the following sub-section shall be inserted, namely:—

"(10) Subject to the other provisions of this Act, any reference in this section to accepting, after an invitation is made by

Amendment of section 43A.

to insert

to insert

an advertisement or renewing deposits from the public shall be construed as including a reference to accepting, after an invitation is made by an advertisement or renewing deposits from any section of the public and the provisions of section 67 shall, so far as may be, apply, as if the reference to invitation to the public to subscribe for shares or debentures occurring in that section, includes a reference to invitation from the public for acceptance of deposits.

(g) in the Explanation, after clause (b), the following clause shall be inserted, namely:—

(c) "deposit" has the same meaning as in section 58A.

Amendment of section 56.

8. In section 56 of the principal Act, in sub-section (3),—

(a) in the opening paragraph, for the words "by a prospectus", the words "by a memorandum containing such salient features of a prospectus as may be prescribed" shall be substituted;

(b) in the proviso, for the words "Provided that", the following shall be substituted, namely:—

Provided that a copy of the prospectus shall, on a request being made by any person before the closing of the subscription list, be furnished to him:

Provided further that

Amendment of section 58A.

9. In section 58A of the principal Act—

(a) in sub-section (5), in clause (a) for the words "terms of such deposit", the words "terms and conditions of such deposit" shall be substituted;

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

(3A) Every deposit accepted by a company after the commencement of the Companies (Amendment) Act, 1988, shall, unless renewed in accordance with the rules made under sub-section (1), be repaid in accordance with the terms and conditions of such deposit.

(c) after sub-section (8) and before the Explanation, the following subsections shall be inserted, namely:—

"(9) Where a company has failed to repay any deposit or part thereof in accordance with the terms and conditions of such deposit, the Company Law Board may, if it is satisfied, either on its own motion or on the application of the depositor, that it is necessary so to do to safeguard the interests of the company, the depositors or in the public interest, direct, by order, the company to make repayment of such deposit or part thereof forthwith or within such time and subject to such conditions as may be specified in the order.

Provided that the Company Law Board may, before making any order under this sub-section, give a reasonable opportunity of being heard to the company and the other persons interested in the matter.

(10) Whoever fails to comply with any order made by the Company Law Board under sub-section (9) shall be punishable with imprisonment which may extend to three years and shall also be liable to a fine of not less than rupees fifty for every day during which such non-compliance continues."

10. In section 73 of the principal Act,—

(a) sub-section (1) shall be renumbered as sub-section (1A) thereof, and before sub-section (1A) as so renumbered, the following sub-section shall be inserted, namely:—

"(1) Every company intending to offer shares or debentures to the public for subscription by the issue of a prospectus shall, before such issue, make an application to one or more recognised stock exchanges for permission for the shares or debentures intending to be so offered to be dealt with in the stock exchange or each such stock exchange.;"

(b) in sub-section (1A), as so renumbered,—

(i) for the words "application has been, or will be," the words, brackets and figure "application under sub-section (1) has been" shall be substituted;

(ii) the words "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," shall be omitted;

(c) in sub-section (2),—

(i) for the words "applied for as aforesaid", the words, brackets and figure "applied under sub-section (1)" shall be substituted;

(ii) for the portion beginning with the words "the directors of the company" and ending with the words "the expiry of the eighth day.:", the following shall be substituted, namely:—

"the company and every director of the company who is an officer in default shall, on and from the expiry of the eighth day, be jointly and severally liable to repay that money with interest at such rate, not less than four per cent, and not more than fifteen per cent, as may be prescribed, having regard to the length of the period of delay in making the repayment of such money.;"

(iii) the proviso shall be omitted;

(d) in sub-section (2A),—

(i) for the portion beginning with the words "the directors of the company" and ending with the words "the expiry of the eighth day.:", the following shall be substituted, namely:—

"the company and every director of the company who is an officer in default shall, on and from the expiry of the eighth day, be jointly and severally liable to repay that money with interest at such rate, not less than four per cent, and not more than fifteen per cent, as may be prescribed, having

regard to the length of the period of delay in making the repayment of such money.”;

(ii) the proviso shall be omitted.

Amend-
ment of
section
74

11. In section 74 of the principal Act,—

(a) for the words “the eighth day, or the tenth day”, the words “or the eighth day” shall be substituted;

(b) for the words “eighth, or tenth day”, the words “or eighth day” shall be substituted.

Substitu-
tion of
new head-
ing for
heading
above
section 80.

12. For the heading above section 80, the heading “Issue and Redemption of Preference Shares” shall be substituted.

Amend-
ment of
section
80.

13. In section 80 of the principal Act, after sub-section (5), the following sub-section shall be inserted, namely:—

“(5A) Notwithstanding anything contained in this Act, no company limited by shares shall, after the commencement of the Companies (Amendment) Act, 1988, issue any preference share which is irredeemable or is redeemable after the expiry of a period of ten years from the date of its issue.”

Inser-
tion of
new
section
80A.

14. After section 80 of the principal Act, and before the heading “Further Issue of Capital”, the following section shall be inserted, namely:—

“80A. (1) Notwithstanding anything contained in the terms of issue of any preference shares, every preference share issued before the commencement of the Companies (Amendment) Act, 1988,—

(a) which is irredeemable, shall be redeemed by the company within a period not exceeding five years from such commencement, or

(b) which is not redeemable before the expiry of ten years from the date of issue thereon in accordance with the terms of its issue and which had not been redeemed before such commencement, shall be redeemed by the company on the date on which such share is due for redemption or within a period not exceeding ten years from such commencement, whichever is earlier:

Provided that where a company is not in a position to redeem any such share within the period aforesaid and to pay the dividend, if any, due thereon (such shares being hereinafter referred to as unredeemed preference shares), it may, with the consent of the Company Law Board, on a petition made by it in this behalf and notwithstanding anything contained in this Act, issue further redeemable preference shares equal to the amounts due (including the dividend thereon), in respect of the unredeemed preference shares, and on the issue of such further redeemable preference shares, the unredeemed shares shall be deemed to have been redeemed.

Redemp-
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etc.

(2) Nothing contained in section 106 or any scheme referred to in sections 391 to 395, or in any scheme made under section 396, shall be deemed to confer power on any class of shareholders by resolution or on any court or the Central Government to vary or modify the provisions of this section.

(3) If any default is made in complying with the provisions of this section,—

(a) the company making such default shall be punishable with fine which may extend to one thousand rupees for every day during which such default continues; and

(b) every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.”.

15. In section 108 of the principal Act, in sub-clause (i) of clause (b) of sub-section (1A), for the words “two months”, the words “twelve months” shall be substituted.

Amendment of section 108.

16. For section 111 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 111.

“111. (1) If a company refuses, whether in pursuance of any power of the company under its articles or otherwise, to register the transfer of, or the transmission by operation of law of the right to, any shares or interest of a member in, or debentures of the company, it shall, within two months from the date on which the instrument of transfer, or the intimation of such transmission, as the case may be, was delivered to the company, send notice of the refusal to the transferee and the transferor or to the person giving intimation of such transmission, as the case may be, giving reasons for such refusal.

Power to refuse registration and appeal against refusal.

(2) The transferor or transferee, or the person who gave intimation of the transmission by operation of law, as the case may be, may appeal to the Company Law Board against any refusal of the company to register the transfer or transmission, or against any failure on its part within the period referred to in sub-section (1), either to register the transfer or transmission or to send notice of its refusal to register the same.

(3) An appeal under sub-section (2) shall be made within two months of the receipt of the notice of such refusal or, where no notice has been sent by the company, within four months from the date on which the instrument of transfer, or the intimation of transmission, as the case may be, was delivered to the company.

(4) If—

(a) the name of any person—

(i) is, without sufficient cause, entered in the register of members of a company, or

of transfer (ii) after having been entered in the register is, without sufficient cause, omitted therefrom; or

(b) default is made, or unnecessary delay takes place, in entering in the register the fact of any person having become, or ceased to be, a member [including a refusal under sub-section (1)].

the person aggrieved, or any member of the company, or the company, may apply to the Company Law Board for rectification of the register.

(5) The Company Law Board, while dealing with an appeal preferred under sub-section (2) or an application made under sub-section (4) may, after hearing the parties, either dismiss the appeal or reject the application, or by order—

(a) direct that the transfer or transmission shall be registered by the company and the company shall comply with such order within ten days of the receipt of the order; or

(b) direct rectification of the register and also direct the company to pay damages, if any, sustained by any party aggrieved.

(6) The Company Law Board, while acting under sub-section (5), may, at its discretion, make—

(a) such interim orders, including any orders as to injunction or stay, as it may deem fit and just;

(b) such orders as to costs as it thinks fit; and

(c) incidental or consequential orders regarding payment of dividend or the allotment of bonus or rights shares.

(7) On any application under this section, the Company Law Board—

(a) may decide any question relating to the title of any person who is a party to the application to have his name entered in, or omitted from, the register;

(b) generally, may decide any question which it is necessary or expedient to decide in connection with the application for rectification.

(8) The provisions of sub-sections (4) to (7) shall apply in relation to the rectification of the register of debenture-holders as they apply in relation to the rectification of the register of members.

(9) If default is made in giving effect to the orders of the Company Law Board under this section, the company and every officer of the company who is in default shall be punishable with fine which may extend to one thousand rupees, and with a further fine which may extend to one hundred rupees for every day after the first day after which the default continues.

(10) Every appeal or application to the Company Law Board under sub-section (2) or sub-section (4) shall be made by a petition in writing and shall be accompanied by such fee as may be prescribed.

(11) In the case of a private company which is not a subsidiary of a public company, where the right to any shares or interest of a member in, or debentures of, the company is transmitted by a sale thereof held by a court or other public authority, the provisions of sub-sections (4) to (7) shall apply as if the company were a public company:

Provided that the Company Law Board may, in lieu of an order under sub-section (5), pass an order directing the company to register the transmission of the right unless any member or members of the company specified in the order acquire the right aforesaid within such time as may be allowed for the purpose by the order, on payment to the purchaser of the price paid by him therefor or such other sum as the Company Law Board may determine to be a reasonable compensation for the right in all the circumstances of the case.

(12) If default is made in complying with any of 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 fifty rupees for every day during which the default continues.

(13) Nothing in this section and section 108, 109 or 110 shall prejudice any power of a private company under its articles to enforce the restrictions contained therein against the right to transfer the shares of such company.

17. In section 113 of the principal Act,—

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

“Every company, unless prohibited by any provision of law or of any order of any court, tribunal or other authority, shall, within three months after the allotment of any of its shares, debentures or debenture stocks, and within two months after the application for the registration of the transfer of any such shares, debentures or debenture stock, deliver, in accordance with the procedure laid down in section 53, the certificates of all shares, debentures and certificates of debenture stocks allotted or transferred:

Provided that the Company Law Board may, on an application being made to it in this behalf by the company, extend any of the periods within which the certificates of all debentures and debenture stocks allotted or transferred shall be delivered under this sub-section, to a further period not exceeding nine months, if it is satisfied that it is not possible for the company to deliver such certificates within the said periods.”

(b) in sub-section (3), for the word “Court”, the words “Company Law Board” shall be substituted.

18. In section 125 of the principal Act, in sub-section (1), for the proviso, the following proviso shall be substituted, namely:—

“Provided that the Registrar may allow the particulars and instruments or copy as aforesaid to be filed within thirty days next following the expiry of the said period of thirty days on payment of

Amend-
ment of
section
108

Amend-
ment of
section
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Amend-
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125.

such additional fee not exceeding ten times the amount of fee specified in Schedule X as the Registrar may determine, if the company satisfies the Registrar that it had sufficient cause for not filing the particulars and instrument or copy within that period."

Amendment of section 130.

19. In section 130 of the principal Act,—

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

"(1) The Registrar shall, in respect of each company, cause to be kept a register containing the particulars of all the charges requiring registration under this Part.

(1A) Every company shall forward to the Registrar for being entered in the register kept under sub-section (1) the particulars of all the charges requiring registration under this Part in such form and manner, and after payment of, such fees as may be prescribed.

(1B) The particulars of the charges referred to in sub-section (1) shall relate to,—

(a) in the case of a charge to the benefit of which the holders of a series of debentures are entitled, such particulars as are specified in sections 128 and 129;

(b) in the case of any other charge,—

(i) if the charge is a charge created by the company, the date of its creation, and if the charge was a charge existing on property acquired by the company, the date of the acquisition of the property;

(ii) the amount secured by the charge;

(iii) short particulars of the property charged; and

(iv) the persons entitled to the charge.

(1C) The pages of the register shall be consecutively numbered and the Registrar shall—

(a) cause to be kept in such register in the prescribed form, the documents of charges filed in such form and manner as may be prescribed; and

(b) sign or initial every page of such register.

(2) After entering the particulars of all the charges required under sub-section (1), the Registrar shall return the instrument, if any, or the verified copy thereof, as the case may be, filed in accordance with the provisions of this Part to the person filing it";

(b) in sub-section (3), for the words "a fee of one rupee", the words "such fee as may be prescribed" shall be substituted.

Amendment of section 149.

20. In section 149 of the principal Act, in sub-sections (1), (2) and (2A), for the words "one of the directors or the secretary", the words "one of the directors or the secretary or, where the company has not appointed a secretary, a secretary in whole-time practice" shall be substituted.

21. Sections 155 and 156 of the principal Act shall be omitted.

Omission of sections 155 and 156.

22. In sub-section (1) of section 159 of the principal Act, in the proviso, for the words "any of the two", the words "any of the five" shall be substituted.

Amendment of section 159.

23. In section 161 of the principal Act,—

Amendment of section 161.

(a) in sub-section (1),—

(i) the words "managing agent, secretaries and treasurers," shall be omitted;

(ii) the following proviso shall be inserted, namely:—

"Provided that where the annual return is filed by a company whose shares are listed on a recognised stock exchange, the copy of such annual return shall also be signed by a secretary in whole-time practice."

(b) in sub-section (2), for the words "both the signatories", the words "the signatories" shall be substituted.

24. In section 179 of the principal Act, in sub-section (1), for clauses (a) to (d), the following clauses shall be substituted, namely:—

Amendment of section 179.

(a) in the case of a public company having a share capital, by any member or members present in person or by proxy and holding shares in the company—

(i) which confer a power to vote on the resolution not being less than one tenth of the total voting power in respect of the resolution, or

(ii) on which an aggregate sum of not less than fifty thousand rupees has been paid up,

(b) in the case of a private company having a share capital, by one member having the right to vote on the resolution and present in person or by proxy if not more than seven such members are personally present, and by two such members present in person or by proxy, if more than seven such members are personally present,

(c) in the case of any other company, by any member or members present in person or by proxy and having not less than one tenth of the total voting power in respect of the resolution."

25. In section 198 of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely:—

Amendment of section 198.

"(4) Notwithstanding anything contained in sub-sections (1) to (3), but subject to the provisions of section 269, read with Schedule XIII, if, in any financial year, a company has no profits or its profits are inadequate, the company shall not pay to its directors, including any managing or whole-time director or manager, by way of remuneration any sum [exclusive of any fees payable to directors under sub-section (2) of section 309], except with the previous approval of the Central Government."

Amendment of section 205.

26. In section 205 of the principal Act,—

(a) in sub-section (2), in clause (d), for the words and figures “the Indian Income-tax Act, 1922 or the rules made thereunder”, the words “this Act or any rules made thereunder” shall be substituted;

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

“(2B) A company which fails to comply with the provisions of section 80A shall not, so long as such failure continues, declare any dividend on its equity shares.”

Amendment of section 205A.

27. In section 205A of the principal Act, in sub-section (1),—

(a) for the words “, or the warrant in respect thereof has not been posted”, the words “or claimed” shall be substituted;

(b) for the words “or in relation to which no dividend warrant has been posted”, the words “or unclaimed” shall be substituted;

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

Explanation.—In this sub-section, the expression “dividend which remains unpaid” means any dividend the warrant in respect thereof has not been encashed or which has otherwise not been paid or claimed.

Insertion of new section 206A.

28. After section 206 of the principal Act, the following section shall be inserted, namely:—

“206A. Where any instrument of transfer of shares has been delivered to any company for registration and the transfer of such shares has not been registered by the company, it shall, notwithstanding anything contained in any other provision of this Act,—

Right to dividend, rights shares and bonus shares to be held in abeyance pending registration of transfer of shares.

(a) transfer the dividend in relation to such shares to the special account referred to in section 205A unless the company is authorised by the registered holder of such share in writing to pay such dividend to the transferee specified in such instrument of transfer; and

(b) keep in abeyance in relation to such shares any offer of rights shares under clause (a) of sub-section (1) of section 81 and any issue of fully paid-up bonus shares in pursuance of sub-section (3) of section 205.”

Amendment of section 209.

29. In section 209 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) For the purposes of sub-sections (1) and (2), proper books of account shall not be deemed to be kept with respect to the matters specified therein,—

(a) if there are not kept such books as are necessary to give a true and fair view of the state of affairs of the company or branch office, as the case may be, and to explain its transactions; and

(b) if such books are not kept on accrual basis and according to the double entry system of accounting.”

Amendment of section 217.

30. In section 217 of the principal Act,—

(a) in subsection (1), after clause (d), the following clause shall be added, namely,—

(e) the conservation of energy, technology absorption, foreign exchange earnings and outgo, in such manner as may be prescribed.”;

(b) in sub-section (2A), in clause (a),—

(1) in sub-clause (i), for the words “thirty-six thousand rupees”, the words “such sum as may be prescribed” shall be substituted;

(2) in sub-clause (ii), for the words “three thousand rupees per month”, the words “such sum per month as may be prescribed; or” shall be substituted;

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

“(iii) if employed throughout the financial year or part thereof, was in receipt of remuneration in that year which, in the aggregate, or as the case may be, at a rate which, in the aggregate is in excess of that drawn by the managing director or whole-time director or manager and holds by himself or along with his spouse and dependent children, not less than two per cent., of the equity shares of the company.”.

31. In section 219 of the principal Act,—

(a) in sub-section (1),—

(i) in the opening paragraph, for the portion beginning with the words “to every holder of debentures” and ending with the words “being persons so entitled”, the following shall be substituted, namely:—

“to every trustee for the holders of any debentures issued by the company, whether such member or trustee is or is not entitled to have notices of general meetings of the company sent to him, and to all persons other than such members or trustees, being persons so entitled”;

(ii) in the proviso, in clause (b),—

(1) the word “or” occurring at the end of sub-clause

(ii) shall be omitted;

(2) the word “and” occurring at the end of sub-clause

(iii) shall be omitted;

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

“(iv) in the case of a company whose shares are listed on a recognised stock exchange, if the copies of the documents aforesaid are made available for inspection at its registered office during working hours for a period of twenty-one days before the date of the meeting and a statement containing the salient features of such documents in the prescribed form or copies of the

Amendment of section 219.

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documents aforesaid, as the company may deem fit, is sent to every member of the company and to every trustee for the holders of any debentures issued by the company not less than twenty-one days before the date of the meeting;

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

(2) Any member or holder of debentures of a company and any person from whom the company has accepted a sum of money by way of deposit shall, on demand, be entitled to be furnished free of cost, with a copy of the last balance sheet of the company and of every document required by law to be annexed or attached thereto, including the profit and loss account and the auditors' report."

(c) in sub-section (4), for the word "Court," the words "Company Law Board," shall be substituted.

Amendment of section 220.

32. In section 220 of the principal Act, in sub-section (2), after the words "does not adopt the balance sheet," the words "or is adjourned without adopting the balance sheet," shall be inserted.

Amendment of section 224.

33. In sub-section (1B) of section 224 of the principal Act,—

(a) in the opening paragraph, after the words "re-appoint any person", the words "who is in full-time employment elsewhere" shall be inserted;

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

'Provided that in the case of a firm of auditors, "specified number of companies shall be construed as the number of companies specified for every partner of the firm who is not in full-time employment elsewhere;'

Amendment of section 224A.

34. In sub-section (2) of section 224A of the principal Act, in clause (b) of the Explanation, the words, brackets and figures, "or in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980" shall be added at the end.

40 of 1980.

Amendment of section 233B.

35. In section 233B of the principal Act, 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 in accordance with the provisions of sub-section (1B) of section 224 and with the previous approval of the Central Government;

Provided that before the appointment of any auditor is made by the Board, a written certificate shall be obtained by the Board from the auditor proposed to be so appointed to the effect that the appointment, if made, will be in accordance with the provisions of sub-section (1B) of section 224."

Substitution of new section for section 235.

Investigation of the affairs of a company.

Amendment of section 236.

Amendment of section 237.

Amendment of section 241.

36. For section 235 of the principal Act, the following section shall be substituted, namely:—

“235. (1) The Central Government may, where a report has been made by the Registrar under sub-section (6) of section 234, or under sub-section (7) of that section, read with sub-section (6) thereof, appoint one or more competent persons as inspectors to investigate the affairs of a company and to report thereon in such manner as the Central Government may direct.

(2) Where— (a) in the case of a company having a share capital, an application has been received from not less than two hundred members or from members holding not less than one-tenth of the total voting power therein, and

(b) in the case of a company having no share capital, an application has been received from not less than one-fifth of the persons on the company's register of members,

the Company Law Board may, after giving the parties an opportunity of being heard, by order, declare that the affairs of the company ought to be investigated by an inspector or inspectors, and on such a declaration being made, the Central Government shall appoint one or more competent persons as inspectors to investigate the affairs of the company and to report thereon in such manner as the Central Government may direct.”

37. In section 236 of the principal Act,— (a) for the words, brackets, letters and figures “under clause (a) or (b) of section 235” the words, brackets and figures, “under sub-section (2) of section 235” shall be substituted;

(b) for the words “Central Government may require”, the words “Company Law Board may require” shall be substituted.

38. In section 237 of the principal Act, in clause (b),— (a) for the words “Central Government”, the words “Company Law Board” shall be substituted;

(b) in sub-clause (iii), the words “the managing agent, the secretaries and treasurers,” shall be omitted.

39. In sub-section (2) of section 241 of the principal Act,— (i) in clause (c), for the words, brackets and letters “under clause (a) or (b)”, the words, brackets and figure “in pursuance of the provisions of sub-section (2)” shall be substituted;

(ii) in clause (d), the word “and” at the end shall be omitted;

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

“(dd) shall, where the inspectors are appointed in pursuance of the provisions of sub-section (2) of section 235, furnish a copy of the report to the Company Law Board; and”

Amendment of section 245.

40. In sub-section (1) of section 245 of the principal Act, in sub-clause (ii) of clause (c), for the words, brackets and letters "under clause (a) or clause (b)", the words, brackets and figure "in pursuance of the provisions of sub-section (2)" shall be substituted.

Amendment of section 247.

41. In section 247 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) Without prejudice to its powers under this section, the Central Government shall appoint one or more inspectors under sub-section (1), if the Company Law Board, in the course of any proceedings before it, declares by an order that the affairs of the company ought to be investigated as regards the membership of the company and other matters relating to the company, for the purpose of determining the true persons—

(a) who are or have been financially interested in the success or failure, whether real or apparent, of the company; or

(b) who are or have been able to control or materially to influence the policy of the company."

Amendment of section 248.

42. In sub-section (1) of section 248 of the principal Act,—

(a) for the words "Where it appears to the Central Government", the words "Where it appears to the Central Government, or to the Company Law Board in any proceedings before it," shall be substituted;

(b) for the words "the Central Government may require", the words "the Central Government or the Company Law Board, as the case may be, may require" shall be substituted;

(c) for the words "to give the Central Government", the words "to give the Central Government or the Company Law Board, as the case may be," shall be substituted.

Amendment of section 250.

43. In section 250 of the principal Act,—

(a) in sub-section (1),—

(i) for the words and figures "Where it appears to the Central Government, whether in connection with any investigation under section 247, 248 or 249 or otherwise", the words and figures "Where it appears to the Company Law Board, whether on a reference made to it by the Central Government in connection with any investigation under section 247, 248 or 249 or on a complaint made by any person in this behalf" shall be substituted;

(ii) for the words "Central Government", at both the places where they occur, the words "Company Law Board" shall be substituted;

(b) for sub-sections (3) and (4), the following sub-sections shall be substituted, namely:—

"(3) Where a transfer of shares in a company has taken place and as a result thereof a change in the composition of the Board of directors of the company is likely to take place and the Company Law Board is of the opinion that any such change

would be prejudicial to the public interest, it may, by order, direct that—

(a) the voting rights in respect of those shares shall not be exercisable for such period not exceeding three years as may be specified in the order;

(b) no resolution passed or action taken to effect a change in the composition of the Board of directors before the date of the order shall have effect unless confirmed by the Company Law Board.

(4) Where the Company Law Board has reasonable ground to believe that a transfer of shares in a company is likely to take place whereby a change in the composition of the Board of directors of the company is likely to take place and the Company Law Board is of the opinion that any such change would be prejudicial to the public interest, the Company Law Board may, by order, direct that any transfer of shares in the company during such period not exceeding three years as may be specified in the order, shall be void;

(c) in sub-section (5), for the words "Central Government", the words "Company Law Board" shall be substituted;

(d) sub-sections (6) and (7) shall be omitted;

(e) in sub-section (8), for the words "Central Government", the words "Company Law Board" shall be substituted.

44. In section 251 of the principal Act, for the words "the Registrar or to the Central Government or to an inspector appointed by that Government" the words "Company Law Board or to the Central Government or to the Registrar or to an inspector appointed by Central Government" shall be substituted.

Amendment of section 251.

45. In sub-section (1) of section 257 of the principal Act, the following shall be added at the end, namely:—

Amendment of section 257.

"along with a deposit of five hundred rupees which shall be refunded to such person or, as the case may be, to such member, if the person succeeds in getting elected as a director."

46. For section 269 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 269.

269. (1) On and from the commencement of the Companies (Amendment) Act, 1988, every public company, or a private company which is a subsidiary of a public company having a paid-up share capital of such sum as may be prescribed shall have a managing or whole-time director or a manager.

Appointment of managing or whole-time director or manager to require Government approval only in certain cases.

(2) On and from the commencement of the Companies (Amendment) Act, 1988, no appointment of a person as a managing or whole-time director or a manager in a public company or a private company which is a subsidiary of a public company shall be made except with the approval of the Central Government unless such appointment is made in accordance with the conditions specified

in Parts I and II of Schedule XIII (the said Parts being subject to the provisions of Part III of that Schedule) and a return in the prescribed form is filed within ninety days from the date of such appointment.

(3) Every application seeking approval to the appointment of a managing or whole-time director or a manager shall be made to the Central Government within a period of ninety days from the date of such appointment.

(4) The Central Government shall not accord its approval to an application made under sub-section (3), if it is satisfied that—

(a) the managing or whole-time director or the manager appointed is, in its opinion, not a fit and proper person to be appointed as such or such appointment is not in the public interest; or

(b) the terms and conditions of the appointment of managing or whole-time director or the manager are not fair and reasonable.

(5) It shall be competent for the Central Government while according approval to an appointment under sub-section (3) to accord approval for a period lesser than the period for which the appointment is proposed to be made.

(6) If the appointment of a person as a managing or whole-time director or a manager is not approved by the Central Government under sub-section (4), the person so appointed shall vacate his office as such managing or whole-time director or manager 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.

(7) Where the Central Government *suo motu* or on any information received by it is, *prima facie*, of the opinion that any appointment made under sub-section (2) without the approval of the Central Government has been made in contravention of the requirements of Schedule XIII it shall be competent for the Central Government to refer the matter to the Company Law Board for decision.

(8) The Company Law Board shall, on receipt of a reference under sub-section (7), issue a notice to the company, the managing or whole-time director or the manager, as the case may be, and the director or other officer responsible for complying with the requirements of Schedule XIII, to show cause as to why such appointment shall not be terminated and the penalties provided under sub-section (10) shall not be imposed.

(9) The Company Law Board shall, if, after giving a reasonable opportunity to the company, the managing or whole-time director or the manager, or the officer who is in default, as the case may be, comes to the conclusion that the appointment has been made in contravention of the requirements of Schedule XIII, make an order declaring that a contravention of the requirements of Schedule XIII has taken place.

(10) On the making of an order by the Company Law Board under sub-section (9),

(a) the company shall be liable to a fine which may extend to five thousand rupees;

(b) every officer of the company who is in default shall be liable to a fine of ten thousand rupees, and

(c) the appointment of the managing or whole-time director or manager, as the case may be, shall be deemed to have come to an end and the person so appointed shall, in addition to being liable to pay a fine of ten thousand rupees, refund to the company the entire amount of salaries, commissions and perquisites received or enjoyed by him between the date of his appointment and the passing of such order.

(11) If a company contravenes the provisions of sub-section (10) or any direction given by the Company Law Board under that sub-section, every officer of the company who is in default and the managing or whole-time director or the manager, as the case may be, shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to a fine which may extend to fifty rupees for every day of default.

(12) All acts done by a managing or whole-time director or a manager, as the case may be, purporting to act in such capacity and whose appointment has been found to be in contravention of Schedule XIII, shall, if the acts so done are valid otherwise, be valid notwithstanding any order made by the Company Law Board under sub-section (9).

Explanation.—In this section “appointment” includes re-appointment and “whole-time director” includes a director in whole-time employment of the company.

47. In section 310 of the principal Act,—

(a) in the opening paragraph, for the portion beginning with the words “shall not have any effect” and ending with the words “approved by the Central Government”, the following shall be substituted, namely:—

“shall not have any effect—

(a) in cases where Schedule XIII is applicable, unless such increase is in accordance with the conditions specified in that Schedule; and

(b) in any other case, unless it is approved by the Central Government.”;

(b) in the proviso, for the words “two hundred and fifty rupees”, the words “such sum as may be prescribed” shall be substituted;

(c) after the proviso as so amended, the following proviso shall be inserted, namely:—

“Provided further that where in the case of any private company which converts itself into a public company or becomes

to from notice 112

to from notice 112

Amendment of section 310.

to from notice 112

to from notice 112

a public company under the provisions of section 43A, any provision relating to the remuneration of any director including a managing or whole-time director as contained in its memorandum or articles or in any agreement entered into by it or in any resolution passed by it in general meeting or by its Board of directors includes a provision for the payment of fee for each meeting of the Board or a Committee thereof attended by any such director which is in excess of the sum specified under the first proviso, such provision shall be deemed to be an increase in the remuneration of such director and shall not, after it ceases to be a private company, or, as the case may be, becomes a public company, have any effect unless approved by the Central Government.

Amend-
ment of
section
311.

48. In section 311 of the principal Act, for the portion beginning with the words "shall not have any effect" and ending with the words "approved by the Central Government", the following shall be substituted, namely,

shall not have any effect—
(a) in cases where Schedule XIII is applicable, unless such increase is in accordance with the conditions specified in that Schedule; and

(b) in any other case, unless it is approved by the Central Government.

Amend-
ment of
section
314.

49. In section 314 of the principal Act,—

(a) in sub-section (1), in clause (b), for the words "five hundred rupees or more", the words "such sum as may be prescribed" shall be substituted;

(b) in sub-section (1B),—

to them
section
311

(i) for the words "three thousand rupees", the words "such sum as may be prescribed" shall be substituted;

(ii) the proviso shall be omitted;

(c) in sub-section (2D), the words, brackets, figure and letter "or (2C), as the case may be," shall be omitted.

Amend-
ment of
section
350.

50. In section 350 of the principal Act, for the portion beginning with the words "at the rate specified for the assets" and ending with the words "or those rules or otherwise", the words and figures "at the rate specified in Schedule XIV" shall be substituted.

Amend-
ment of
section
370.

51. In section 370 of the principal Act,—

(a) in sub-section (1),—

(i) in the first proviso, for the words "ten per cent. of the aggregate of the subscribed capital of the lending company and its free reserves", the words "such percentage of the aggregate of the subscribed capital of the lending company and its free reserves as may be prescribed" shall be substituted;

(ii) in the second proviso,—

(1) in clause (a), for the words “thirty per cent. of the aggregate of the subscribed capital of the lending company and its free reserves”, the words “such percentage of the aggregate of the subscribed capital of the lending company and its free reserves as may be prescribed” shall be substituted;

(2) in clause (b), for the words “twenty per cent. of the aggregate of the subscribed capital of the lending company and its free reserves”, the words “such percentage of the aggregate of the subscribed capital of the lending company and its free reserves as may be prescribed” shall be substituted;

(iii) in Explanation 1, for the words, brackets and letters “thirty per cent. of the aggregate specified in clause (a), or, as the case may be, of twenty per cent. of the aggregate specified in clause (b), of the second proviso”, the words, brackets and letters “the percentage of the aggregate specified in clause (a), or, as the case may be, the percentage of the aggregate specified in clause (b) of the second proviso” shall be substituted;

(b) the following Explanation shall be added at the end, namely:—

Explanation.—For the purposes of this section, “loan” includes any deposit of money made by one company with another company, not being a banking company.

52. In section 372 of the principal Act,—

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

“(1) A company, whether by itself or together with its subsidiaries (hereafter in this section and section 373 referred to as the investing company), shall not be entitled to acquire, by way of subscription, purchase or otherwise (whether by itself, or by any individual or association of individuals in trust for it or for its benefit or on its account) the shares of any other body corporate except to the extent, and except in accordance with the restrictions and conditions, specified in this section.”;

(b) in sub-section (2),—

(i) for the opening paragraph, the following shall be substituted, namely:—

“The Board of directors of the investing company shall be entitled to invest in any shares of any other body corporate up to such percentage of the subscribed equity share capital, or the aggregate of the paid-up equity and preference share capital, of such other body corporate, whichever is less, as may be prescribed.”;

(ii) in the first proviso, for the words "thirty per cent. of the subscribed capital of the investing company", the words "such percentage of the aggregate of the subscribed capital and free reserves of the investing company, as may be prescribed" shall be substituted;

(iii) in the second proviso, for the words "twenty per cent. of the subscribed capital of the investing company", the words "such percentage of the aggregate of the subscribed capital and free reserves of the investing company as may be prescribed" shall be substituted;

(c) in sub-section (4), for the words "unless further it is approved", the words "unless previously approved" shall be substituted;

(d) in sub-section (14), for clause (d), the following clause shall be substituted, namely:—

"(d) to investments by a holding company in its subsidiary, other than a subsidiary within the meaning of clause (a) of sub-section (1) of section 4;"

Amend-
ment of
section
383A.

53. In section 383A of the principal Act,—

(a) in sub-section (1), for the words "having a paid-up capital of rupees twenty-five lakhs or more", the words "having such paid-up share capital as may be prescribed" shall be substituted;

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

"(1A) If a company fails to comply with the provisions of sub-section (1), the company and every officer of the company who is in default, shall be punishable with fine which may extend to fifty rupees for every day during which the default continues;

Amend-
ment of
section
383A.

Provided that in any proceedings against a person in respect of an offence under this sub-section, it shall be a defence to prove that all reasonable efforts to comply with the provisions of sub-section (1) were taken or that the financial position of the company was such that it was beyond its capacity to engage a whole-time secretary."

Amend-
ment of
section
408.

54. In section 408 of the principal Act,—

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

"(1) Notwithstanding anything contained in this Act, the Central Government may appoint such number of persons as the Company Law Board may, by order in writing, specify as being necessary to effectively safeguard the interests of the company or its shareholders or the public interests to hold office as directors thereof for such period, not exceeding three years on any one occasion, as it may think fit, if the Company Law Board, on a reference made to it by the Central Government or on an application of not less than one hundred members of the company or of the members of the company holding not less than

one-tenth of the total voting power therein is satisfied, after such inquiry as it deems fit to make, that it is necessary to make the appointment or appointments in order to prevent the affairs of the company being conducted either in a manner which is oppressive to any members of the company or in a manner which is prejudicial to the interests of the company or to public interest:

Provided that in lieu of passing an order as aforesaid, the Company Law Board may, if the company has not availed itself of the option given to it under section 265, direct the company to amend its articles in the manner provided in that section and make fresh appointments of directors in pursuance of the articles as so amended, within such time as may be specified in that behalf by the Company Law Board.

(2) In case the Company Law Board passes an order under the proviso to sub-section (1), it may, if it thinks fit, direct that until new directors are appointed in pursuance of the order aforesaid, such number of persons as the Company Law Board may, by order, specify as being necessary to effectively safeguard the interests of the company, or its shareholders or the public interest, shall hold office as additional directors of the company and on such directions, the Central Government shall appoint such additional directors.”;

(b) in sub-section (5), for the words “Central Government”, the words “Company Law Board” shall be substituted;

(c) in sub-section (6), the following shall be added at the end, namely:—

“and such directions may include directions to remove an auditor already appointed and to appoint another auditor in his place or to alter the articles of the company, and upon such directions being given, the appointment, removal or alteration, as the case may be, shall be deemed to have come into effect as if the provisions of this Act in this behalf have been complied with without requiring any further act or thing to be done”.

55. In section 462 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—

“(4A) Where an account referred to in sub-section (4) relates to a Government company in liquidation, the liquidator shall forward a copy thereof,—

(a) to the Central Government, if that Government is a member of the Government company; or

(b) to any State Government, if that Government is a member of the Government company; or

(c) to the Central Government and any State Government, if both the Governments are members of the Government company.”.

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ment of
section
462.

Amend-
ment of
section
551.

56. In section 551 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) Where a statement referred to in sub-section (2) relates to a Government company in liquidation, the liquidator shall forward a copy thereof,—

(a) to the Central Government, if that Government is a member of the Government company; or

(b) to any State Government, if that Government is a member of the Government company; or

(c) to the Central Government and any State Government, if both the Governments are members of the Government company.”

Amend-
ment of
section
610.

57. In section 610 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (a), for the words “a fee of one rupee”, the words “such fee as may be prescribed” shall be substituted;

(ii) in clause (b), for the words beginning with “a fee of five rupees” and ending with the words “copy of extract”, the words “such fees as may be prescribed” shall be substituted;

(b) in sub-section (2), after the word “Court”, wherever it occurs, the words “or the Company Law Board” shall be inserted.

Amend-
ment of
section
619A.

58. In section 619A of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) The provisions of this section shall, so far as may be, apply to a Government company in liquidation as they apply to any other Government company.”

Insertion
of new
section
621A.

59. After section 621 of the principal Act, the following section shall be inserted, namely:—

‘621A. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act (whether committed by a company or any officer thereof), not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may, either before or after the institution of any prosecution, be compounded by—

(a) the Company Law Board; or

(b) where the maximum amount of fine which may be imposed for such offence does not exceed five thousand rupees, by the Regional Director,

on payment or credit, by the company or the officer, as the case may be, to the Central Government of such sum as that Board or the Regional Director, as the case may be, may specify:

Provided that the sum so specified shall not, in any case, exceed the maximum amount of the fine which may be imposed for the offence so compounded:

Composi-
tion of
certain
offences

Provided further that in specifying the sum required to be paid or credited for the compounding of an offence under this sub-section, the sum, if any, paid by way of additional fee under sub-section (2) of section 611 shall be taken into account.

(2) Nothing in sub-section (1) shall apply to an offence committed by a company or its officer within a period of three years from the date on which a similar offence committed by it or him was compounded under this section.

Explanation.—For the purposes of this section,—

(a) any second or subsequent offence committed after the expiry of a period of three years from the date on which the offence was previously compounded shall be deemed to be a first offence;

(b) “Regional Director” means a person appointed by the Central Government as a Regional Director for the purposes of this Act.

(3) Every Regional Director shall exercise the powers to compound an offence, subject to the direction, control and supervision of the Company Law Board.

(4) (a) Every application for the compounding of an offence shall be made to the Registrar who shall forward the same, together with his comments thereon, to the Company Law Board or the Regional Director, as the case may be.

(b) Where any offence is compounded under this section, whether before or after the institution of any prosecution, an intimation thereof shall be given by the company to the Registrar within seven days from the date on which the offence is so compounded.

(c) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, either by the Registrar or by any shareholder of the company or by any person authorised by the Central Government against the offender in relation to whom the offence is so compounded.

(d) Where the composition of any offence is made after the institution of any prosecution, such composition shall be brought by the Registrar in writing, to the notice of the Court in which the prosecution is pending and on such notice of the composition of the offence being given, the company or its officer in relation to whom the offence is so compounded shall be discharged.

(5) The Company Law Board or the Regional Director, as the case may be, while dealing with a proposal for the compounding of an offence for a default in compliance with any provision of this Act which requires a company or its officer to file or register with, or deliver or send to, the Registrar any return, account or other document, may, direct by order, if it or he thinks fit to do so, any officer or other employee of the company to file or register with, or on payment of the fee, and the additional fee, required to be paid under section 611, such return, account or other document within such time as may be specified in the order.

(6) Any officer or other employee of the company who fails to comply with any order made by the Company Law Board or the Regional Director under sub-section (5) shall be punishable with imprisonment for a term which may extend to six months, or with fine not exceeding five thousand rupees, or with both.

(7) Notwithstanding anything contained in the Code of Criminal Procedure, 1973,—

(a) any offence which is punishable under this Act with imprisonment or with fine, or with both, shall be compoundable with the permission of the Court, in accordance with the procedure laid down in that Act for compounding of offences;

(b) any offence which is punishable under this Act with imprisonment only or with imprisonment and also with fine shall not be compoundable.

(8) No offence specified in this section shall be compounded except under and in accordance with the provisions of this section.

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Amend-
ment of
section
634A.

60. In section 634A of the principal Act, the words and figures "under section 17, section 18, section 19, section 79, section 141 or section 186" shall be omitted.

Amend-
ment of
section
635.

61. In sub-section (4) of section 635 of the principal Act, the words and figures "under section 17, section 18, section 19, section 79 or section 186" shall be omitted.

Amend-
ment of
section
637.

62. In section 637 of the principal Act,—

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

"(1) The Central Government may, by notification in the Official Gazette, and subject to such conditions, restrictions and limitations as may be specified therein, delegate any of its powers or functions under this Act (other than the power to appoint a person as public trustee under section 153A and the power to make rules), to such authority or officer as may be specified in the notification."

(b) in sub-section (2),—

(i) the words, brackets and letter "clause (b) of" shall be omitted;

(ii) the figures "409" shall be omitted;

(c) sub-section (2A) shall be omitted.

Amend-
ment of
section
637A.

63. In section 637A of the principal Act, in sub-section (2), the words "not exceeding one hundred rupees" shall be omitted.

Amend-
ment of
section

64. In section 640A of the principal Act, and in the heading before that section, for the word "Court", the words "Court or the Company Law Board" shall be substituted.

640A.
Amend-
ment of
section
640B.

65. In section 640B of the principal Act, in sub-section (1), for the figures and word "346, 352, 408 or 409", the figures and word "346 or 352" shall be substituted.

66. After Schedule XII of the principal Act, the following Schedules shall be inserted, namely:—

Insertion
of new
Schedules
XIII and
XIV.

SCHEDULE XIII

(See sections 198, 269, 310 and 311)

CONDITIONS TO BE FULFILLED FOR THE APPOINTMENT OF A
MANAGING OR WHOLE-TIME DIRECTOR OR A MANAGER
WITHOUT THE APPROVAL OF THE CENTRAL GOVERNMENT

PART I

Appointments

1. No person shall be eligible for appointment as a managing or whole-time director or a manager of a company unless he satisfies the following conditions, namely:—

(a) he had not been sentenced to imprisonment for any period, or to a fine exceeding one thousand rupees, for the conviction of an offence under any of the following Acts, namely:—

- (i) The Indian Stamp Act, 1899 (2 of 1899),
- (ii) The Central Excises and Salt Act, 1944 (1 of 1944),
- (iii) The Imports and Exports (Control) Act, 1947 (18 of 1947),
- (iv) The Industries (Development and Regulation) Act, 1951 (65 of 1951),
- (v) The Prevention of Food Adulteration Act, 1954 (37 of 1954),
- (vi) The Essential Commodities Act, 1955 (10 of 1955),
- (vii) The Companies Act, 1956 (1 of 1956),
- (viii) The Wealth-tax Act, 1957 (27 of 1957),
- (ix) The Income-tax Act, 1961 (43 of 1961),
- (x) The Customs Act, 1962 (52 of 1962),
- (xi) The Gold (Control) Act, 1968 (45 of 1968),
- (xii) The Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969),
- (xiii) The Foreign Exchange Regulation Act, 1973 (46 of 1973);

(b) he had not been detained for any period under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974:

52 of 1974.

Provided that where the Central Government has given its approval to the appointment of a person convicted or detained under sub-paragraph (a) or sub-paragraph (b), as the case may be, no further approval of the Central Government shall be necessary for the subsequent appointment of that person if he had not been so convicted or detained subsequent to such approval.

(c) he has completed the age of thirty years and has not attained the age of sixty-five years or the age of retirement, if any, specified by the company, whichever is earlier;

(d) he is not a managing or whole-time director or manager in any other company or a managing partner of a firm, or is not in whole-time employment anywhere;

(e) he is a citizen of India and is resident in India;

(f) if the company had suffered loss or had inadequate profits during the financial year immediately preceding the financial year in which the appointment is made (hereinafter referred to as the preceding financial year) or in any of the three financial years in the four financial years immediately preceding the preceding financial year.

PART II

Remuneration

Remuneration.

2. Subject to the ceiling limits laid down in section 198 and section 309, remuneration by way of salary, commission or both and perquisites shall not exceed the following limits, namely:—

Salary:—Rupees 1,80,000/- per annum or rupees 15,000/- per month including dearness and all other allowances calculated in the following scale:—

where the effective capital of the Company is—	monthly salary payable shall not exceed—
(i) less than 20 lakhs rupees	rupees 6,000/-
(ii) rupees 20 lakhs or more but less than rupees 50 lakhs	rupees 7,500/-
(iii) rupees 50 lakhs or more but less than rupees 1 crore	rupees 9,000/-
(iv) rupees 1 crore or more but less than rupees 3 crores	rupees 11,000/-
(v) rupees 3 crores or more but less than rupees 5 crores	rupees 13,000/-
(vi) rupees 5 crores or more	rupees 15,000/-

Explanation.—For the purposes of this Part, “effective capital” means the aggregate of the paid-up share capital amount, if any, for the time being standing to the credit of share premium account, reserves and surplus, long-term loans and deposits received, if any, as reduced by the aggregate of any investments, accumulated losses and preliminary expenses, not written off.

Commission:—

(i) In case commission is also payable along with the salary, it shall not be more than one per cent. of the net profits of the company, subject to a ceiling of fifty per cent. of the salary or Rs. 90,000/- per annum, whichever is less.

(ii) Where it is proposed to pay remuneration by way of commission only, such commission shall not exceed the following limits, namely:—

where the effective capital of the company is—	Commission payable annually shall not exceed—
(a) less than 20 lakhs rupees	rupees 1,08,000/-
(b) rupees 20 lakhs or more but less than rupees 50 lakhs	rupees 1,35,000/-
(c) rupees 50 lakhs or more but less than rupees 1 crore	rupees 1,62,000/-
(d) rupees 1 crore or more but less than rupees 3 crores	rupees 1,98,000/-
(e) rupees 3 crores or more but less than rupees 5 crores	rupees 2,34,000/-
(f) rupees 5 crores or more	rupees 2,70,000/-

Perquisites:—

Perquisites may be allowed in addition to salary and/or commission or both. In the case of persons posted at Bombay, Calcutta, Delhi and Madras, perquisites shall be restricted to an amount equal to the annual salary or Rs. 1,35,000/- per annum, whichever is less. In the case of persons posted at other places, perquisites shall be restricted to an amount equal to the annual salary or Rs. 1,15,000/- per annum, whichever is less. Unless the context otherwise requires, perquisites are classified into three categories 'A', 'B' and 'C' as follows:

Category—A

This will comprise house rent allowance, leave travel concession, medical reimbursement, fees on clubs and personal accident insurance. These may be provided for as under:—

(i) **Housing I.**—The expenditure by companies on hiring unfurnished accommodation for the appointee will be subject to the following ceilings:—

- (a) **Bombay, Calcutta, Delhi and Madras:**
Sixty per cent. of the salary, over and above ten per cent. payable by the appointee.
- (b) **other places:**

Fifty per cent. of the salary, over and above ten per cent. payable by the appointee.

Housing II.—In case the accommodation is owned by the company, ten per cent. of the salary of the appointee shall be deducted by the company.

Housing III.—In case no accommodation is provided by the company, the appointee shall be entitled to house-rent allowance subject to the ceilings laid down in *Housing I.*

Explanation.—The expenditure incurred by companies on gas, electricity, water and furnishings shall be valued as per the Income-tax Rules, 1962. This shall, however, be subject to a ceiling of ten per cent. of the salary of the person proposed to be appointed.

(ii) *Medical reimbursement*—Expenses incurred for the person to be appointed and the family subject to a ceiling of one month's salary in a year or three months' salary over a period of three years.

(iii) *Leave Travel Concession*—For the person proposed to be appointed and his family, once in a year incurred in accordance with any rules specified by the company.

(iv) *Club fees*—Fees of clubs subject to a maximum of two clubs. This will not include admission and life membership fees.

(v) *Personal Accident Insurance*—Premium not to exceed Rs. 1,000/- per annum.

Explanation.—For the purposes of Category-A, "family" means the spouse, the dependant children and dependant parents of the appointee.

Category—B

Contribution to provident fund, superannuation fund or annuity fund will not be included in the computation of the ceiling on perquisites to the extent these either singly or put together are not taxable under the Income-tax Act. Gratuity payable should not exceed half a month's salary for each completed year of service, subject to a ceiling of rupees 1,00,000.

Category—C

Provision of car for use on company's business and telephone at residence will not be considered as perquisites. Personal long distance calls on telephone and use of car for private purpose shall be billed by the company to the individual appointee concerned.

PART III

Provisions applicable to Parts I and II of this Schedule

1. The appointment and remuneration referred to in Parts I and II of this Schedule shall be subject to approval by a resolution of the share holders in general meeting.
2. The resolution referred to in paragraph (1) shall, in the event of loss or inadequacy of profits, provide for a cut of ten per cent. of the salary proposed to be paid under Part II of this Schedule.
3. The auditor or the secretary of the company or where the company has not appointed a secretary, a secretary in whole-time practice shall certify that the requirements of this Schedule have been complied with and such certificate shall be incorporated in the return filed with the Registrar under sub-section (2) of section 269.

SCHEDULE XIV

(See sections 205 and 350)

Rates of depreciation

Nature of assets	Single Shift		Double Shift		Triple Shift	
	W.D.V.	S.L.M.	W.D.V.	S.L.M.	W.D.V.	S.L.M.
1	2	3	4	5	6	7
I. (a) Buildings (other than factory buildings) N.E.S.D.	5	1.63	..	..	..	..
(b) Factory Buildings	10	3.34	..	..	..	..
(c) Purely temporary erections such as wooden structures	100	100	..	..	..	..
II. Plant and Machinery						
(i) General rate applicable to plant and machinery (not being a ship) for which no special rate has been prescribed under (ii) below	15	5.15	22.5	8.09	30	11.31
(ii) Special rates						
A.						
1 Cinematograph films—Machinery used in the production and exhibition of cinematograph films [N.E.S.D.]—						
(a) Recording equipment, reproducing equipment, developing machines, printing machines, editing machines, synchronisers and studio lights except bulbs						
(b) Projecting equipment of film exhibiting concerns						
2 Cycles [N.E.S.D.]	20	7.07				
3 Electrical machinery—Batteries; X-Ray and electro-therapeutic apparatus and accessories thereto [N.E.S.D.]						
4 Juice boiling pans (karhais) [N.E.S.D.]						
5 Motor-cars, motor cycles, scooters and other mopeds [N.E.S.D.]						
6 Electrically operated vehicles including battery powered or fuel cell powered vehicles [N.E.S.D.]						

1	2	3	4	5	6	7
7 Sugarcane crushers (indigenous kolhus and belans) (N.E.S.D.)						
8 Glass manufacturing concerns except direct fire glass melting furnaces—Recuperative and regenerative glass melting furnaces	20 per cent.	7.07 per cent.	30 per cent.	11.31 per cent.	40 per cent.	16.21 per cent.
9 Machinery used in the manufacture of electronic goods or components						
B						
1 Aeroplanes—Aircraft, aerial photographic apparatus (N.E.S.D.)						
2 Concrete pipes manufacture—Moulds (N.E.S.D.)						
3 Drum container manufacture—Dies (N.E.S.D.)						
4 Earth-moving machinery employed in heavy construction works, such as dams, tunnels, canals, etc. (N.E.S.D.)						
5 Glass manufacturing concerns except direct fire glass melting furnaces—Moulds (N.E.S.D.)						
6 Moulds in iron foundaries (N.E.S.D.)	30 per cent.	11.31 per cent.				
7 Mineral oil concerns—Field operations (above ground)—Portable boilers, drilling tools, well-head tanks, rigs, etc. (N.E.S.D.)						
8 Mines and quarries—Portable underground machinery and earth-moving machinery used in open cast mining (N.E.S.D.)						
9 Motor buses and motor lorries other than those used in a business of running them on hire (N.E.S.D.)						
9A Motor tractors, harvesting combines (N.E.S.D.)						
10 Patterns, dies and templates (N.E.S.D.)						
11 Ropeway structures—Ropeways, ropes and trestle sheaves and connected parts (N.E.S.D.)						

	1	2	3	4	5	6	7
12 Shoe and other leather goods factories—Wooden lasts used in the manufacture of shoes.		30	11.31	45	18.96	60	29.05
		per cent.	per cent.	per cent.	per cent.	per cent.	per cent.
C							
1 Aeroplanes—Aero-engines (N.E.S.D.)							
2 Motor buses, motor lorries and motor taxis used in a business of running them on hire (N.E.S.D.)							
3 Rubber and plastic goods factories—Moulds (N.E.S.D.)		40	16.21				
		per cent.	per cent.				
4 Data processing machines including computers (N.E.S.D.)							
5 Gas cylinders including valves and regulators (N.E.S.D.)							
D							
1 Artificial silk manufacturing machinery wooden parts							
2 Cinematograph films—Bulbs of studio lights							
3 Floor mills—Rollers							
4 Glass manufacturing concerns—Direct fire glass melting furnaces							
5 Iron and Steel industries—Rolling mill rolls							
6 Match factories—Wooden match frames							
7 Mineral oil concerns—(a) Plant used in field operations (below ground)—Distribution-returnable packages (b) Plant used in field operations (below ground) but not including assets used in field operations (distribution)—Kerbside pumps including underground tanks and fittings		100	100				
		per cent.	per cent.				
8 Mines and quarries— (a) Tubs, winding ropes, haulage ropes and sand stowing pipes (b) Safety lamps							
9 Salt works—Salt pans, reservoirs and condensers, etc., made of earthy, sandy or clay material or any other similar material							
10 Sugar works—Rollers							

	2	3	4	5	6	7
III. FURNITURE AND FITTINGS—						
1 General rates NESD	10	3.34	..	..	..	..
	per cent.	per cent.				
2 Rate for furniture and fittings used in hotels, restaurants and boarding houses; schools, colleges and other educational institutions, libraries; welfare centres; meeting halls, cinema houses; theatres and circuses; and for furniture and fittings let out on hire for use on the occasion of marriages and similar functions NESD	15	5.15	..	..	..	..
	per cent.	per cent.				
IV. SHIPS—						
1 Ocean-going ships—						
(i) Fishing vessels with wooden hull NESD	27.05	10	..	..	..	..
	per cent.	per cent.				
(ii) Dredgers, tugs, barges, survey launches and other similar ships used mainly for dredging purposes NESD	19.8	7	..	..	..	..
	per cent.	per cent.				
(iii) Other ships NESD	14.6	5	..	..	..	..
	per cent.	per cent.				
2 Vessels ordinarily operating on inland waters—						
(i) Speed boats NESD	20	7.07	..	..	..	..
	per cent.	per cent.				
(ii) Other vessels NESD	10	3.34	..	..	..	..
	per cent.	per cent.				

W.D.V. : means Written Down Value.

S.L.M. : means Straight Line Method.

Notes

1. "buildings" include roads, bridges, culverts, wells and tube-wells.
2. "factory buildings" does not include offices, godowns, officers' and employees' quarters, roads, bridges, culverts, wells and tube-wells.
3. "speed boat" means a motor boat driven by a high speed internal combustion engine capable of propelling the boat at a speed exceeding 24 kilometres per hour in still water and so designed that when running at a speed it will plane, i.e., its bow will rise from the water.
4. Where, during any financial year, any addition has been made to any asset, or where any asset has been sold, discarded, demolished or destroyed, the depreciation on such assets shall be calculated on a *pro rata* basis from the date of such addition or, as the case may be, up to the date on which such asset has been sold, discarded, demolished or destroyed.
5. The following information should also be disclosed in the accounts:
 - (i) depreciation methods used; and
 - (ii) depreciation rates or the useful lives of the assets, if they are different from the principal rates specified in the Schedule.
6. The calculations of the extra depreciation for double shift working and for triple shift working shall be made separately in the proportion which the number of days for which the concern worked double shift or triple shift, as the case may be, bears to the normal number of working days during the year. For this purpose, the normal number of working days during the year shall be deemed to be—
 - (a) in the case of a seasonal factory or concern, the number of days on which the factory or concern actually worked during the year or 180 days, whichever is greater;
 - (b) in any other case, the number of days on which the factory or concern actually worked during the year or 240 days, whichever is greater.

The extra shift depreciation shall not be charged in respect of any item of machinery or plant which has been specifically, excepted by inscription of the letters "N.E.S.D." (meaning "No Extra Shift Depreciation") against it in sub-items above and also in respect of the following items of machinery and plant to which the general rate of depreciation of 15 per cent. applies—

- (1) Accounting machines.
- (2) Air-conditioning machinery including room air-conditioners.
- (3) Building contractor's machinery.
- (4) Calculating machines.
- (5) Electrical machinery—switchgear and instruments, transformers and other stationary plant and wiring and fitting of electric light and fan installations.
- (6) Hydraulic works, pipelines and sluices.

(7) Locomotives, rolling stocks, tramways and railways used by concerns, excluding railway concerns.

(8) Mineral oil concerns—field operations:

(a) Boilers.

(b) Prime movers.

(c) Process plant.

(d) Storage tanks (above ground).

(e) Pipelines (above ground).

(f) Jetties and dry docks.

(9) Mineral oil concerns—field operations (distribution)—kerbside pumps, including underground tanks and fittings.

(10) Mineral oil concerns—refineries

(a) Boilers.

(b) Prime movers.

(c) Process plant.

(11) Mines and quarries:

(a) Surface and underground machinery (other than electrical machinery and portable underground machinery).

(b) Head-gears.

(c) Rails.

(d) Boilers.

(e) Shafts and inclines.

(f) Tramways on the surface.

(12) Neo-post franking machines.

(13) Office machinery.

(14) Overhead cables and wires.

(15) Railway sidings.

(16) Refrigeration plant, containers, etc. (other than racks).

(17) Ropeway structures:

(a) Trestle and station steel works.

(b) Driving and tension gearing.

(18) Salt works—Reservoirs, condensers, salt pans, delivery channels and piers if constructed of masonry, concrete, cement, asphalt or similar materials; barges and floating plant; piers, quays and jetties; and pipelines for conveying brine if constructed of masonry, concrete, cement, asphalt or similar materials.

(19) Surgical instruments.

(20) Tramways electric and tramways run by internal combustion engines—permanent way: cars—car trucks, car bodies, electrical equipment and motors; tram cars including engines and gears.

(21) Typewriters.

(22) Weighing machines.

(23) Wireless apparatus and gear, wireless appliances and accessories.

Conse-
quential
amend-
ments

67. The provisions of the principal Act specified in column 2 of the Table below shall stand amended in the manner specified in the corresponding entries in column 3 of the said Table.

TABLE

Serial Number	Provision	Amendment
1	Section 43	In the proviso, for the word "Court" at both the places where it occurs, the words "Company Law Board" shall be substituted.
2	Section 49	In sub-section (10), for the word "Court", the words "Company Law Board" shall be substituted.
3	Section 118	(a) In sub-section (1),— (i) in clause (a), for the words "the sum of one rupee", the words "such sum as may be prescribed" shall be substituted; (ii) in clause (b), for the words "six annas", the words "such sum as may be prescribed" shall be substituted; (b) in sub-section (3) for the word "Court", the words "Company Law Board" shall be substituted.
4	Section 144	(a) in sub-section (2), for the words "one rupee", the words "such sum as may be prescribed" shall be substituted; (b) in sub-section (4), for the word "Court", the words "Company Law Board" shall be substituted.
5	Section 163	(a) In sub-section (2), in clause (b), for the words "a fee of one rupee", the words "such sum as may be prescribed" shall be substituted; (b) in sub-section (3), in clause (b), for the words "six annas", the words "such sum as may be prescribed" shall be substituted; (c) in sub-section (6), for the word "Court", the words "Company Law Board" shall be substituted.
6	Section 167	For the words "Central Government", wherever they occur, the words "Company Law Board" shall be substituted.
7	Section 188	In sub-section (5), for the word "Court" at both the places where it occurs, the words "Company Law Board" shall be substituted.
8	Section 196	(a) In sub-section (2), for the words "six annas", the words "such sum as may be prescribed" shall be substituted; (b) in sub-section (4), for the word "Court", the words "Company Law Board" shall be substituted.

1	2	3
9. Section 225	In the proviso to sub-section (3), for the word "Court" at both the places where it occurs, the words "Company Law Board" shall be substituted.	
10. Section 284	In the proviso to sub-section (4), for the word "Court" at both the places where it occurs, the words "Company Law Board" shall be substituted.	
11. Section 304	In clause (b) of sub-section (2), for the word "Court", the words "Company Law Board" shall be substituted.	
12. Section 307	In sub-section (9), for the word "Court", the words "Company Law Board" shall be substituted.	
13. Chapter IVA of Part VI.	For the words "High Court" wherever they occur, the words "Company Law Board" shall be substituted.	
14. Chapter VI of Part VI.	In the sub-heading "A. Powers of Court" and in sections 397 to 405, for the word "Court" wherever it occurs, the words "Company Law Board" shall be substituted.	
15. Section 407	<p>(a) In sub-section (1),—</p> <p>(i) in the opening paragraph, the words "of a Court" shall be omitted;</p> <p>(ii) in clause (b), for the word "Court", the words "Company Law Board" shall be substituted;</p> <p>(b) in sub-section (3), for the words "No Court shall grant leave", the words "No leave shall be granted" shall be substituted.</p>	
16. Section 409	For the words "Central Government" wherever they occur, the words "Company Law Board" shall be substituted.	
17. Section 614	In sub-section (1), for the word "Court", the words "Company Law Board" shall be substituted.	
18. Schedule XI	For the word "Court" wherever it occurs, the words "Company Law Board" shall be substituted.	

Transi-
tional
provi-
sions.

68. (1) Any matter or proceeding which, immediately before the commencement of the Companies (Amendment) Act, 1988, was pending before any Court shall, notwithstanding that such matter or proceeding would be heard by the Company Law Board after such commencement, be continued and disposed of by that Court after such commencement in accordance with the provisions of the principal Act as they stood immediately before such commencement.

(2) Any matter or proceeding which, immediately before the commencement of the Companies (Amendment) Act, 1988, was pending before the Company Law Board by virtue of any notification issued by the Central Government shall, unless such matter or proceeding would be heard by the Company Law Board after such commencement, be heard and disposed of by the Central Government.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT)
[ACT, 1988

No. 32 of 1988

[25th May, 1988.]

An Act further to amend the Code of Criminal Procedure, 1973.

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

1. This Act may be called the Code of Criminal Procedure (Amendment) Act, 1988.

Short
title.

2 of 1974.

2. In section 105 of the Code of Criminal Procedure, 1973,—

Amend-
ment of
section
105.

(a) in sub-section (1), for the portion beginning with the words "issued by it" and ending with the words "in the said territories", the following shall be substituted, namely:—

"issued by it shall be served or executed at any place,—

(i) 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;

(ii) in any country or place outside India in respect of which arrangements have been made by the Central Government with the Government of such country or place for service or execution of summons or warrant in relation to criminal matters (hereafter in this section referred to as the contracting State), it may send such summons or warrant in duplicate in such form, directed to such Court, Judge or Magistrate, and sent to such authority for transmission, as the Central Government may, by notification, specify in this behalf";

(b) in sub-section (2),—

(i) for the words "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", the following shall be substituted, namely:—

"issued by—

(I) a Court in any State or area in India outside the said territories;

(II) a Court, Judge or Magistrate in a contracting State, it shall cause the same to be served or executed”;

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

“Provided that in a case where a summons or search warrant received from a contracting State has been executed, the documents or things produced or things found in the search shall be forwarded to the Court issuing the summons or search warrant through such authority as the Central Government may, by notification, specify in this behalf.”.

State
title
Amendment
to
section
103

An Act to amend the Code of Criminal Procedure, 1973. It is enacted by Parliament in the thirtieth year of the said Government of India as follows:—

1. This Act may be called the Code of Criminal Procedure (Amendment) Act, 1988.

2. In section 103 of the Code of Criminal Procedure, 1973—

(a) in sub-section (1), for the words “to be served” the words “to be served or executed” shall be substituted; and

“issued by it shall be served or executed as if it were issued by it” shall be substituted in any place—

(i) within the local jurisdiction of a Court in any State or area in India outside the local jurisdiction of such Court and such summons or warrants in duplicate by post or otherwise to the presiding officer of that Court to be served or executed and where any summons or warrant is so served or executed, the Court so served or executed shall be deemed to have served or executed the same as if it were a Magistrate in the State or area in which it is so served or executed;

(ii) in any country or place outside India in respect of which arrangements have been made by the Government of India for the service of summons or warrants to be served or executed in that country or place, if any such summons or warrant is so served or executed, the Court so served or executed shall be deemed to have served or executed the same as if it were a Magistrate in the State or area in which it is so served or executed;

(b) in sub-section (1),

(i) for the words “to be served or executed” the words “to be served or executed or to be served or executed in a contracting State” shall be substituted; and

(b) in clause (b) of the opening portion for the words "leave" and "leave" shall be substituted by the words "leave" and "leave" respectively.

THE EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS (AMENDMENT) ACT, 1988

No. 33 of 1988

[2nd June, 1988.]

An Act further to amend the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and the Indian Penal Code,

Enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Act, 1988.

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 and different dates may be appointed for different provisions of this Act.

19 of 1952

2. In section 1 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the principal Act), for sub-section (4), the following sub-section shall be substituted, namely:—

Amendment of section 1.

"(4) Notwithstanding anything contained in sub-section (3) of this section or sub-section (1) of section 16, where it appears to the Central Provident Fund Commissioner, whether on an application made to him in this behalf or otherwise, that the employer and the majority of employees in relation to any establishment have agreed that the provisions of this Act should be made applicable to the establishment, he may, by notification in the Official Gazette, apply the provisions of this Act to that establishment on and from the date of such agreement or from any subsequent date specified in such agreement."

Amendment to section 16.

3. In section 2 of the principal Act,—

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

Amendment of section 2.

(aa) "authorised officer" means the Central Provident Fund Commissioner, Additional Central Provident Fund Commissioner, Deputy Provident Fund Commissioner, Regional Provident Fund Commissioner or such other officer as may be authorised by the Central Government, by notification in the Official Gazette;";

1. 1-8-1988; vide Notification No. S.O. 716(E), dated 15-7-1988 (in respect of sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, 18, 19, 21, 24, 26 and 27) Gazette of India, Extraordinary, 1988, Pt. II; sec. 3(ii).

2. 1-10-1988; vide Notification No. S.O. 883(E), dated 22-9-1988 (in respect of section 23) Gazette of India, Extraordinary, 1988, Part II, sec. 3(ii).

(b) in clause (b), in the opening portion, for the words "on leave with wages", the words "on leave or on holidays with wages in either case" shall be substituted;

(c) in clause (j), for the words "and includes any person employed by or through a contractor in or in connection with the work of the establishment", the following shall be substituted, namely:—

"and includes any person—

(i) employed by or through a contractor in or in connection with the work of the establishment;

(ii) engaged as an apprentice, not being an apprentice engaged under the Apprentices Act, 1961, or under the standing orders of the establishment;"

52 of 1961.

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

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

(kb) "Recovery Officer" means any officer of the Central Government, State Government or the Board of Trustees constituted under section 5A, who may be authorised by the Central Government, by notification in the Official Gazette, to exercise the powers of a Recovery Officer under this Act;

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

(m) "Tribunal" means the Employees' Provident Funds Appellate Tribunal constituted under section 7D.

Amendment of section 5A.

4. In section 5A of the principal Act,—

(a) in sub-section (1),—

(i) in the opening portion, for the word "persons", the words "persons as members" shall be substituted;

(ii) in clause (a), for the words "a Chairman", the words "a Chairman and a Vice-Chairman" shall be substituted;

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

(aa) the Central Provident Fund Commissioner, ex officio";

(iv) in clauses (d) and (e), for the words "six persons", the words "ten persons" shall be substituted;

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

"(5) The Central Board shall maintain proper accounts of its income and expenditure in such form and in such manner as

the Central Government may, after consultation with the Comptroller and Auditor-General of India, specify in the Scheme.

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

(7) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Central 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, documents and papers and inspect any of the offices of the Central Board.

(8) The accounts of the Central 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 to the Central Board which shall forward the same to the Central Government along with its comments on the report of the Comptroller and Auditor-General.

(9) It shall be the duty of the Central Board to submit also to the Central Government an annual report of its work and activities and the Central Government shall cause a copy of the annual report, the audited accounts together with the report of the Comptroller and Auditor-General of India and the comments of the Central Board thereon to be laid before each House of Parliament.

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

5AA. (1) The Central Government may, by notification in the Official Gazette, constitute, with effect from such date as may be specified therein, an Executive Committee to assist the Central Board in the performance of its functions.

(2) The Executive Committee shall consist of the following persons as members, namely:—

(a) a Chairman appointed by the Central Government from amongst the members of the Central Board;

(b) two persons appointed by the Central Government from amongst the persons referred to in clause (b) of sub-section (1) of section 5A;

(c) three persons appointed by the Central Government from amongst the persons referred to in clause (c) of sub-section (1) of section 5A;

Amend
to mem
order
of

Insertion
of new
section
5AA.

Executive
Commit-
tee.

(d) three persons representing the employers elected by the Central Board from amongst the persons referred to in clause (d) of sub-section (1) of section 5A;

(e) three persons representing the employees elected by the Central Board from amongst the persons referred to in clause (e) of sub-section (1) of section 5A;

(f) the Central Provident Fund Commissioner, *ex officio*.

(3) The terms and conditions subject to which a member of the Central Board may be appointed or elected to the Executive Committee and the time, place and procedure of the meetings of the Executive Committee shall be such as may be provided for in the Scheme."

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

(a) in sub-section (2) for the words "as many Deputy Provident Fund Commissioners, Regional Provident Fund Commissioners and other officers whose maximum monthly salary is not less than five hundred rupees as it may consider necessary", the words "a Financial Adviser and Chief Accounts Officer" shall be substituted;

(b) in sub-section (3), after the words "may appoint" the words "subject to the maximum scale of pay, as may be specified in the Scheme, as many Additional Central Provident Fund Commissioners, Deputy Provident Fund Commissioners, Regional Provident Fund Commissioners, Assistant Provident Fund Commissioners and" shall be inserted;

(c) in sub-section (4),—

(i) for the words "the post of the Central Provident Fund Commissioner or Deputy Provident Fund Commissioner or Regional Provident Fund Commissioner or to any other post under the Central Board carrying a maximum monthly salary of not less than five hundred rupees", the words and letters "the post of the Central Provident Fund Commissioner or an Additional Central Provident Fund Commissioner or a Financial Adviser and Chief Accounts Officer or any other post under the Central Board carrying a scale of pay equivalent to the scale of pay of any Group 'A' or Group 'B' post under the Central Government" shall be substituted;

(ii) in the proviso, in clause (b), in sub-clause (ii), for the words and figures "Class I or Class II post" the words and letters "Group 'A' or Group 'B' post" shall be substituted;

(d) in sub-section (6), for the words "Deputy Provident Fund Commissioner and Regional Provident Fund Commissioner", the words "and the Financial Adviser and Chief Accounts Officer" shall be substituted;

(e) for sub-section (7), the following sub-section shall be substituted, namely:—

"(7) (a) The method of recruitment, salary and allowances, discipline and other conditions of service of the Additional Central Provident Fund Commissioner, Deputy Provident Fund

Amendment of section 5D.

Commissioner, Regional Provident Fund Commissioner, Assistant Provident Fund Commissioner and other officers and employees of the Central Board shall be such as may be specified by the Central Board in accordance with the rules and orders applicable to the officers and employees of the Central Government drawing corresponding scales of pay:

Provided that where the Central Board is of the opinion that it is necessary to make a departure from the said rules or orders in respect of any of the matters aforesaid, it shall obtain the prior approval of the Central Government.

(b) In determining the corresponding scales of pay of officers and employees under clause (a), the Central Board shall have regard to the educational qualifications, method of recruitment, duties and responsibilities of such officers and employees under the Central Government and in case of any doubt, the Central Board shall refer the matter to the Central Government whose decision thereon shall be final."

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

"5DD. No act done or proceeding taken by the Central Board or the Executive Committee constituted under section 5AA or the State Board shall be questioned on the ground merely of the existence of any vacancy in or any defect in the constitution of the Central Board or the Executive Committee or the State Board, as the case may be."

Insertion of new section 5DD.

Acts and proceedings of the Central Board or its Executive Committee or the State Board not to be invalidated on certain grounds.

8. In section 5E of the principal Act, for the words "The Central Board may, with the prior approval of the Central Government and a State Board may, with the prior approval of the State Government concerned, delegate to its Chairman or to any of its officers", the words "The Central Board may delegate to the Executive Committee or to the Chairman of the Board or to any of its officers and a State Board may delegate to its Chairman or to any of its officers" shall be substituted.

Amendment of section 5E.

9. In section 6 of the principal Act,—

Amendment of Section 6.

- (a) in the opening paragraph,—
 - (i) for the words "six and a quarter per cent.", the words "eight and one-third per cent." shall be substituted;
 - (ii) for the words and brackets "if any employee so desires and if the Scheme makes provision therefor, by an amount not exceeding eight and one-third per cent. of his basic wages,

dearness allowance and retaining allowance (if any)", the words and brackets "if any employee so desires, be an amount, exceeding eight and one-third per cent. of his basic wages, dearness allowance and retaining allowance (if any), subject to the condition that the employer shall not be under an obligation to pay any contribution over and above his contribution payable under this section" shall be substituted;

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

"Provided that in its application to any establishment or class of establishments which the Central Government, after making such inquiry as it deems fit, may, by notification in the Official Gazette specify, this section shall be subject to the modification that for the words "eight and one-third per cent.", at both the places where they occur, the words "ten per cent." shall be substituted."

Amend-
ment of
section
7A.

10. In section 7A of the principal Act,—

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

(1) The Central Provident Fund Commissioner, any Additional Central Provident Fund Commissioner, any Deputy Provident Fund Commissioner, any Regional Provident Fund Commissioner, or any Assistant Provident Fund Commissioner may, by order,—

(a) in a case where a dispute arises regarding the applicability of this Act to an establishment, decide such dispute; and

(b) determine the amount due from any employer under any provision of this Act, the Scheme or the Family Pension Scheme or the Insurance Scheme, as the case may be,

and for any of the aforesaid purposes may conduct such inquiry as he may deem necessary.;"

(b) in sub-section (3),—

(i) the words "determining the amount due from any employer" shall be omitted;

(ii) for the words "the employer", the words "the employer concerned" shall be substituted;

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

"(3A) Where the employer, employee or any other person required to attend the inquiry under sub-section (1) fails to attend such inquiry without assigning any valid reason or fails to produce any document or to file any report or return when called upon to do so, the officer conducting the inquiry may decide the applicability of the Act or determine the amount due from any employer, as the case may be, on the basis of the

evidence adduced during such inquiry and other documents available on record.”;

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

“(4) Where an order under sub-section (1) is passed against an employer *ex parte*, he may, within three months from the date of communication of such order, apply to the officer for setting aside such order and if he satisfies the officer that the show cause notice was not duly served or that he was prevented by any sufficient cause from appearing when the inquiry was held, the officer shall make an order setting aside his earlier order and shall appoint a date for proceeding with the inquiry:

Provided that no such order shall be set aside merely on the ground that there has been an irregularity in the service of the show cause notice if the officer is satisfied that the employer had notice of the date of hearing and had sufficient time to appear before the officer.

Explanation.—Where an appeal has been preferred under this Act against an order passed *ex parte* and such appeal has been disposed of otherwise than on the ground that the appellant has withdrawn the appeal, no application shall lie under this sub-section for setting aside the *ex parte* order.

(5) No order passed under this section shall be set aside on any application under sub-section (4) unless notice thereof has been served on the opposite party.”.

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

7B. (1) Any person aggrieved by an order made under sub-section (1) of section 7A, but from which no appeal has been preferred under this Act, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the order was made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of such order may apply for a review of that order to the officer who passed the order:

Provided that such officer may also on his own motion review his order if he is satisfied that it is necessary so to do on any such ground.

(2) Every application for review under sub-section (1) shall be filed in such form and manner and within such time as may be specified in the Scheme.

(3) Where it appears to the officer receiving an application for review that there is no sufficient ground for a review, he shall reject the application.

(4) Where the officer is of opinion that the application for review should be granted, he shall grant the same:

inserted to clause 10 of section 7A

Insertion of new section 7B to 7Q.

Review of orders passed under sections 7A.

inserted to clause 10 of section 7A

Provided that—

(a) no such application shall be granted without previous notice to all the parties before him to enable them to appear and be heard in support of the order in respect of which a review is applied for, and

(b) no such application shall be granted on the ground of discovery of new matter or evidence which the applicant alleges was not within his knowledge or could not be produced by him when the order was made, without proof of such allegation.

(5) No appeal shall lie against the order of the officer rejecting an application for review, but an appeal under this Act shall lie against an order passed under review as if the order passed under review were the original order passed by him under section 7A.

Determination of escaped amount.

7C. Where an order determining the amount due from an employer under section 7A or section 7B has been passed and if the officer who passed the order—

(a) has reason to believe that, by reason of the omission or failure on the part of the employer to make any document or report available, or to disclose fully and truly, all material facts necessary for determining the correct amount due from the employer, any amount so due from such employer for any period has escaped his notice;

(b) has, in consequence of information in his possession, reason to believe that any amount to be determined under section 7A or section 7B has escaped from his determination for any period notwithstanding that there has been no omission or failure as mentioned in clause (a) on the part of the employer,

Insertion of new section 7C in Act 33 of 1952.

he may, within a period of five years from the date of communication of the order passed under section 7A or section 7B, re-open the case and pass appropriate orders re-determining the amount due from the employer in accordance with the provisions of this Act.

Provided that no order re-determining the amount due from the employer shall be passed under this section unless the employer is given a reasonable opportunity of representing his case.

Employees' Provident Funds Appellate Tribunal

7D. (1) The Central Government may, by notification in the Official Gazette, constitute one or more Appellate Tribunals to be known as the Employees' Provident Funds Appellate Tribunal to exercise the powers and discharge the functions conferred on such Tribunal by this Act and every such Tribunal shall have jurisdiction in respect of establishments situated in such area as may be specified in the notification constituting the Tribunal.

(2) A Tribunal shall consist of one person only to be appointed by the Central Government.

(3) A person shall not be qualified for appointment as the Presiding Officer of a Tribunal (hereinafter referred to as the Presiding Officer) unless he is, or has been, or is qualified to be, a Judge of a High Court.

7E. The Presiding Officer of a Tribunal shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-two years, whichever is earlier.

Term of office.

7F. The Presiding Officer may, by notice in writing under his hand addressed to the Central Government, resign his office:

Resignation.

Provided that the Presiding Officer shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

7G. The salary and allowances payable to, and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Presiding Officer shall be such as may be prescribed:

Salary and allowances and other terms and conditions of service of Presiding Officer.

Provided that neither the salary and allowances nor the other terms and conditions of service of the Presiding Officer shall be varied to his disadvantage after his appointment.

7H. (1) The Central Government shall determine the nature and categories of the officers and other employees required to assist a Tribunal in the discharge of its functions and provide the Tribunal with such officers and other employees as it may think fit.

Staff of Tribunal.

(2) The officers and other employees of a Tribunal shall discharge their functions under the general superintendence of the Presiding Officer.

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

7I. (1) Any person aggrieved by a notification issued by the Central Government, or an order passed by the Central Government or any authority, under the proviso to sub-section (3), or sub-section (4), of section 1, or section 3, or sub-section (1) of section 7A, or section 7B [except an order rejecting an application for review referred to in sub-section (5) thereof], or section 7C, or section 14B, may prefer an appeal to a Tribunal against such notification or order.

Appeals to Tribunal.

(2) Every appeal under sub-section (1) shall be filed in such form and manner, within such time and be accompanied by such fees, as may be prescribed.

7J. (1) A Tribunal shall have power to regulate its own procedure in all matters arising out of the exercise of its powers or of the discharge of its functions including the places at which the Tribunal shall have its sittings.

Procedure of Tribunals.

(2) A Tribunal shall, for the purpose of discharging its functions, have all the powers which are vested in the officers referred to in section 7A and any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections

Procedure of Tribunals.

Right of appellant to take assistance of legal practitioner and of Government etc., to appoint presenting officers.

Orders of Tribunal.

Filling up of vacancies.

Finality of orders constituting a Tribunal.

193 and 228, and for the purpose of section 196, of the Indian Penal Code and the Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

7K. (1) A person preferring an appeal to a Tribunal under this Act may either appear in person or take the assistance of a legal practitioner of his choice to present his case before the Tribunal.

(2) The Central Government or a State Government or any other authority under this Act may authorise one or more legal practitioners or any of its officers to act as presenting officers and every person so authorised may present the case with respect to any appeal before a Tribunal.

7L. (1) A Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the order appealed against or may refer the case back to the authority which passed such order with such directions as the Tribunal may think fit for a fresh adjudication or order as the case may be, after taking additional evidence, if necessary.

(2) A Tribunal may, at any time within five years from the date of its order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (1) and shall make such amendment in the order if the mistake is brought to its notice by the parties to the appeal:

Provided that an amendment which has the effect of enhancing the amount due from, or otherwise increasing the liability of, the employer shall not be made under this sub-section, unless the Tribunal has given notice to him of its intention to do so and has allowed him a reasonable opportunity of being heard.

(3) A Tribunal shall send a copy of every order passed under this section to the parties to the appeal.

(4) Any order made by a Tribunal finally disposing of an appeal shall not be questioned in any court of law.

7M. If, for any reason, a vacancy occurs in the office of the Presiding Officer, the Central Government shall appoint another person in accordance with the provisions of this Act, to fill the vacancy and the proceedings may be continued before a Tribunal from the stage at which the vacancy is filled.

7N. No order of the Central Government appointing any person as the Presiding Officer shall be called in question in any manner, and no act or proceeding before a Tribunal shall be called in question in any manner on the ground merely of any defect in the constitution of such Tribunal.

45 of 1860.

2 of 1974.

70. No appeal by the employer shall be entertained by a Tribunal unless he has deposited with it seventy-five per cent of the amount due from him as determined by an officer referred to in section 7A.

Deposit of amount due, on filing appeal.

Provided that the Tribunal may, for reasons to be recorded in writing, waive or reduce the amount to be deposited under this section.

7P. All applications which are pending before the Central Government under section 19A before its repeal shall stand transferred to a Tribunal exercising jurisdiction in respect of establishments in relation to which such applications had been made as if such applications were appeals preferred to the Tribunal.

Transfer of certain applications to Tribunals.

7Q. The employer shall be liable to pay simple interest at the rate of twelve per cent per annum or at such higher rate as may be specified in the Scheme on any amount due from him under this Act from the date on which the amount has become so due till the date of its actual payment:

Interest payable by the employer.

Provided that higher rate of interest specified in the Scheme shall not exceed the lending rate of interest charged by any scheduled bank.

12. In section 8 of the principal Act, for the words "by the Central Provident Fund Commissioner or such other officer as may be authorised by him by notification in the Official Gazette, in this behalf, in the same manner as an arrears of land revenue", the words figures, and letters "in the manner specified in sections 8B to 8G" shall be substituted.

Amendment of section 8.

13. In section 8A of the principal Act, in sub-section (1), the words "on the basis of such contribution" shall be omitted.

Amendment of section 8A.

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

Insertion of new sections 8B to 8G.

'8B. (1) Where any amount is in arrear under section 8, the authorised officer may issue to the Recovery Officer a certificate under his signature specifying the amount of arrears and the Recovery Officer, on receipt of such certificate, shall proceed to recover the amount specified therein from the establishment or, as the case may be, the employer by one or more of the modes mentioned below:—

Issue of certificate to the Recovery Officer.

(a) attachment and sale of the movable or immovable property of the establishment or, as the case may be, the employer;

(b) arrest of the employer and his detention in prison;

(c) appointing a receiver for the management of the movable or immovable properties of the establishment or, as the case may be, the employer;

proceed to income no such gain assest

Recovery Officer to whom certificate is to be forwarded.

Validity of certificate and amendment thereof.

Provided that the attachment and sale of any property under this section shall first be effected against the properties of the establishment and where such attachment and sale is insufficient for recovering the whole of the amount of arrears specified in the certificate, the Recovery Officer may take such proceedings against the property of the employer for recovery of the whole or any part of such arrears.

(2) The authorised officer may issue a certificate under sub-section (1) notwithstanding that proceedings for recovery of the arrears by any other mode have been taken.

8C. (1) The authorised officer may forward the certificate referred to in section 8B to the Recovery Officer within whose jurisdiction the employer—

(a) carries on his business or profession or within whose jurisdiction the principal place of his establishment is situate; or

(b) resides or any movable or immovable property of the establishment or the employer is situate.

(2) Where an establishment or the employer has property within the jurisdiction of more than one Recovery Officers and the Recovery Officer to whom a certificate is sent by the authorised officer—

(a) is not able to recover the entire amount by the sale of the property, movable or immovable within his jurisdiction; or

(b) is of the opinion that, for the purpose of expediting or securing the recovery of the whole or any part of the amount, it is necessary so to do,

he may send the certificate or, where only a part of the amount is to be recovered, a copy of the certificate certified in the prescribed manner and specifying the amount to be recovered to the Recovery Officer within whose jurisdiction the establishment or the employer has property or the employer resides, and thereupon that Recovery Officer shall also proceed to recover the amount due under this section as if the certificate or the copy thereof had been the certificate sent to him by the authorised officer.

8D. (1) When the authorised officer issues a certificate to a Recovery Officer under section 8B, it shall not be open to the employer to dispute before the Recovery Officer the correctness of the amount, and no objection to the certificate on any other ground shall also be entertained by the Recovery Officer.

(2) Notwithstanding the issue of a certificate to a Recovery Officer, the authorised officer shall have power to withdraw the certificate or correct any clerical or arithmetical mistake in the certificate by sending an intimation to the Recovery Officer.

(3) The authorised officer shall intimate to the Recovery Officer any orders withdrawing or cancelling a certificate or (any correction made by him under sub-section (2) or any amendment made under sub-section (4) of section 8E.

8E. (1) Notwithstanding that a certificate has been issued to the Recovery Officer for the recovery of any amount, the authorised officer may grant time for the payment of the amount, and thereupon the Recovery Officer shall stay the proceedings until the expiry of the time so granted.

Stay of proceedings under certificate and amendment or withdrawal thereof.

(2) Where a certificate for the recovery of amount has been issued, the authorised officer shall keep the Recovery Officer informed of any amount paid or time granted for payment, subsequent to the issue of such certificate.

(3) Where the order giving rise to a demand of amount for which a certificate for recovery has been issued has been modified in appeal or other proceeding under this Act, and as a consequence thereof, the demand is reduced but the order is the subject-matter of a further proceeding under this Act, the authorised officer shall stay the recovery of such part of the amount of the certificate as pertains to the said reduction for the period for which the appeal or other proceeding remains pending.

(4) Where a certificate for the recovery of amount has been issued and subsequently the amount of the outstanding demand is reduced as a result of an appeal or other proceeding under this Act, the authorised officer shall, when the order which was the subject-matter of such appeal or other proceeding has become final and conclusive, amend the certificate or withdraw it, as the case may be.

8F. (1) Notwithstanding the issue of a certificate to the Recovery Officer under section 8B, the Central Provident Fund Commissioner or any other officer authorised by the Central Board may recover the amount by any one or more of the modes provided in this section.

Other modes of recovery.

(2) If any amount is due from any person to any employer who is in arrears, the Central Provident Fund Commissioner or any other officer authorised by the Central Board in this behalf may require such person to deduct from the said amount the arrears due from such employer under this Act and such person shall comply with any such requisition and shall pay the sum so deducted to the credit of the Central Provident Fund Commissioner or the officer so authorised, as the case may be.

Provided that nothing in this sub-section shall apply to any part of the amount exempt from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908.

5 of 1908.

(3) The Central Provident Fund Commissioner or any other officer authorised by the Central Board in this behalf may, at any time or from time to time, by notice in writing, require any person from whom money is due or may become due to the employer or, as the case may be, the establishment or any person who holds or may subsequently hold money for or on account of the employer or as the case may be, the establishment, to pay to the Central Provident Fund Commissioner either forthwith upon the money becoming due or being held or at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due from the employer in

respect of arrears or the whole of the money when it is equal to or less than that amount.

(ii) A notice under this sub-section may be issued to any person who holds or may subsequently hold any money for or on account of the employer jointly with any other person and for the purposes of this sub-section, the shares of the joint-holders in such account shall be presumed until the contrary is proved, to be equal.

(iii) A copy of the notice shall be forwarded to the employer at his last address known to the Central Provident Fund Commissioner or, as the case may be, the officer so authorised and in the case of a joint account to all the joint-holders at their last addresses known to the Central Provident Fund Commissioner or the officer so authorised.

(iv) Save as otherwise provided in this sub-section, every person to whom a notice is issued under this sub-section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, bank or an insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made notwithstanding any rule, practice or requirement to the contrary.

(v) Any claim respecting any property in relation to which a notice under this sub-section has been issued arising after the date of the notice shall be void as against any demand contained in the notice.

(vi) Where a person to whom a notice under this sub-section is sent objects to it by a statement on oath that the sum demanded or any part thereof is not due to the employer or that he does not hold any money for or on account of the employer, then, nothing contained in this sub-section shall be deemed to require such person to pay any such sum or part thereof as the case may be, but if it is discovered that such statement was false in any material particular, such person shall be personally liable to the Central Provident Fund Commissioner or the officer so authorised to the extent of his own liability to the employer on the date of the notice, or to the extent of the employer's liability for any sum due under this Act, whichever is less.

(vii) The Central Provident Fund Commissioner or the officer so authorised may at any time or from time to time amend or revoke any notice issued under this sub-section or extend the time for making any payment in pursuance of such notice.

(viii) The Central Provident Fund Commissioner or the officer so authorised shall grant a receipt for any amount paid in compliance with a notice issued under this sub-section, and the person so paying shall be fully discharged from his liability to the employer to the extent of the amount so paid.

(ix) Any person discharging any liability to the employer after the receipt of a notice under this sub-section shall be personally liable

to the Central Provident Fund Commissioner or the officer so authorised to the extent of his own liability to the employer so discharged or to the extent of the employer's liability for any sum due under this Act, whichever is less.

(x) If the person to whom a notice under this sub-section is sent fails to make payment in pursuance thereof to the Central Provident Fund Commissioner or the officer so authorised he shall be deemed to be an employer in default in respect of the amount specified in the notice and further proceedings may be taken against him for the realisation of the amount as if it were an arrear due from him, in the manner provided in sections 8B to 8E and the notice shall have the same effect as an attachment of a debt by the Recovery Officer in exercise of his powers under section 8B.

(4) The Central Provident Fund Commissioner or the officer authorised by the Central Board in this behalf may apply to the court in whose custody there is money belonging to the employer for payment to him of the entire amount of such money, or if it is more than the amount due, an amount sufficient to discharge the amount due.

(5) The Central Provident Fund Commissioner or any officer not below the rank of Assistant Provident Fund Commissioner may, if so authorised by the Central Government by general or special order, recover any arrears of amount due from an employer or, as the case may be, from the establishment by distraint and sale of his or its movable property in the manner laid down in the Third Schedule to the Income-tax Act, 1961.

43 of 1961.

8G. The provisions of the Second and Third Schedules to the Income-tax Act, 1961 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 the arrears of the amount mentioned in section 8 of this Act instead of to the income-tax:

43 of 1961.

Provided that any reference in the said provisions and the rules to the "assessee" shall be construed as a reference to an employer as defined in this Act.

Application of certain provisions of Income-tax Act.

15. In section 10 of the principal Act, in sub-section (2), the following shall be added at the end, namely:—

"and shall also not be liable to attachment under any decree or order of any court".

Amendment of section 10.

16. In section 11 of the principal Act, in sub-section (2), for the words and brackets "in respect of the employee's contribution (deducted from the wages of the employee) for a period of more than six months" the words and brackets "whether in respect of the employee's contribution (deducted from the wages of the employee) or the employer's contribution" shall be substituted.

Amendment of section 11.

17. In section 13 of the principal Act, sub-section (3) shall be omitted.

Amendment of section 13.

Amend-
ment of
section 14.

18. In section 14 of the principal Act,—

(a) in sub-section (1), for the words "six months, or with fine which may extend to one thousand rupees, or with both", the words "one year, or with fine of five thousand rupees, or with both" shall be substituted;

(b) in sub-section (1A),—

(i) in the opening portion, for the words "six months", the words "three years" shall be substituted;

(ii) in clause (a), for the words "three months", the words "one year and a fine of ten thousand rupees" shall be substituted;

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

"(b) which shall not be less than six months and a fine of five thousand rupees, in any other case;"

(iv) the words "and shall also be liable to fine which may extend to two thousand rupees" shall be omitted;

(v) in the proviso, the words "or of fine only in lieu of imprisonment" shall be omitted;

(c) in sub-section (1B),—

(i) for the words "six months", the words "one year" shall be substituted;

(ii) for the words "one month", the words "six months" shall be substituted;

(iii) for the words "two thousand rupees", the words "five thousand rupees" shall be substituted;

(iv) in the proviso, the words "or of fine only in lieu of imprisonment" shall be omitted;

(d) in sub-section (2), for the words "six months, or with fine which may extend to one thousand rupees, or with both", the words "one year, or with fine which may extend to four thousand rupees, or with both" shall be substituted;

(e) in sub-section (2A), for the words "three months, or with fine which may extend to one thousand rupees, or with both", the words "six months, but which shall not be less than one month, and shall also be liable to fine which may extend to five thousand rupees" shall be substituted.

Amend-
ment of
section
14AA.

19. In section 14AA of the principal Act, for the words "one year but which shall not be less than three months and shall also be liable to fine which may extend to four thousand rupees", the words "five years, but which shall not be less than two years, and shall also be liable to a fine of twenty-five thousand rupees" shall be substituted.

Amend-
ment of
section
14B.

20. In section 14B of the principal Act,—

(a) for the words "from the employer such damages, not exceeding the amount of arrears as it may think fit to impose", the words

“from the employer by way of penalty such damages, not exceeding the amount of arrears, as may be specified in the Scheme” shall be substituted;

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

Provided further that the Central Board may reduce or waive the damages levied under this section in relation to an establishment which is a sick industrial company and in respect of which a scheme for rehabilitation has been sanctioned by the Board for Industrial and Financial Reconstruction established under section 4 of the Sick Industrial Companies (Special Provisions) Act, 1985, subject to such terms and conditions as may be specified in the Scheme.”

1 of 1986.

21. In section 16 of the principal Act,—

(i) in sub-section (1), for clause (b), the following clauses shall be substituted, namely:—

“(b) to any other establishment belonging to or under the control of the Central Government or a State Government and whose employees are entitled to the benefit of contributory provident fund or old age pension in accordance with any scheme or rule framed by the Central Government or the State Government governing such benefits; or

(c) to any other establishment set up under any Central, Provincial or State Act and whose employees are entitled to the benefits of contributory provident fund or old age pension in accordance with any scheme or rule framed under that Act governing such benefits; or

(d) to any other establishment newly set up, until the expiry of a period of three years from the date on which such establishment is, or has been, set up.”;

(ii) in sub-section (2), after the word “exempt”, the words “, whether prospectively or retrospectively,” shall be inserted.

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

“16A. (1) The Central Government may, on an application made to it in this behalf by the employer and the majority of employees in relation to an establishment employing one hundred or more persons, authorise the employer, by an order in writing, to maintain a provident fund account in relation to the establishment, subject to such terms and conditions as may be specified in the Scheme:

Provided that no authorisation shall be made under this subsection if the employer of such establishment had committed any default in the payment of provident fund contribution or had committed any other offence under this Act during the three years immediately preceding the date of such authorisation.

(2) Where an establishment is authorised to maintain a provident fund account under sub-section (1), the employer in relation

Amendment of section 16.

Insertion of new section 16A.

Authorising certain employers to maintain provident fund accounts.

to such establishment shall maintain such account, submit such returns, deposit the contributions in such manner, provide for such facilities for inspection, pay such administrative charges, and abide by such other terms and conditions, as may be specified in the Scheme.

(3) Any authorisation made under this section may be cancelled by the Central Government by order in writing if the employer fails to comply with any of the terms and conditions of the authorisation or where he commits any offence under any provision of this Act:

Provided that before cancelling the authorisation, the Central Government shall give the employer a reasonable opportunity of being heard."

Amendment of section 17.

23. In section 17 of the principal Act,—

(a) in sub-section (1),—

(i) for the words "exempt from the operation", the words "exempt, whether prospectively or retrospectively, from the operation" shall be substituted;

(ii) the following proviso shall be added at the end, namely:—

Provided that no such exemption shall be made except after consultation with the Central Board which on such consultation shall forward its views on exemption to the appropriate Government within such time limit as may be specified in the Scheme;

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

"(1A) Where an exemption has been granted to an establishment under clause (a) of sub-section (1),—

(a) the provisions of sections 6, 7A, 8 and 14B shall, so far as may be, apply to the employer of the exempted establishment in addition to such other conditions as may be specified in the notification granting such exemption, and where such employer contravenes or makes default in complying with any of the said provisions or conditions or any other provision of this Act, he shall be punishable under section 14 as if the said establishment had not been exempted under the said clause (a);

(b) the employer shall establish a Board of Trustees for the administration of the provident fund consisting of such number of members as may be specified in the Scheme;

(c) the terms and conditions of service of members of the Board of Trustees shall be such as may be specified in the Scheme;

(d) the Board of Trustees constituted under clause (b) shall—

(i) maintain detailed accounts to show the contributions credited, withdrawals made and interest accrued in respect of each employee;

(ii) submit such returns to the Regional Provident Fund Commissioner or any other officer as the Central Government may direct from time to time,

(iii) invest the provident fund monies in accordance with the directions issued by the Central Government from time to time;

(iv) transfer, where necessary, the provident fund account of any employee, and

(v) perform such other duties as may be specified in the Scheme.

(1B) Where the Board of Trustees established under clause (b) of sub-section (1A) contravenes, or makes default in complying with, any provisions of clause (d) of that sub-section, the Trustees of the said Board shall be deemed to have committed an offence under sub-section (2A) of section 14 and shall be punishable with the penalties provided in that sub-section.

(1C) The Central Provident Fund Commissioner may, by notification in the Official Gazette, and subject to such conditions as may be specified therein, exempt, whether prospectively or retrospectively, any employee or class of employees or any establishment from the operation of all or any of the provisions of the Family Pension Scheme if such employee, class of employees or the employees of such establishment is or are in enjoyment of benefits in the nature of family pension, and the Central Provident Fund Commissioner is of the opinion that such benefits are on the whole not less favourable to such employees than the benefits provided under this Act or the Family Pension Scheme in relation to employees in any other establishment of a similar character.”;

(c) in sub-section (2A), for the words “The Central Government may, if requested so to do by the employer, by notification in the Official Gazette, and subject to such conditions as may be specified in the notification, exempt any establishment from the operation of all or any of the provisions of the Insurance Scheme, if it is satisfied”, the words “The Central Provident Fund Commissioner may, if requested so to do by the employer, by notification in the Official Gazette, and subject to such conditions as may be specified in the notification, exempt, whether prospectively or retrospectively, any establishment from the operation of all or any of the provisions of the Insurance Scheme, if he is satisfied” shall be substituted;

(d) in sub-section (3A), in clause (b), the word “and” occurring at the end and clause (c) shall be omitted;

(e) in sub-section (4),—

(i) in clause (a), after the words "under that sub-section", the words, brackets, figure and letter "(or sub-section (1A))" shall be inserted;

(ii) in clause (aa), for the brackets, figure and letter "(1A)", the brackets, figure and letter "(1C)" shall be substituted;

(f) in sub-section (5),—

(i) for the brackets, figure and letter "(1A)", the brackets, figure and letter "(1C)" shall be substituted;

(ii) after the words "he is employed", the words "together with any amount forfeited from the employer's share of contribution to the credit of the employee who leaves the employment before the completion of the full period of service" shall be inserted;

(g) in sub-section (6), for the brackets, figure and letter "(1A)", the brackets, figure and letter "(1C)" shall be substituted.

24. For section 18 of the principal Act, the following sections shall be substituted, namely:—

"18. No suit, prosecution or other legal proceeding shall lie against the Central Government, a State Government, the Presiding Officer of a Tribunal, any authority referred to in section 7A, an Inspector or any other person for anything which is in good faith done or intended to be done in pursuance of this Act, the Scheme, the Family Pension Scheme or the Insurance Scheme.

18A. The Presiding Officer of a Tribunal, its officers and other employees, the authorities referred to in section 7A and every Inspector shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code."

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

"20. The Central Government may, from time to time, give such directions to the Central Board as it may think fit for the efficient administration of this Act and when any such direction is given, the Central Board shall comply with such direction.

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

Substitution of new sections for section 18.

Protection of action taken in good faith.

Presiding Officer and other officers to be public servants.

Substitution of new sections for section 19A.

Power of Central Government to give directions.

Power to make rules.

(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 salary and allowances and other terms and conditions of service of the Presiding Officer and the employees of a Tribunal;

(b) the form and the manner in which, and the time within which, an appeal shall be filed before a Tribunal and the fees payable for filing such appeal;

(c) the manner of certifying the copy of the certificate, to be forwarded to the Recovery Officer under sub-section (2) of section 8C; and

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

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

22. (1) If any difficulty arises in giving effect to the provisions of this Act, as amended by the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Act, 1988, 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 the removal of the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of three years from the date on which the said amendment Act receives the assent of the President.

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

26. In Schedule IV to the principal Act, for items 6 and 7, the following item shall be substituted, namely:—

Amendment of Schedule IV.

"6. The scales of insurance benefits and conditions relating to the grant of such benefits to the employees."

27. In section 405 of the Indian Penal Code, in Explanation 1, after the words "being an employer", the words and figures "of an establishment whether exempted under section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 or not" shall be inserted.

Amendment of Act 45 of 1860.

THE SPECIAL PROTECTION GROUP ACT, 1988

No. 34 OF 1988

[2nd June, 1988.]

An Act to provide for the constitution and regulation of an armed force of the Union for providing proximate security to the Prime Minister of India and the members of his immediate family and for matters connected therewith.

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

Short
title and
com-
mence-
ment.

Defini-
tions.

1. (1) This Act may be called the Special Protection Group Act, 1988.

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

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

(a) "active duty" in relation to a member of the Group means any duty as such member during the period when he is posted to physically protect the Prime Minister of India and the members of his immediate family, wherever he or they may be;

(b) "Director" means the Director of the Group appointed under sub-section (1) of section 5;

(c) "Group" means the Special Protection Group constituted under section 4;

(d) "member of the Group" means a person who has been appointed to the Group by the prescribed authority whether before or after the commencement of this Act;

(e) "members of immediate family" means wife, husband, children and parents;

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

(g) "proximate security" means protection provided from close quarters, during journey by road, rail, aircraft, watercraft or on foot or any other means of transport and shall include the places of functions, engagements, residence or halt and shall comprise ring round teams, isolation cordons, the sterile zone around, and the rostrum and access control to the person or members of his immediate family;

¹ 1-8-1988: vide Notification No. S.O. 735(E), dated 1-8-1988, Gazette of India, Extraordinary, 1988, Pt. II; sec. 3(ii).

45 of 1860.

(h) all words and expressions used and not defined in this Act but defined in the Indian Penal Code shall have the meanings respectively assigned to them in that Code.

3. Every member of the Group shall be subject to this Act, wherever he may be.

4. (1) There shall be an armed force of the Union called the Special Protection Group for providing proximate security to the Prime Minister and the members of his immediate family.

(2) Subject to the provisions of this Act, the Group shall be constituted in such manner as may be prescribed and the terms and conditions of service of the members of the Group shall be such as may be prescribed.

(3) Notwithstanding anything contained in this section, any person or any member of any other armed force of the Union may be appointed to the Group by the Central Government by a general or special order and for such period as may be specified in such order, and the person so appointed shall, during the period of his appointment, be deemed to be a member of the Group, and the provisions of this Act shall, so far as may be, apply to such person or member.

5. (1) The general superintendence, direction and control of the Group shall vest in, and be exercised by, the Central Government and subject thereto and to the provisions of this Act and the rules, the command and supervision of the Group shall vest in an officer to be appointed by the Central Government as the Director of the Group.

(2) The Director shall, in the discharge of his duties under this Act, be assisted by such number of Deputy Directors, Assistant Directors, Joint Assistant Directors and other officers as may be appointed by the Central Government.

6. Every member of the Group shall be liable to serve in any part of India as well as outside India.

7. Every member of the Group, not on leave or under suspension, shall, for all purposes of this Act, be always on active duty and may at any time be employed or deployed in any manner which is consistent with the duties and responsibilities of the Group under this Act.

8. No member of the Group shall be at liberty—

(a) to resign his appointment during the term of his engagement; or

(b) to withdraw himself from all or any of the duties of his appointment,

except with the previous permission in writing of the prescribed authority.

9. Every member of the Group shall hold office during the pleasure of the President.

Members subject to this Act. Constitution of the Group.

Control, direction, etc.

Liability for service in and outside India.

Members of the Group always on active duty.

Resignation and withdrawal from the post.

Tenure of service.

Restric-
tions res-
pecting
right to
form asso-
ciations,
freedom of
speech, etc.

10. (1) No member of the Group shall without the previous sanction in writing of the Central Government or of the prescribed authority,—

(a) be a member of, or be associated in any way with, any trade union, labour union, political association or with any class of trade unions, labour unions or political associations; or

(b) be a member of, or be associated in any way with, any society, institution, association or organisation that is not of a purely social, recreational or religious nature; or

(c) communicate with the press or publish or cause to be published any book, letter or other document except where such communication or publication is in the bona fide discharge of his duties or is of a purely literary, artistic or scientific character or is of a prescribed nature.

Explanation.—If any question arises as to whether any society, institution association or organisation is of a purely social, recrea-
tional or religious nature under clause (b) or whether any book,
letter or document is a communication or publication in the bona
fide discharge of his duties or is of a purely literary, artistic or
scientific character or is of a prescribed nature under clause (c) the
decision of the Central Government thereon shall be final.

(2) No member of the Group shall participate in or address any meeting or take part in any demonstration organised by any body of persons for any political purposes or for such other purposes as may be prescribed.

Termina-
tion of
service.

11. The prescribed authority may, by order in writing, terminate the appointment of any member of the Group in the public interest and such termination shall be deemed to be discharged *simpliciter* and shall not amount to dismissal or removal.

Appeal

12. (1) Any member of the Group aggrieved by an order under section 11 may, within thirty days from the date of such order, prefer an appeal to a Board to be constituted by the Central Government.

(2) The Board shall consist of such persons as may be prescribed.

(3) The decision of the Board shall be final and shall not be called in question in any court or tribunal.

(4) The Board shall have power to regulate its own procedure.

Powers
and duties
conferable
on mem-
bers of the
Group.

13. The Central Government may, by general or special order published in the Official Gazette, direct that, subject to such conditions and limitations as may be specified in that order, any member of the Group may exercise or discharge such powers or duties as may be specified in the said order for giving effect to the provisions of this Act.

Assistance
to Group.

14. It shall be the duty of every Ministry and Department of the Central Government or the State Government or the Union, territory Administration, every Indian Mission, every local or other authority or every civil or military authority to act in aid of the Director or any member of the Group whenever called upon to do so in furtherance of the duties and responsibilities assigned to such Director or member

15. No suit, prosecution or other legal proceeding shall lie against the Group or any member thereof on whom powers have been conferred or duties have been imposed under this Act, or any order issued or any rule made thereunder for anything which is in good faith done or purported to be done or omitted to be done in pursuance of this Act, or any order issued or any rule made thereunder or any order issued under any such rule.

Protection of action taken under this Act.

16. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules.

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

(a) the manner in which the Group shall be constituted and the terms and conditions of service of its members under sub-section (2) of section 4;

(b) the authorities to be prescribed under section 8, sub-section (1) of section 10 and section 11;

(c) the nature of the communication or publication under clause (c) of sub-section (1) of section 10;

(d) the purposes, other than political purposes, for which a person subject to this Act shall not participate in, or address, any meeting or take part in any demonstration under sub-section (2) of section 10;

(e) the persons who shall be members of the Board under sub-section (2) of section 12;

(f) any other matter which has to be, or may be, prescribed.

17. Every order issued under section 13 and every rule made under section 16 shall be laid, as soon as may be after it is issued or made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or the rule or both Houses agree that the order or rule should not be made, the order or rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order or rule.

Laying of orders and rules.

18. (1) The Special Protection Group in existence at the commencement of this Act shall be deemed to be the Group constituted under this Act.

Provision as to existing Special Protection Group.

(2) The members of the Special Protection Group in existence at the commencement of this Act shall be deemed to have been appointed as such under this Act.

(3) Anything done or any action taken before the commencement of this Act in relation to the constitution of the Special Protection Group referred to in sub-section (1) and in relation to any person appointed, shall be as valid and as effective in law as if such thing or action was done or taken under this Act.

**THE CINE-WORKERS AND CINEMA THEATRE WORKERS
(REGULATION OF EMPLOYMENT) AMENDMENT ACT, 1988**

No. 35 OF 1988

[12th August, 1988.]

**An Act to amend the Cine-workers and Cinema Theatre Workers
(Regulation of Employment) Act, 1981.**

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

Short title.

1. This Act may be called the Cine-workers and Cinema Theatre Workers (Regulation of Employment) Amendment Act, 1988.

Insertion
of new
section
22A.

2. After section 22 of the Cine-workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981, the following section shall be inserted, namely:—

50 of 1981.

Delega-
tion of
powers.

“22A. The Central Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act or rules made thereunder (other than the powers conferred by this section and section 23) shall, in relation to such matters and subject to such conditions, if any, as may be specified in the notification, be exercisable also by the State Government or by such officer or authority subordinate to the State Government as may be specified in the notification.”

THE FOOD CORPORATIONS (AMENDMENT) ACT, 1988

No. 36 OF 1988

[20th August, 1988.]

An Act further to amend the Food Corporations Act, 1964.

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

1. This Act may be called the Food Corporations (Amendment) Act, 1988.

Short
title.

2. In section 27 of the Food Corporations Act, 1964, for sub-section (1), the following sub-section shall be substituted, namely:—

Amend-
ment of
Act 37
of 1964.

“(1) A Food Corporation may, for the purpose of carrying out its functions under this Act,—

(a) take advances against stocks of foodgrains or other foodstuffs held by it, or borrow money—

(i) from any scheduled bank, or

(ii) from any other bank or financial institution approved by the Central Government in this behalf, or

(iii) from any other authority, organisation or institution or from the public on such terms and conditions as may be approved by the Central Government; or

(b) issue and sell bonds and debentures carrying interest at such rates as may be fixed by the Central Government at the time the bonds or debentures are issued:

Provided that the amount borrowed by a Food Corporation under this sub-section shall not at any time exceed ten times the paid-up capital and the reserve fund established under section 33.”

THE PUNJAB APPROPRIATION (No. 2) ACT, 1988

No. 37 of 1988

[25th August, 1988.]

An Act to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Punjab for the services of the financial year 1988-89.

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

Short title.

Issue of
Rs. 4656,
44,48,000
out of
the Conso-
lidated
Fund of
the State
of Punjab
for the
financial
year
1988-89.

Appro-
priation.

1. This Act may be called the Punjab Appropriation (No. 2) Act, 1988.

2. From and out of the Consolidated Fund of the State of Punjab there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate [inclusive of the sums specified in column 3 of the Schedule to the Punjab Appropriation (Vote on Account) Act, 1988] to the sum of four thousand six hundred and fifty-six crores, forty-four lakhs and forty-eight thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1988-89 in respect of the services specified in column 2 of the Schedule.

8 of 1988.

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

THE SCHEDULE

(See sections 2 and 3)

No. of Vote Appropriation	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Agriculture and Forests Revenue	74,08,10,000	3,57,000	74,11,67,000
	Capital	34,43,27,000	..	34,43,27,000
2	Animal Husbandry and Fisheries Revenue	25,93,32,000	2,81,000	25,96,13,000
	Capital	1,63,00,000	..	1,63,00,000
3	Co-operation Revenue	13,57,54,000	30,000	13,57,84,000
	Capital	45,60,84,000	..	45,60,84,000
4	Defence Services Welfare Revenue	3,20,44,000	17,000	3,20,61,000
	Capital	13,00,000	..	13,00,000
5	Education Revenue	357,76,57,000	5,16,62,000	362,93,18,000
	Capital	12,65,000	..	12,65,000
6	Elections Revenue	1,65,32,000	15,000	1,65,47,000
7	Excise and Taxation Revenue	8,57,68,000	64,000	8,58,32,000
8	Finance Revenue	320,99,93,000	253,71,15,000	574,71,08,000
	Capital	6,36,60,000	1,24,43,25,000	1310,79,85,000
9	Food and Supplies Revenue	3,12,31,000	..	3,12,31,000
	Capital	515,44,26,000	1,80,000	515,46,06,000
10	General Administration Revenue	13,27,00,000	47,14,000	13,74,14,000
11	Health and Family Welfare Revenue	132,87,89,000	42,60,000	133,29,89,000
12	Home Affairs and Justice Revenue	111,40,31,000	1,71,31,000	113,11,62,000
	Capital	3,50,00,000	..	3,50,00,000
13	Industries Revenue	12,64,86,000	1,10,000	12,65,96,000
	Capital	15,84,65,000	..	15,84,65,000
14	Information and Public Relations Revenue	3,03,70,000	15,000	3,03,85,000
15	Irrigation and Power Revenue	113,07,28,000	..	113,07,28,000
	Capital	762,94,48,000	..	762,94,48,000
16	Labour and Employment Revenue	3,72,19,000	1,00,000	3,73,19,000
17	Local Government, Housing and Urban Development Revenue	3,42,85,000	9,000	3,42,94,000
	Capital	20,44,00,000	..	20,44,00,000

1 No. of Vote/ Appropriation	2 Services and purposes	3		
		Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
18	Personnel and Administrative Reforms . Revenue	58,22,000	22,15,000	80,37,000
19	Planning Revenue	7,61,93,000	1,000	7,61,94,000
20	Programme Implementation Revenue	4,00,000	..	4,00,000
21	Public Works Revenue Capital	125,94,96,000 80,97,60,000	29,60,000 ..	126,24,56,000 80,97,60,000
22	Revenue and Rehabilitation Revenue	32,07,31,000	26,68,000	32,33,99,000
23	Rural Development and Panchayats . Revenue Capital	44,70,85,000 46,00,000	44,000 ..	44,71,29,000 46,00,000
24	Science, Technology and Environment . Revenue Capital	23,00,000 1,22,00,000	.. ..	23,00,000 1,22,00,000
25	Social and Women's Welfare and Welfare of Scheduled Castes and Backward Classes . Revenue Capital	41,24,15,000 1,43,00,000	50,000 ..	41,24,65,000 1,43,00,000
26	Technical Education and Industrial Training Revenue Capital	15,26,48,000 30,34,000	1,00,000 ..	15,27,48,000 30,34,000
27	Tourism and Cultural Affairs Revenue Capital	1,77,36,000 3,64,96,000	1,95,000 ..	1,79,31,000 3,64,96,000
28	Transport Revenue Capital	88,31,51,000 13,08,00,000	40,80,000 ..	88,72,31,000 13,08,00,000
29	Vigilance Revenue	1,42,37,000	3,000	1,42,40,000
	TOTAL Revenue Capital	1561,59,43,000 1507,58,65,000	262,81,35,000 1324,45,05,000	1824,40,78,000 2832,03,70,000
	GRAND TOTAL	3069,18,08,000	1587,26,40,000	4656,44,48,000

THE ALCOCK ASHDOWN COMPANY LIMITED (ACQUISITION OF UNDERTAKINGS) AMENDMENT ACT, 1988

No. 38 OF 1988

[1st September, 1988.]

An Act further to amend the Alcock Ashdown Company Limited (Acquisition of Undertakings) Act, 1973.

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

1. This Act may be called the Alcock Ashdown Company Limited (Acquisition of Undertakings) Amendment Act, 1988.

Short title.

56 of 1973.

2. In section 2 of the Alcock Ashdown Company Limited (Acquisition of Undertakings) Act, 1973 (hereinafter referred to as the principal Act), after clause (c), the following clauses shall be inserted, namely:—

Amendment of section 2.

‘(ca) “notification” means a notification published in the Official Gazette;

(cb) “undertakings of the company” means—

(i) the industrial unit owned by the company and located at Bhavnagar in the State of Gujarat (hereinafter referred to as the Bhavnagar unit); and

(ii) the industrial unit owned by the company and located at Bombay in the State of Maharashtra (hereinafter referred to as the Bombay unit);’

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

Insertion of new sections 8A, 8B, 8C, 8D, 8E and 8F.

“8A. (1) Notwithstanding anything contained in sections 3 and 4, the Central Government shall direct by notification that 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 of the Bhavnagar unit which have vested in the Central Government under section 3, shall, instead of continuing to vest in the Central Govern-

Vesting of the Bhavnagar unit in the State Government.

ment, vest in the State Government of Gujarat (hereinafter referred to as the State Government), either on the date of publication of the notification or on such later date as may be specified in the notification.

(2) Where the 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 of the Bhavnagar unit vest, under sub-section (1), in the State Government, that Government shall, on and from the date of such vesting, be deemed to have become the owner of such unit and the rights and liabilities of the Central Government in relation to that unit shall, on and from the date of such vesting, be deemed to have become the rights and liabilities of the State Government.

Vesting
of Bom-
bay unit
in Govern-
ment
com-
pany.

8B. (1) Notwithstanding anything contained in sections 3 and 4, the Central Government shall direct by notification that 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 of the Bombay unit which have vested in the Central Government under section 3, shall, instead of continuing to vest in the Central Government, vest in the Mazagon Dock Limited, a Government company having its registered office in the State of Maharashtra (hereinafter referred to as the Government company), either on the date of publication of the notification or on such later date as may be specified in the notification.

(2) Where the 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 of the Bombay unit vest, under sub-section (1), in the Government company, that company shall, on and from the date of such vesting, be deemed to have become the owner of such unit and the rights and liabilities of the Central Government in relation to that unit shall, on and from the date of such vesting, be deemed to have become the rights and liabilities of the Government company.

Employ-
ment of
certain
emplo-
yees to
conti-
nue
when
Bhav-
nagar
unit
vests under
section
8A.

8C. (1) Where the assets, rights, powers, authorities and privileges and all property, movable and immovable, cash balances, reserve funds, investments and other rights and interests in, or arising out of, such property of the Bhavnagar unit vest, under section 8A in the State Government, every person who has been, immediately before the date of such vesting, employed in that unit shall become, on and from the date of such vesting, an employee of the State Government, and shall hold office or service under that State Government with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if there had been no such vesting and shall continue to do so unless and until his employment under the State Government is duly terminated or until his remuneration and other conditions of service are duly altered by the State Government.

14 of 1947.

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

(3) Where under the terms of any contract of service or otherwise, any person, whose services become transferred to the State Government by reason of the provisions of this Act, is entitled to any arrears of salary or wages or any payments for any leave not availed of or any other payment, not being payment by way of gratuity or pension, such person may enforce his claim against the Central Government, but not against the State Government.

8D. (1) Where a provident fund, superannuation fund, welfare fund or any other fund has been established for the benefit of the persons employed in the Bhavnagar unit, the monies relatable to the officers or other employees, whose services have become transferred by or under this Act to the State Government shall stand transferred to, and vest in, the State Government.

Transfer of provident fund and other fund when undertakings vest under section 8A.

(2) The monies which stand transferred under sub-section (1) to the State Government shall be dealt with by that Government for the benefit of the officers and employees so transferred in such manner as the State Government may decide from time to time.

8E. All contracts, deeds, bonds, agreements and other instruments of whatever nature to which the Central Government is a party in relation to the Bhavnagar unit vested in the State Government under section 8A subsisting or having effect immediately before the date of vesting of the said unit in the State Government shall, as from that day, be of full force and effect against, or in favour of the State Government and may be enforced fully and effectually, as if, instead of the Central Government, the State Government had been a party thereto.

Saving of contracts, etc.

8F. (1) If any difficulty arises in giving effect to the provisions of sections 8A, 8B, 8C, 8D and 8F, the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this Act, remove the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the coming into force of the Alcock Ashdown Company Limited (Acquisition of Undertakings) Amendment Act, 1988.

(2) Every order made under sub-section (1) shall be laid before each House of Parliament."

THE TAMIL NADU APPROPRIATION (No. 2) ACT, 1988

No. 39 OF 1988

[1st September, 1988.]

An Act to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Tamil Nadu for the services of the financial year 1988-89.

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

Short
title.

1. This Act may be called the Tamil Nadu Appropriation (No. 2) Act, 1988.

Issue of
Rs. 4384,
76,61,000
out of
the Con-
solidated
Fund of
the State
of Tamil
Nadu for
the finan-
cial year
1988-89.

2. From and out of the Consolidated Fund of the State of Tamil Nadu 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 Tamil Nadu Appropriation (Vote on Account) Act, 1988] to the sum of four thousand three hundred and eighty-four crores, seventy-six lakhs and sixty-one thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1988-89 in respect of the services specified in column 2 of the Schedule.

13 of 1988.

Appro-
priation.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Tamil Nadu 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/ Appropriation	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Land Revenue Department . . . Revenue	24,69,93,000	..	24,69,93,000
2	State Excise Department . . . Revenue	4,53,42,000	..	4,53,42,000
3	Motor Vehicles Acts—Administration . . . Revenue	4,20,64,000	..	4,20,64,000
4	General Sales Tax and other Taxes and Duties—Administration . . . Revenue	23,09,86,000	12,900	23,09,98,000
5	Stamps—Administration . . . Revenue	1,51,12,000	..	1,51,12,000
6	Registration . . . Revenue	10,01,04,000	1,000	10,01,05,000
	Debt Charges . . . Revenue	..	290,43,74,000	290,43,74,000
7	State Legislature . . . Revenue	2,10,49,000	2,44,000	2,12,93,000
8	Elections . . . Revenue	9,08,05,000	..	9,08,05,000
9	Head of State, Ministers and Headquarters Staff . . . Revenue	47,99,72,000	2,73,71,000	50,73,43,000
10	Milk Supply Schemes . . . Revenue	3,36,65,000	..	3,36,65,000
11	District Administration . . . Revenue	58,18,09,000	71,000	58,18,80,000
12	Administration of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 . . . Revenue	5,17,67,000	25,000	5,17,92,000
13	Administration of Justice . . . Revenue	23,00,99,000	2,45,63,000	25,46,62,000
14	Jails . . . Revenue	12,82,66,000	4,000	12,82,70,000
15	Police . . . Revenue	151,60,90,000	1,01,000	151,61,91,000
16	Fire Services . . . Revenue	11,18,95,000	1,000	11,18,96,000
17	Education . . . Revenue	689,71,29,000	15,000	689,71,44,000
18	Medical . . . Revenue	156,05,12,000	1,000	156,05,13,000

1 No. of Vote/ Appropriation	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
19	Public Health . . . Revenue	87,55,25,000	2,000	87,55,27,000
20	Agriculture . . . Revenue	147,39,65,000	8,000	147,39,73,000
21	Fisheries . . . Revenue	8,10,08,000	1,000	8,10,09,000
22	Animal Husbandry . Revenue	36,88,95,000	1,000	36,88,96,000
23	Co-operation . . . Revenue	52,31,24,000	1,000	52,31,25,000
24	Industries . . . Revenue	8,85,06,000	..	8,85,06,000
25	Cinchona . . . Revenue	4,26,85,000	..	4,26,85,000
26	Handlooms and Textiles . . . Revenue	20,91,74,000	..	20,91,74,000
27	Khadi . . . Revenue	4,57,33,000	..	4,57,33,000
28	Community Development Projects and Municipal Administration . Revenue	194,43,86,000	2,000	194,43,88,000
29	Labour including Factories . . . Revenue	26,42,87,000	1,000	26,42,88,000
30	Social Welfare . . . Revenue	97,18,80,000	..	97,18,80,000
31	Welfare of the Scheduled Tribes and Castes, etc. . . Revenue	64,74,47,000	10,02,000	64,84,49,000
32	Welfare of the Back- ward Classes, etc. . Revenue	16,44,85,000	6,000	16,44,91,000
33	Housing . . . Revenue	5,52,74,000	..	5,52,74,000
34	Urban Development . Revenue	59,84,68,000	..	59,84,68,000
35	Civil Supplies . . . Revenue	157,65,37,000	3,000	157,65,40,000
36	Irrigation . . . Revenue	86,68,56,000	10,000	86,68,66,000
37	Public Works-- Buildings . . . Revenue	3,75,27,000	10,92,000	3,86,19,000
38	Public Works-- Establishment and Tools and Plant . . Revenue	31,04,69,000	..	31,04,69,000
39	Roads and Bridges . Revenue	96,73,36,000	..	96,73,36,000
40	Road Transport Services and Shipping . . . Revenue	6,36,09,000	4,000	6,36,13,000
41	Relief on account of Natural Calamities . Revenue	1,19,53,000	8,75,00,000	9,94,53,000
42	Pensions and other Retirement Benefits . Revenue	155,82,77,000	62,77,000	156,45,54,000
43	Miscellaneous . . . Revenue	358,26,04,000	14,92,000	358,40,96,000
44	Stationery and Printing . . . Revenue	18,16,36,000	2,81,000	18,19,17,000

1 No. of Vote/ Appro- pria- tion	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
45	Forest Department . Revenue	19,05,70,000	1,000	19,05,71,000
46	Compensation and Assignments . Revenue	40,63,25,000	22,53,000	40,85,78,000
47	Information, Tourism and Film Techno- logy Revenue	3,88,04,000	..	3,88,04,000
48	Rural Industries . Revenue	21,82,31,000	3,000	21,82,34,000
49	Water Supply Revenue	127,10,03,000	..	127,10,03,000
50	Capital Outlay on Agriculture Capital	3,91,37,000	1,000	3,91,38,000
51	Capital Outlay on Industrial Develop- ment Capital	13,93,37,000	1,000	13,93,38,000
52	Capital Outlay on Irrigation Capital	57,15,90,000	..	57,15,90,000
53	Capital Outlay on Public Works— Buildings Capital	45,67,39,000	4,01,000	45,71,40,000
54	Capital Outlay on Roads and Bridges . Capital	43,14,39,000	1,000	43,14,40,000
55	Capital Outlay on Road Transport Services and Shipping Capital	60,24,000	..	60,24,000
56	Capital Outlay on Forests Capital	24,10,42,000	..	24,10,42,000
57	Capital Outlay on Rural Industries . Capital	1,59,50,000	2,000	1,59,52,000
58	Miscellaneous Capital Outlay Capital	14,24,27,000	4,000	14,24,31,000
59	Loans and Advances by the State Government Capital	363,77,29,000	..	363,77,29,000
	Public Debt— Repayment Capital	..	308,88,76,000	308,88,76,000
	TOTAL	3770,16,52,000	614,60,09,000	4384,76,61,000

46 Law—59

**THE NATIONAL WATERWAY (SADIYA-DHUBRI STRETCH
OF THE BRAHMAPUTRA RIVER) ACT, 1988**

No. 40 OF 1988

[1st September, 1988.]

An Act to provide for the declaration of the Sadiya-Dhubri Stretch of the Brahmaputra river to be a national waterway and also to provide for the regulation and development of the said stretch of that river for purposes of shipping and navigation on the said waterway and for matters connected therewith or incidental thereto.

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

Short
title and
commence-
ment.

1. (1) This Act may be called the National Waterway (Sadiya-Dhubri Stretch of the Brahmaputra River) Act, 1988.

(2) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

Declara-
tion of
Sadiya-
Dhubri
Stretch of
Brahma-
putra river
to be
national
waterway.

2. The Sadiya-Dhubri Stretch of the Brahmaputra river, the limits of which are specified in the Schedule, is hereby declared to be a national waterway.

Declara-
tion as
to expedi-
ency of
control
by the
Union
of Sadiya-
Dhubri
Stretch
of
Brahma-
putra
river for
certain
purposes.

3. It is hereby declared that it is expedient in the public interest that the Union should take under its control the regulation and development of Sadiya-Dhubri Stretch of the Brahmaputra river for purposes of shipping and navigation on the national waterway to the extent provided in the Inland Waterways Authority of India Act, 1985.

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¹ 26-12-1988; vide Notification No. S.O. 1198(E), dated 26-12-1988, Gazette of India, Extraordinary, 1988, Pt. II; Sec. 3(ii).

THE SCHEDULE

(See section 2)

**LIMITS OF THE NATIONAL WATERWAY (SADIYA-DHUBRI STRETCH OF THE
BRAHMAPUTRA RIVER)**

From a line drawn across the Brahmaputra river from the point on the north bank of the Kundil river at its confluence with the Brahmaputra river near Sadiya to the beginning of the river island Majuli and therefrom through all the channels of the Brahmaputra river on either side of the river island Majuli up to the end of the river island Majuli and then up to the international border down stream of Dhubri.

THE RELIGIOUS INSTITUTIONS (PREVENTION OF MISUSE) ACT, 1988

No. 41 OF 1988

[11th September 1988.]
An Act to prevent the misuse of religious institutions for political and other purposes.

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

Short title, extent and commencement.

1. (1) This Act may be called the Religious Institutions (Prevention of Misuse) Act, 1988.

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

(3) It shall be deemed to have come into force on the 26th day of May, 1988.

Definitions.

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

(a) “ammunition” shall have the same meaning as in clause (b) of sub-section (1) of section 2 of the Arms Act, 1959;

54 of 1959.

(b) “arms” shall have the same meaning as in clause (c) of sub-section (1) of section 2 of the Arms Act, 1959;

54 of 1959.

(c) “manager”, in relation to a religious institution, means every person, including any religious functionary (by whatever name called), who, for the time being, either alone or in association with other persons, administers, manages or otherwise controls the affairs of that institution, its functions or properties;

(d) “political activity” includes any activity promoting or propagating the aims or objects of a political party or any cause, issue or question of a political nature by organising meetings, demonstrations, processions, collection or disbursement of funds, or by the issue of directions or decrees, or by any other means, and includes also such activity by or on behalf of a person seeking election as a candidate for any election to Parliament, any State Legislature or any local authority;

(e) “political party” means an association or body of persons—

(i) which is, or is deemed to be, registered, with the Election Commission of India as a political party under the Election

Symbols (Reservation and Allotment) Order, 1968, as in force for the time being; or

(ii) which has set up candidates for election to any legislature, but is not registered, or deemed to be registered, as a political party, under the Election Symbols (Reservation and Allotment) Order, 1968; or

(iii) organised to carry on any political activity or to acquire or exercise political power through election or otherwise;

(f) "religious institution" means an institution for the promotion of any religion or persuasion, and includes any place or premises used as a place of public religious worship, by whatever name or designation known.

3. No religious institution or manager thereof shall use or allow the use of any premises belonging to, or under the control of, the institution—

(a) for the promotion or propagation of any political activity; or

(b) for the harbouring of any person accused or convicted of an offence under any law for the time being in force; or

(c) for the storing of any arms or ammunition; or

(d) for keeping any goods or articles in contravention of any law for the time being in force; or

(e) for erecting or putting up of any construction or fortification, including basements, bunkers, towers or walls without a valid licence or permission under any law for the time being in force; or

(f) for the carrying on of any unlawful or subversive act prohibited under any law for the time being in force or in contravention of any order made by any court; or

(g) for the doing of any act which promotes or attempts to promote disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities; or

(h) for the carrying on of any activity prejudicial to the sovereignty, unity and integrity of India; or

(i) for the doing of any act in contravention of the provisions of the Prevention of Insults to National Honour Act, 1971.

69 of 1971.

4. No religious institution or manager thereof shall allow the entry of any arms or ammunition or of any person carrying any arms or ammunition into the religious institution:

Provided that nothing in this section shall apply to—

(a) the wearing and carrying of a *Kirpan* by any person professing the Sikh religion; or

(b) any arms which are used, as part of any religious ceremony or ritual of the institution as established by custom or usage,

Prohibition of use of religious institutions for certain purposes.

Restrictions on carrying arms and ammunition into a religious institution.

Prohibition of use of funds of religious institutions for certain activities.

5. No religious institution or manager thereof shall use or allow the use of any funds or other properties belonging to, or under the control of, the institution for the benefit of any political party or for the purpose of any political activity or for the commission of any act which is punishable as an offence under any law.

Prohibition of religious fora for propagating political ideas.

6. No religious institution or manager thereof shall allow any ceremony, festival, congregation, procession or assembly organised or held under its auspices to be used for any political activity.

Penalties.

7. Where any religious institution or manager thereof contravenes the provisions of section 3, section 4, section 5 or section 6, the manager and every person connected with such contravention shall be punishable with imprisonment for a term which may extend to five years and with fine which may extend to ten thousand rupees.

Disqualification of persons convicted or charge-sheeted under this Act.

8. (1) Any manager or other employee of a religious institution shall, upon conviction for an offence under this Act, stand removed from his office or post and shall, notwithstanding anything to the contrary contained in any other law, be disqualified for appointment in any religious institution as manager or in any other capacity for a period of six years from the date of his conviction.

(2) Where any manager or other employee of a religious institution is accused of an offence under this Act and a charge-sheet for the prosecution of such person is filed in any court and the court is of the opinion, after considering the charge-sheet and after hearing the prosecution and the accused, that a *prima facie* case exists, it shall pass an order or direction accused, that a *prima facie* case exists, it shall pass an order or direction the duties of his office or post pending trial.

(3) Where any manager or other employee has been removed under sub-section (1), or restrained under sub-section (2), the vacancy arising out of such removal or restraint may be filled in the manner provided in the law applicable to the said religious institution.

Certain persons bound to give information to police.

9. Every manager or other employee of a religious institution shall be bound to give information to the officer incharge of the police station within whose local jurisdiction the religious institution is situate of any contravention or any impending contravention of the provisions of this Act and any failure to do so shall be punishable under section 176 of the Indian Penal Code.

45 of 1860.

Repeal and saving.

10. (1) The Religious Institutions (Prevention of Misuse) Ordinance, 1988 is hereby repealed.

Ord.
3 of 1988.

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

THE ARMS (AMENDMENT) ACT, 1988

No. 42 OF 1988

[1st September, 1988.]

An Act further to amend the Arms Act 1959.

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

1. (1) This Act may be called the Arms (Amendment) Act, 1988.

Short
title and
commence-
ment.

(2) It shall be deemed to have come into force on the 27th day of May, 1988.

54 of 1959.

2. In section 2 of the Arms Act, 1959 (hereinafter referred to as the principal Act), in sub-section (1),—

Amend-
ment of
section 2.

(i) in clause (b), in sub-clause (i), for the words “and other like missiles”, the words “and other missiles” shall be substituted;

(ii) in clause (h), after the word “shells”, the word “missiles” shall be inserted.

3. In sub-section (1) of section 5 of the principal Act, in clause (a), for the word “manufacture”, the words “use, manufacture” shall be substituted.

Amend-
ment of
section 5.

4. In section 7 of the principal Act, in clause (b), for the word “manufacture”, the words “use, manufacture” shall be substituted.

Amend-
ment of
section 7.

5. In section 25 of the principal Act,—

Amend-
ment of
section 25.

(a) in sub-section (1), clause (c) shall be omitted;

(b) sub-section (1A) shall be renumbered as sub-section (1AAA) thereof, and before sub-section (1AAA) as so renumbered, the following sub-sections shall be inserted, namely:—

“(1A) Whoever acquires, has in his possession or carries any prohibited arms or prohibited ammunition in contravention of section 7 shall be punishable with imprisonment for a term which shall not be less than five years, but which may extend to ten years and shall also be liable to fine.

(1AA) Whoever manufactures, sells, transfers, converts, repairs, tests or proves, or exposes or offers for sale or transfer

or has in his possession for sale, transfer, conversion, repair, test or proof, any prohibited arms or prohibited ammunition in contravention of section 7 shall be punishable with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life and shall also be liable to fine.”.

Substitu-
tion of
new section
for section
27.

6. For section 27 of the principal Act, the following section shall be substituted, namely:—

Punish-
ment for
using arms,
etc.

“27. (1) Whoever uses any arms or ammunition in contravention of section 5 shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.

(2) Whoever uses any prohibited arms or prohibited ammunition in contravention of section 7 shall be punishable with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life and shall also be liable to fine.

(3) Whoever uses any prohibited arms or prohibited ammunition or does any act in contravention of section 7 and such use or act results in the death of any other person, shall be punishable with death.”.

Repeal
and saving.

7. (1) The Arms (Amendment) Ordinance, 1988, is hereby repealed.

Ord. 5 of
1988.

(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 NATIONAL SECURITY (AMENDMENT) ACT, 1988

No. 43 OF 1988

[1st September, 1988.]

An Act further to amend the National Security Act, 1980, in its application to the State of Punjab and the Union territory of Chandigarh.

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

1. (1) This Act may be called the National Security (Amendment) Act, 1988.

Short title and commencement.

(2) It shall be deemed to have come into force on the 26th day of May, 1988.

65 of 1980.

2. In the National Security Act, 1980 (hereinafter referred to as the principal Act), as applicable to the State of Punjab and the Union territory of Chandigarh, in sub-section (1) of section 14A, for the figures, letters and words "8th day of June, 1988", the figures, letters and words "8th day of June, 1989" shall be substituted.

Amendment of section 14A.

Ord. 4 of 1988.

3. (1) The National Security (Amendment) Ordinance, 1988 is hereby repealed.

Repeal and savings.

(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 BHARAT PETROLEUM CORPORATION LIMITED
(DETERMINATION OF CONDITIONS OF SERVICE OF
EMPLOYEES) ACT, 1988

No. 44 OF 1988

[3rd September, 1988.]

An Act to empower the Central Government to determine the conditions of service of the officers and employees of Bharat Petroleum Corporation Limited and for matters connected therewith.

WHEREAS for the purpose of making the conditions of service of the officers and employees of the Bharat Petroleum Corporation Limited comparable with the conditions of service of the officers and employees of other public sector companies, it is necessary to empower the Central Government to determine the conditions of service of the officers and employees of the said Corporation;

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

1. (1) This Act may be called the Bharat Petroleum Corporation Limited (Determination of Conditions of Service of Employees) Act, 1988.

(2) It shall be deemed to have come into force on the 2nd day of July, 1988.

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

(a) "Burmah Shell" means the Burmah Shell Oil Storage and Distributing Company of India Limited, a foreign company within the meaning of section 591 of the Companies Act, 1956 as it existed immediately before the appointed day under the Burmah Shell (Acquisition of Undertakings in India) Act, 1976;

(b) "Burmah Shell Refineries" means the Burmah Shell Refineries Limited, a company registered under the Indian Companies Act, 1913, as it existed immediately before it became a Government company;

(c) "Corporation" means the Bharat Petroleum Corporation Limited, a Government company, as defined in section 617 of the Companies Act, 1956;

Short title and commencement.

Definitions.

1 of 1956.

2 of 1976.

7 of 1913.

1 of 1956.

(d) "officers and employees of the Corporation" includes,—

(i) the officers and employees who were in the service of the Burmah Shell Refineries and who continued to be in the service of the said company after it became a Government company; and

(ii) the officers and employees who were in the service of Burmah Shell and whose services were transferred to the Corporation by section 9 of the Burmah Shell (Acquisition of Undertakings in India) Act, 1976;

2 of 1976.

(e) "public sector company" means any corporation established by or under any Central Act or a Government company as defined in section 617 of the Companies Act, 1956.

1 of 1956.

3. (1) Where the Central Government is satisfied that for the purpose of making the conditions of service of the officers and employees of the Corporation comparable with the conditions of service of the officers and employees of other public sector companies, it is necessary so to do, it may, notwithstanding anything contained in the Industrial Disputes Act, 1947 or any other law or any agreement, settlement, award or other instrument for the time being in force, and notwithstanding any judgment, decree or order of any court, tribunal or other authority, frame one or more schemes for the purpose of determination of the conditions of service of the officers and employees of the Corporation.

14 of 1947.

Power of Central Government to frame schemes to determine conditions of service of officers and employees.

(2) While framing any scheme under sub-section (1), it shall be competent for the Central Government to provide for the continuance, after the commencement of any such scheme, of such of the emoluments or other benefits as were payable to, or entitled to be received by, the officers and employees of the Corporation referred to in sub-clause (i) or sub-clause (ii) of clause (d) of section 2 immediately before the Burmah Shell Refineries became a Government company, or as the case may be, immediately before the appointed day under the Burmah Shell (Acquisition of Undertakings in India) Act, 1976.

2 of 1976.

(3) The Central Government may make a scheme to amend or vary any scheme made under sub-section (1).

(4) The power to make any scheme under sub-section (1) or sub-section (3) shall include,—

(a) the power to give retrospective effect to any such scheme or any provision thereof; and

(b) the power to amend, by way of addition, variation or repeal, any existing provisions determining the conditions of service of the officers and employees of the Corporation in force immediately before the commencement of this Act.

(5) Every scheme made under sub-section (1) or sub-section (3) 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

444 *Bharat Petroleum Corporation Limited (Determination of Conditions of Service of Employees)* [ACT 44 OF 1988]

session or the successive sessions aforesaid, both Houses agree in making any modification in the scheme, or both Houses agree that the scheme should not be made, the scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that scheme.

Repeal and saving.

4. (1) The Bharat Petroleum Corporation Limited (Determination of Conditions of Service of Employees) Ordinance, 1988, is hereby repealed.

6 of 1988.

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

THE BENAMI TRANSACTIONS (PROHIBITION) ACT, 1988

No. 45 OF 1988

[5th September, 1988.]

An Act to prohibit benami transactions and the right to recover properly held benami and for matters connected therewith or incidental thereto.

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

1. (1) This Act may be called the *Benami Transactions (Prohibition) Act, 1988*.

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

(3) The provisions of sections 3, 5 and 8 shall come into force at once, and the remaining provisions of this Act shall be deemed to have come into force on the 19th day of May, 1988.

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

(a) "benami transaction" means any transaction in which property is transferred to one person for a consideration paid or provided by another person;

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

(c) "property" means property of any kind, whether movable or immovable, tangible or intangible, and includes any right or interest in such property.

3. (1) No person shall enter into any benami transaction.

(2) Nothing in sub-section (1) shall apply to the purchase of property by any person in the name of his wife or unmarried daughter and it shall be presumed, unless the contrary is proved, that the said property had been purchased for the benefit of the wife or the unmarried daughter.

(3) Whoever enters into any benami transaction shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence under this section shall be non-cognizable and bailable.

2 of 1974.

Short title, extent and commencement.

Definitions.

Prohibition of benami transactions.

Prohibition of the right to recover property held benami.

4. (1) No suit, claim or action to enforce any right in respect of any property held *benami* against the person in whose name the property is held or against any other person shall lie by or on behalf of a person claiming to be the real owner of such property.

(2) No defence based on any right in respect of any property held *benami*, whether against the person in whose name the property is held or against any other person, shall be allowed in any suit, claim or action by or on behalf of a person claiming to be the real owner of such property.

(3) Nothing in this section shall apply,—

(a) where the person in whose name the property is held is a coparcener in a Hindu undivided family and the property is held for the benefit of the coparceners in the family; or

(b) where the person in whose name the property is held is a trustee or other person standing in a fiduciary capacity, and the property is held for the benefit of another person for whom he is a trustee or towards whom he stands in such capacity.

Property held benami liable to acquisition.

5. (1) All properties held *benami* shall be subject to acquisition by such authority, in such manner and after following such procedure as may be prescribed.

(2) For the removal of doubts, it is hereby declared that no amount shall be payable for the acquisition of any property under sub-section (1).

Act not to apply in certain cases.

6. Nothing in this Act shall affect the provisions of section 53 of the Transfer of Property Act, 1882, or any law relating to transfer for an illegal purpose.

4 of 1882.

Repeal of provisions of certain Acts.

7. (1) Sections 81, 82 and 94 of the Indian Trusts Act, 1882, section 66 of the Code of Civil Procedure, 1908 and section 281A of the Income-tax Act, 1961, are hereby repealed.

2 of 1882.

5 of 1908.

43 of 1961.

(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall affect the continued operation of section 281A of the Income-tax Act, 1961 in the State of Jammu and Kashmir.

43 of 1961.

Power to make rules.

8. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

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

(a) the authority competent to acquire properties under section 5;

(b) the manner in which, and the procedure to be followed for, the acquisition of properties under section 5;

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

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session 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.

Ord. 2 of 1988.

9. (1) The Benami Transactions (Prohibition of the Right to Recover Property) Ordinance, 1988 is hereby repealed.

Repeal and saving.

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

[1988] (1988) 100

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THE PREVENTION OF ILLICIT TRAFFIC IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1988

No. 46 of 1988

[6th September, 1988.]

An Act to provide for detention in certain cases for the purpose of preventing illicit traffic in narcotic drugs and psychotropic substances and for matters connected therewith.

WHEREAS illicit traffic in narcotic drugs and psychotropic substances poses a serious threat to the health and welfare of the people and the activities of persons engaged in such illicit traffic have a deleterious effect on the national economy;

AND WHEREAS having regard to the persons by whom and the manner in which such activities are organised and carried on, and having regard to the fact that in certain areas which are highly vulnerable to the illicit traffic in narcotic drugs and psychotropic substances, such activities of a considerable magnitude are clandestinely organised and carried on, it is necessary for the effective prevention of such activities to provide for detention of persons concerned in any manner therewith.

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

Short title, extent and commencement.

1. (1) This Act may be called the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988.

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

(3) It shall be deemed to have come into force on the 4th day of July, 1988.

Definitions.

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) "customs airport" means any airport appointed under clause (a) of section 7 of the Customs Act, 1962 to be a customs airport;

- (c) "detention order" means an order made under section 3;
- (d) "foreigner" has the same meaning as in the Foreigners Act, 1946;
- (e) "illicit traffic", in relation to narcotic drugs and psychotropic substances, means—
 - (i) cultivating any coca plant or gathering any portion of coca plant;
 - (ii) cultivating the opium poppy or any cannabis plant;
 - (iii) engaging in the production, manufacture, possession, sale, purchase, transportation, warehousing, concealment, use or consumption, import inter-State, export inter-State, import into India, export from India or transshipment, of narcotic drugs or psychotropic substances;
 - (iv) dealing in any activities in narcotic drugs or psychotropic substances other than those provided in sub-clauses (i) to (iii); or
 - (v) handling or letting any premises for the carrying on of any of the activities referred to in sub-clauses (i) to (iv);

61 of 1985. other than those permitted under the Narcotic Drugs and Psychotropic Substances Act, 1985, or any rule or order made, or any condition of any licence, term or authorisation issued, thereunder and includes—

- (1) financing, directly or indirectly, any of the aforementioned activities;
- (2) abetting or conspiring in the furtherance of or in support of doing any of the aforementioned activities; and
- (3) harbouring persons engaged in any of the aforementioned activities;

52 of 1962. (f) "Indian customs waters" has the same meaning as in clause (28) of section 2 of the Customs Act, 1962;

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

61 of 1985. (h) words and expressions used herein but not defined, and defined in the Narcotic Drugs and Psychotropic Substances Act, 1985, have the meanings respectively assigned to them in that Act.

3. (1) The Central Government or a 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 engaging in illicit traffic in narcotic drugs and psychotropic substances, it is necessary so to do, make an order directing that such person be detained.

(2) When any order of detention is made by a State Government or by an officer empowered by a State Government, the State Government

Power to make orders detaining certain persons.

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.

Execution of detention orders.

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.

2 of 1974.

Power to regulate place and conditions of detention.

5. Every person in respect of whom a detention order has been made shall be liable—

(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.

Grounds of detention severable.

6. Where a person has been detained in pursuance of an order of detention under sub-section (1) of section 3 which has been made on two or more grounds, such order of detention shall be deemed to have been made separately on each of such grounds and accordingly—

(a) such order shall not be deemed to be invalid or inoperative merely because one or some of the grounds is or are—

(i) vague,

(ii) non-existent,

(iii) not relevant,

(iv) not connected or not proximately connected with such person, or

(v) invalid for any other reason whatsoever,

and it is not therefore possible to hold that the Government or officer making such order would have been satisfied as provided in sub-section (1) of section 3 with reference to the remaining ground or grounds and made the order of detention;

(b) the Government or officer making the order of detention shall be deemed to have made the order of detention under the said sub-section (1) after being satisfied as provided in that sub-section with reference to the remaining ground or grounds.

7. 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.

8. (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;

2 of 1974.

(b) by order notified in the Official Gazette direct the said person to appear before such officer, at such place and within such 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 cognizable.

2 of 1974.

9. For the purposes of sub-clause (a) of clause (4) and sub-clause (c) of clause (7) of article 22 of the Constitution,--

Advisory Boards.

(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 10, 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.

↓ [31st day of July, 1990]

Cases in which and circumstances under which persons may be detained for periods longer than three months without obtaining the opinion of Advisory Board.

10. (1) Notwithstanding anything contained in this Act, any person (including a foreigner) in respect of whom an order of detention is made under this Act at any time before the 31st day of July, 1990, may be detained without obtaining, in accordance with the provisions of sub-clause (a) of clause (4) of article 22 of the Constitution, the opinion of an Advisory Board for a period longer than three months but not exceeding six months from the date of his detention, where the order of detention has been made against such person with a view to preventing him from engaging in illicit traffic in narcotic drugs and psychotropic substances, 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 engages or is likely to engage in illicit traffic in narcotic drugs and psychotropic substances into, out of, through or within any area highly vulnerable to such illicit traffic and makes a declaration to that effect within five weeks of the detention of such person.

Explanation 1.—In this sub-section, “area highly vulnerable to such illicit traffic” means—

(i) the Indian customs waters;

(ii) the customs airports;

↓ Subs. by Act 26 of 1990, S. 2 (w.e.f. 30-7-1990).

(iii) the metropolitan cities of Bombay, Calcutta, Delhi, Madras and the city of Varanasi;

(iv) the inland area one hundred kilometres in width from the coast of India falling within the territories of the States of Andhra Pradesh, Goa, Gujarat, Karnataka, Kerala, Maharashtra, Orissa, Tamil Nadu and West Bengal and the Union territories of Daman and Diu and Pondicherry;

(v) the inland area one hundred kilometres in width from—

(a) the India-Pakistan border in the States of Gujarat, Punjab and Rajasthan;

(b) the India-Nepal border in the States of Bihar, Sikkim, Uttar Pradesh and West Bengal;

(c) the India-Burma border in the States of Arunachal Pradesh, Manipur, Mizoram and Nagaland;

(d) the India-Bangladesh border in the States of Assam, Meghalaya, Tripura and West Bengal;

(e) the India-Bhutan border in the States of Arunachal Pradesh, Assam, Sikkim and West Bengal;

(vi) such other area or customs station, as the Central Government may, having regard to the vulnerability of such area or customs station, as the case may be, to illicit traffic, by notification in the Official Gazette, specify in this behalf.

Explanation 2.—For the purposes of *Explanation 1*, “customs station” has the same meaning as in clause (13) of section 2 of the Customs Act, 1962.

52 of 1962.

(2) In the case of any person detained under a detention order to which the provisions of sub-section (1) apply, section 9 shall have effect subject to the following modifications, namely:—

(i) in clause (b), for the words “shall, within five weeks”, the words “shall, within four months and two weeks” shall be substituted;

(ii) in clause (c),—

(a) for the words “the detention of the person concerned”, the words “the continued detention of the person concerned” shall be substituted;

(b) for the words “eleven weeks”, the words “five months and three weeks” shall be substituted;

(iii) in clause (f), for the words “for the detention”, at both the places where they occur, the words “for the continued detention” shall be substituted.

11. The maximum period for which any person may be detained in pursuance of any detention order to which the provisions of section 10 do not apply and which has been confirmed under clause (f) of section 9 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

Maximum period of detention.

order to which the provisions of section 10 apply and which has been confirmed under clause (f) of section 9, read with sub-section (2) of section 10, shall be two years from the date of detention:

Provided that nothing contained in this section shall affect the power of appropriate Government in either case to revoke or modify the detention order at any earlier time.

Revoca-
tion of
detention
orders.

12. (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.

13. (1) The Central Government may, at any time, direct that any person detained in pursuance of a detention order made by that Government or by an officer subordinate to that Government or by a State Government or by an officer subordinate to a State Government, 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) A State Government may, at any time, direct that any person detained in pursuance of a detention order made by that Government or by an officer subordinate to that Government may be released for any specified period either without conditions or upon such conditions specified in the direction as the person accepts, and may, at any time, cancel his release.

(3) In directing the release of any person under sub-section (1) or sub-section (2), the Government directing the release may require him to enter into a bond with sureties for the due observance of the conditions specified in the direction.

(4) Any person released under sub-section (1) or sub-section (2) 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.

(5) If any person fails without sufficient cause to surrender himself in the manner specified in sub-section (4), he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(6) If any person released under sub-section (1) or sub-section (2) 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.

(7) Notwithstanding anything contained in any other law and save as otherwise provided in this section, no person against whom a detention order made under this Act is in force shall be released whether on bail or bail bond or otherwise.

14. No suit or other legal proceeding shall lie against the Central Government or a State Government and no suit, prosecution or other legal proceeding 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.

15. In section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, to sub-section (1), the following proviso shall be added, namely:—

Amendment of Act 52 of 1974.

“Provided that no order of detention shall be made on any of the grounds specified in this sub-section on which an order of detention may be made under section 3 of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 or under section 3 of the Jammu and Kashmir Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Ordinance, 1988.”

J. & K. Ordinance 1 of 1988.

16. (1) The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Ordinance, 1988, is hereby repealed.

Repeal and saving.

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

Ord. 7 of 1988.

THE APPROPRIATION (RAILWAYS) No. 4 ACT, 1988

No. 47 OF 1988

[7th September, 1988.]

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 1988-89 for the purposes of Railways.

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

Short
title.

1. This Act may be called the Appropriation (Railways) No. 4 Act, 1988.

Issue
of Rs.
1,67,01,000
out of
the Consoli-
dated
Fund
of India
for the
financial
year
1988-89.

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 crore sixty-seven lakhs and one thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1988-89, in respect of the services relating to Railways specified in column 2 of the Schedule.

Appro-
priation.

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 Rs.	Charged on the Consolidated Fund Rs.	Total Rs.
2	Miscellaneous Expenditure (General)	1,00,000	—	1,00,000
10	Operating Expenses—Fuel	—	15,00,000	15,00,000
16	Assets—Acquisition, Construction and Replacement— Other Expenditure	—	—	—
	Capital	1,00,000	—	1,00,000
	Railway Funds	1,50,01,000	—	1,50,01,000
	TOTAL	1,52,01,000	15,00,000	1,67,01,000

THE APPROPRIATION (No. 4) ACT, 1988

THE SCHEDULE

(See section 3 and 4)
No. 48 of 1988

[7th September, 1988.]

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 1988-89.

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

Short-
title.

Issue of
Rs. 1593,
18,00,000
out of the
Consoli-
dated
Fund of
India for
the year
1988-89.

Appro-
priation.

1. This Act may be called the Appropriation (No. 4) Act, 1988.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of one thousand five hundred and ninety-three crores and eighteen lakhs rupees towards defraying the several charges which will come in course of payment during the financial year 1988-89, 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.

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 Petroleum and Natural Gas . . . Capital	36,00,00,000	..	36,00,00,000
68	Department of Mines . . . Capital	80,00,00,000	..	80,00,00,000
77	Ministry of Water Resources . . . Revenue	10,60,00,000	..	10,60,00,000
80	Nuclear Power Schemes . . . Capital	2,00,00,000	..	2,00,00,000
81	Department of Electronics . . . Revenue	1,00,00,000	..	1,00,00,000
		Capital	2,00,00,000	..
89	Delhi . . . Revenue	30,03,00,000	..	30,03,00,000
	TOTAL	1122,33,00,000	470,85,00,000	1593,18,00,000

THE PREVENTION OF CORRUPTION ACT, 1988

ARRANGEMENT OF SECTIONS

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2. Definitions.

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OFFENCES AND PENALTIES

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8. Taking gratification, in order, by corrupt or illegal means, to influence public servant.
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10. Punishment for abetment by public servant of offences defined in section 8 or 9.
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21. Accused person to be a competent witness.

22. The Code of Criminal Procedure, 1973 to apply subject to certain modifications.

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26. Special Judges appointed under Act 46 of 1952 to be special Judges appointed under this Act.

27. Appeal and revision.

28. Act to be in addition to any other law.

29. Amendment of Ordinance 38 of 1944.

30. Repeal and saving.

31. Omission of certain sections of Act 45 of 1860.

THE PREVENTION OF CORRUPTION ACT, 1988

No. 49 OF 1988

[9th September, 1988.]

An Act to consolidate and amend the law relating to the prevention of corruption and for matters connected therewith.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Prevention of Corruption Act, 1988.

Short title and extent.

(2) It extends to the whole of India except the State of Jammu and Kashmir and it applies also to all citizens of India outside India.

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

Definitions.

(a) "election" means any election, by whatever means held under any law for the purpose of selecting members of Parliament or of any Legislature, local authority or other public authority;

(b) "public duty" means a duty in the discharge of which the State, the public or the community at large has an interest;

Explanation.—In this clause "State" includes a corporation established by or under a Central, Provincial or State Act, or an authority or a body owned or controlled or aided by the Government or a Government company as defined in section 617 of the Companies Act, 1956;

1 of 1956.

(c) "public servant" means—

(i) any person in the service or pay of the Government or remunerated by the Government by fees or commission for the performance of any public duty;

(ii) any person in the service or pay of a local authority;

(iii) any person in the service or pay of a corporation established by or under a Central, Provincial or State Act, or an authority or a body owned or controlled or aided by the Govern-

ment or a Government company as defined in section 617 of the Companies Act, 1956;

1 of 1956.

(iv) any Judge, including any person empowered by law to discharge, whether by himself or as a member of any body of persons, any adjudicatory functions;

(v) any person authorised by a court of justice to perform any duty, in connection with the administration of justice, including a liquidator, receiver or commissioner appointed by such court;

(vi) any arbitrator or other person to whom any cause or matter has been referred for decision or report by a court of justice or by a competent public authority;

(vii) any person who holds an office by virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election;

(viii) any person who holds an office by virtue of which he is authorised or required to perform any public duty;

(ix) any person who is the president, secretary or other office-bearer of a registered co-operative society engaged in agriculture, industry, trade or banking, receiving or having received any financial aid from the Central Government or a State Government or from any corporation established by or under a Central, Provincial or State Act, or any authority or body owned or controlled or aided by the Government or a Government company as defined in section 617 of the Companies Act, 1956;

1 of 1956.

(x) any person who is a chairman, member or employee of any Service Commission or Board, by whatever name called, or a member of any selection committee appointed by such Commission or Board for the conduct of any examination or making any selection on behalf of such Commission or Board;

(xi) any person who is a Vice-Chancellor or member of any governing body, professor, reader, lecturer or any other teacher or employee, by whatever designation called, of any University and any person whose services have been availed of by a University or any other public authority in connection with holding or conducting examinations;

(xii) any person who is an office-bearer or an employee of an educational, scientific, social, cultural or other institution, in whatever manner established, receiving or having received any financial assistance from the Central Government or any State Government, or local or other public authority.

Explanation 1.—Persons falling under any of the above sub-clauses are public servants, whether appointed by the Government or not.

Explanation 2.—Wherever the words "public servant" occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

CHAPTER II

APPOINTMENT OF SPECIAL JUDGES

3. (1) The Central Government or the State Government may, by notification in the Official Gazette, appoint as many special Judges as may be necessary for such area or areas or for such case or group of cases as may be specified in the notification to try the following offences, namely:—

Power to appoint special Judges.

(a) any offence punishable under this Act; and

(b) any conspiracy to commit or any attempt to commit or any abetment of any of the offences specified in clause (a).

(2) A person shall not be qualified for appointment as a special Judge under this Act unless he is or has been a Sessions Judge or an Additional Sessions Judge or an Assistant Sessions Judge under the Code of Criminal Procedure, 1973.

2 of 1974.

4. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, or in any other law for the time being in force, the offences specified in sub-section (1) of section 3 shall be tried by special Judges only.

2 of 1974.

Cases triable by special Judges.

(2) Every offence specified in sub-section (1) of section 3 shall be tried by the special Judge for the area within which it was committed, or, as the case may be, by the special Judge appointed for the case, or where there are more special Judges than one for such area, by such one of them as may be specified in this behalf by the Central Government.

(3) When trying any case, a special Judge may also try any offence, other than an offence specified in section 3, with which the accused may, under the Code of Criminal Procedure, 1973, be charged at the same trial.

2 of 1974.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, a special Judge shall, as far as practicable, hold the trial of an offence on day-to-day basis.

2 of 1974.

5. (1) A special Judge may take cognizance of offences without the accused being committed to him for trial and, in trying the accused persons, shall follow the procedure prescribed by the Code of Criminal Procedure, 1973, for the trial of warrant cases by Magistrates.

2 of 1974.

Procedure and powers of special Judge.

(2) A special Judge may, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, an offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relating to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof and any pardon so tendered shall, for the purposes of sub-sections (1) to (5) of section 308 of the Code of Criminal Procedure, 1973, be deemed to have been tendered under section 307 of that Code.

2 of 1974.

(3) Save as provided in sub-section (1) or sub-section (2), the provisions of the Code of Criminal Procedure, 1973, shall, so far as they are not inconsistent with this Act, apply to the proceedings before a special Judge; and for the purposes of the said provisions, the Court of the special Judge shall be deemed to be a Court of Session and the person conducting a prosecution before a special Judge shall be deemed to be a public prosecutor.

2 of 1974.

(4) In particular and without prejudice to the generality of the provisions contained in sub-section (3), the provisions of sections 326 and 475 of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to the proceedings before a special Judge and for the purposes of the said provisions, a special Judge shall be deemed to be a Magistrate.

2 of 1974.

(5) A special Judge may pass upon any person convicted by him any sentence authorised by law for the punishment of the offence of which such person is convicted.

(6) A special Judge, while trying an offence punishable under this Act, shall exercise all the powers and functions exercisable by a District Judge under the Criminal Law Amendment Ordinance, 1944.

Ord. 38 of 1944.

Power to try summarily.

6. (1) Where a special Judge tries any offence specified in sub-section (1) of section 3, alleged to have been committed by a public servant in relation to the contravention of any special order 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, then, notwithstanding anything contained in sub-section (1) of section 5 of this Act or section 260 of the Code of Criminal Procedure, 1973, the special Judge shall try the offence in a summary way, and the provisions of sections 262 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such trial:

10 of 1955.
2 of 1974.

Provided that, in the case of any conviction in a summary trial under this section, it shall be lawful for the special Judge 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 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.

(2) Notwithstanding anything to the contrary contained in this Act or in the Code of Criminal Procedure, 1973, there shall be no appeal by a convicted person in any case tried summarily under this section in which the special Judge passes a sentence of imprisonment not exceeding one month, and of fine not exceeding two thousand rupees whether or not any order under section 452 of the said Code is made in addition to such sentence, but an appeal shall lie where any sentence in excess of the aforesaid limits is passed by the special Judge.

2 of 1974.

CHAPTER III

OFFENCES AND PENALTIES

Public servant taking gratification other

7. Whoever, being, or expecting to be a public servant, accepts or obtains or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of

his official functions, favour or disfavour to any person or for rendering or attempting to render any service or disservice to any person, with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment which shall be not less than six months but which may extend to five years and shall also be liable to fine.

Explanations.—(a) “Expecting to be a public servant.” If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this section.

(b) “Gratification.” The word “gratification” is not restricted to pecuniary gratifications or to gratifications estimable in money.

(c) “Legal remuneration.” The words “legal remuneration” are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government or the organisation, which he serves, to accept.

(d) “A motive or reward for doing.” A person who receives a gratification as a motive or reward for doing what he does not intend or is not in a position to do, or has not done, comes within this expression.

(e) Where a public servant induces a person erroneously to believe that his influence with the Government has obtained a title for that person and thus induces that person to give the public servant, money or any other gratification as a reward for this service, the public servant has committed an offence under this section.

8. Whoever accepts or obtains, or agrees to accept, or attempts to obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for inducing, by corrupt or illegal means, any public servant, whether named or otherwise, to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.

9. Whoever accepts or obtains or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by the exercise of personal influence, any public servant whether named or otherwise to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section

than legal remuneration in respect of an official act.

Taking gratification, in order, by corrupt or illegal means, to influence public servant.

Taking gratification, for exercise of personal influence with public servant.

2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.

Punishment for abetment by public servant of offences defined in section 8 or 9.

10. Whoever, being a public servant, in respect of whom either of the offences defined in section 8 or section 9 is committed, abets the offence, whether or not that offence is committed in consequence of that abetment, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.

Public servant obtaining valuable thing, without consideration from person concerned in proceeding or business transacted by such public servant.

11. Whoever, being a public servant, accepts or obtains or agrees to accept or attempts to obtain for himself, or for any other person, any valuable thing without consideration, or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by such public servant, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.

Punishment for abetment of offences defined in section 7 or 11.

12. Whoever abets any offence punishable under section 7 or section 11 whether or not that offence is committed in consequence of that abetment, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.

Criminal misconduct by a public servant.

13. (1) A public servant is said to commit the offence of criminal misconduct,—

(a) if he habitually accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person any gratification other than legal remuneration as a motive or reward such as is mentioned in section 7; or

(b) if he habitually accepts or obtains or agrees to accept or attempts to obtain for himself or for any other person, any valuable thing without consideration or for a consideration which he knows to be inadequate from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by him, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned; or

(c) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use any property entrusted to him or under his control as a public servant or allows any other person so to do; or

(d) if he,—

(i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest; or

(e) if he or any person on his behalf, is in possession or has, at any time during the period of his office, been in possession for which the public servant cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income.

Explanation.—For the purposes of this section, “known sources of income” means income received from any lawful source and such receipt has been intimated in accordance with the provisions of any law, rules or orders for the time being applicable to a public servant.

(2) Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall be not less than one year but which may extend to seven years and shall also be liable to fine.

14. Whoever habitually commits—

(a) an offence punishable under section 8 or section 9; or

(b) an offence punishable under section 12,

shall be punishable with imprisonment for a term which shall be not less than two years but which may extend to seven years and shall also be liable to fine.

15. Whoever attempts to commit an offence referred to in clause (c) or clause (d) of sub-section (1) of section 13 shall be punishable with imprisonment for a term which may extend to three years and with fine.

16. Where a sentence of fine is imposed under sub-section (2) of section 13 or section 14, the court in fixing the amount of the fine shall take into consideration the amount or the value of the property, if any, which the accused person has obtained by committing the offence or where the conviction is for an offence referred to in clause (e) of sub-section (1) of section 13, the pecuniary resources or property referred to in that clause for which the accused person is unable to account satisfactorily.

CHAPTER IV

INVESTIGATION INTO CASES UNDER THE ACT

17. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no police officer below the rank,—

(a) in the case of the Delhi Special Police Establishment, of an Inspector of Police;

Habitual committing of offence under sections 8, 9 and 12.

Punishment for attempt.

Matters to be taken into consideration for fixing fine.

Persons authorised to investigate.

(b) in the metropolitan areas of Bombay, Calcutta, Madras and Ahmedabad and in any other metropolitan area notified as such under sub-section (1) of section 8 of the Code of Criminal Procedure, 1973, of an Assistant Commissioner of Police;

2 of 1974.

(c) elsewhere, of a Deputy Superintendent of Police or a police officer of equivalent rank,

shall investigate any offence punishable under this Act without the order of a Metropolitan Magistrate or a Magistrate of the first class, as the case may be, or make any arrest therefor without a warrant:

Provided that if a police officer not below the rank of an Inspector of Police is authorised by the State Government in this behalf by general or special order, he may also investigate any such offence without the order of a Metropolitan Magistrate or a Magistrate of the first class, as the case may be, or make arrest therefor without a warrant:

Provided further that an offence referred to in clause (e) of sub-section (1) of section 13 shall not be investigated without the order of a police officer not below the rank of a Superintendent of Police.

Power to inspect bankers' books.

18. If from information received or otherwise, a police officer has reason to suspect the commission of an offence which he is empowered to investigate under section 17 and considers that for the purpose of investigation or inquiry into such offence, it is necessary to inspect any bankers' books, then, notwithstanding anything contained in any law for the time being in force, he may inspect any bankers' books in so far as they relate to the accounts of the persons suspected to have committed that offence or of any other person suspected to be holding money on behalf of such person, and take or cause to be taken certified copies of the relevant entries therefrom, and the bank concerned shall be bound to assist the police officer in the exercise of his powers under this section:

Provided that no power under this section in relation to the accounts of any person shall be exercised by a police officer below the rank of a Superintendent of Police, unless he is specially authorised in this behalf by a police officer of or above the rank of a Superintendent of Police.

Explanation.—In this section, the expressions "bank" and "bankers' books" shall have the meanings respectively assigned to them in the Bankers' Books Evidence Act, 1891.

18 of 1891.

CHAPTER V

SANCTION FOR PROSECUTION AND OTHER MISCELLANEOUS PROVISIONS

Previous sanction necessary for prosecution.

19. (1) No court shall take cognizance of an offence punishable under sections 7, 10, 11, 13 and 15 alleged to have been committed by a public servant, except with the previous sanction,—

(a) in the case of a person who is employed in connection with the affairs of the Union and is not removable from his office save by or with the sanction of the Central Government, of that Government;

(b) in the case of a person who is employed in connection with the affairs of a State and is not removable from his office, save by or with the sanction of the State Government, of that Government;

(c) in the case of any other person, of the authority competent to remove him from his office.

(2) Where for any reason whatsoever any doubt arises as to whether the previous sanction as required under sub-section (1) should be given by the Central Government or the State Government or any other authority, such sanction shall be given by that Government or authority which would have been competent to remove the public servant from his office at the time when the offence was alleged to have been committed.

2 of 1974.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973,—

(a) no finding, sentence or order passed by a special Judge shall be reversed or altered by a Court in appeal, confirmation or revision on the ground of the absence of, or any error, omission or irregularity in, the sanction required under sub-section (1), unless in the opinion of that court, a failure of justice has in fact been occasioned thereby;

(b) no court shall stay the proceedings under this Act, on the ground of any error, omission or irregularity in the sanction granted by the authority, unless it is satisfied that such error, omission or irregularity has resulted in a failure of justice;

(c) no court shall stay the proceedings under this Act on any other ground and no court shall exercise the powers of revision in relation to any interlocutory order passed in any inquiry, trial, appeal or other proceedings.

(4) In determining under sub-section (3) whether the absence of, or any error, omission or irregularity in, such sanction has occasioned or resulted in a failure of justice the court shall have regard to the fact whether the objection could and should have been raised at any earlier stage in the proceedings.

Explanation.—For the purposes of this section,—

(a) error includes competency of the authority to grant sanction;

(b) a sanction required for prosecution includes reference to any requirement that the prosecution shall be at the instance of a specified authority or with the sanction of a specified person or any requirement of a similar nature.

20. (1) Where, in any trial of an offence punishable under section 7 or section 11 or clause (a) or clause (b) of sub-section (1) of section 13 it is proved that an accused person has accepted or obtained or has agreed to accept or attempted to obtain for himself, or for any other person, any gratification (other than legal remuneration) or any valuable thing from any person, it shall be presumed, unless the contrary is proved, that he accepted or obtained or agreed to accept or attempted to obtain that gratification or that valuable thing, as the case may be, as a motive or reward such as is mentioned in section 7 or, as the case may be, without consideration or for a consideration which he knows to be inadequate.

Presump-
tion where
public
servant
accepts
gratification
other than
legal
remunera-
tion.

(2) Where in any trial of an offence punishable under section 12 or under clause (b) of section 14, it is proved that any gratification (other than legal remuneration) or any valuable thing has been given or offered to be given or attempted to be given by an accused person, it shall be presumed, unless the contrary is proved, that he gave or offered to give or attempted to give that gratification or that valuable thing, as the case may be, as a motive or reward such as is mentioned in section 7, or, as the case may be, without consideration or for a consideration which he knows to be inadequate.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the court may decline to draw the presumption referred to in either of the said sub-sections, if the gratification or thing aforesaid is, in its opinion, so trivial that no inference of corruption may fairly be drawn.

Accused person to be a competent witness.

21. Any person charged with an offence punishable under this Act, 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 at his own request;
- (b) his failure to give evidence shall not be made the subject of any comment by the prosecution or give rise to any presumption against himself or any person charged together with him at the same trial;
- (c) he shall not be asked, and if asked shall not be required to answer, any question tending to show that he has committed or been convicted of any offence other than the offence with which he is charged, or is of bad character, unless—
 - (i) the proof that he has committed or been convicted of such offence is admissible evidence to show that he is guilty of the offence with which he is charged, or
 - (ii) he has personally or by his pleader asked any question of any witness for the prosecution with a view to establish his own good character, or has given evidence of his good character, or the nature or conduct of the defence is such as to involve imputations on the character of the prosecutor or of any witness for the prosecution, or
 - (iii) he has given evidence against any other person charged with the same offence.

The Code of Criminal Procedure, 1973 to apply subject to certain modifications.

22. The provisions of the Code of Criminal Procedure, 1973, shall in their application to any proceeding in relation to an offence punishable under this Act have effect as if,—

- (a) in sub-section (1) of section 243, for the words "The accused shall then be called upon", the words "The accused shall then be required to give in writing at once or within such time as the Court may allow, a list of the persons (if any) whom he proposes to examine as his witnesses and of the documents (if any) on which he proposes to rely and he shall then be called upon" had been substituted;

(b) in sub-section (2) of section 309, after the third proviso, the following proviso had been inserted, namely:—

“Provided also that the proceeding shall not be adjourned or postponed merely on the ground that an application under section 397 has been made by a party to the proceeding.”;

(c) after sub-section (2) of section 317, the following sub-section had been inserted, namely:—

“(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the Judge may, if he thinks fit and for reasons to be recorded by him, proceed with inquiry or trial in the absence of the accused or his pleader and record the evidence of any witness subject to the right of the accused to recall the witness for cross-examination.”;

(d) in sub-section (1) of section 397, before the *Explanation*, the following proviso had been inserted, namely:—

“Provided that where the powers under this section are exercised by a Court on an application made by a party to such proceedings, the Court shall not ordinarily call for the record of the proceedings:—

(a) without giving the other party an opportunity of showing cause why the record should not be called for; or

(b) if it is satisfied that an examination of the record of the proceedings may be made from the certified copies.”.

2 of 1974.

23. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, when an accused is charged with an offence under clause (c) of sub-section (1) of section 13, it shall be sufficient to describe in the charge the 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 of the said Code:

Particulars in a charge in relation to an offence under section 13(1)(c).

Provided that the time included between the first and last of such dates shall not exceed one year.

24. Notwithstanding anything contained in any law for the time being in force, a statement made by a person in any proceeding against a public servant for an offence under sections 7 to 11 or under section 13 or section 15, that he offered or agreed to offer any gratification (other than legal remuneration) or any valuable thing to the public servant, shall not subject such person to a prosecution under section 12.

Statement by bribe giver not to subject him to prosecution.

25. (1) Nothing in this Act shall affect the jurisdiction exercisable by, or the procedure applicable to, any court or other authority under the Army Act, 1950, the Air Force Act, 1950, the Navy Act, 1957, the Border Security Force Act, 1968, the Coast Guard Act, 1978 and the National Security Guard Act, 1986.

Military, Naval and Air Force or other law not to be affected.

45 of 1950.
46 of 1950.
62 of 1957.
47 of 1968.
30 of 1978.
47 of 1986.

(2) For the removal of doubts, it is hereby declared that for the purposes of any such law as is referred to in sub-section (1), the court

46 Law—64.

of a special Judge shall be deemed to be a court of ordinary criminal justice.

Special Judges appointed under Act 48 of 1952 to be special Judges appointed under this Act.

26. Every special Judge appointed under the Criminal Law Amendment Act, 1952, for any area or areas and is holding office on the commencement of this Act shall be deemed to be a special Judge appointed under section 3 of this Act for that area or areas and, accordingly, on and from such commencement, every such Judge shall continue to deal with all the proceedings pending before him on such commencement in accordance with the provisions of this Act.

Appeal and revision.

27. Subject to the provisions of this Act, the High Court may exercise, so far as they may be applicable, all the powers of appeal and revision conferred by the Code of Criminal Procedure, 1973 on a High Court as if the court of the special Judge were a court of Session trying cases within the local limits of the High Court.

2 of 1974.

Act to be in addition to any other law.

28. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force, and nothing contained herein shall exempt any public servant from any proceeding which might, apart from this Act, be instituted against him.

Amendment of the Ordinance 38 of 1944.

29. In the Criminal Law Amendment Ordinance, 1944,—

(a) in sub-section (1) of section 3, sub-section (1) of section 9, clause (a) of section 10, sub-section (1) of section 11 and sub-section (1) of section 13, for the words "State Government", wherever they occur, the words "State Government or, as the case may be, the Central Government" shall be substituted;

(b) in section 10, in clause (a), for the words "three months", the words "one year" shall be substituted;

(c) in the Schedule,—

(i) paragraph 1 shall be omitted;

(ii) in paragraphs 2 and 4,—

(a) after the words "a local authority", the words and figures "or a corporation established by or under a Central, Provincial or State Act, or an authority or a body owned or controlled or aided by Government or a Government company as defined in section 617 of the Companies Act, 1956 or a society aided by such corporation, authority, body or Government company" shall be inserted;

1 of 1956.

(b) after the words "or authority", the words "or corporation or body or Government company or society" shall be inserted;

(iii) for paragraph 4A, the following paragraph shall be substituted, namely:—

"4A. An offence punishable under the Prevention of Corruption Act, 1988.;"

(iv) in paragraph 5, for the words and figures "items 2, 3 and 4", the words, figures and letter "items 2, 3, 4 and 4A" shall be substituted.

2 of 1947,
46 of 1952,

30. (1) The Prevention of Corruption Act, 1947 and the Criminal Law Amendment Act, 1952 are hereby repealed.

Repeal and saving.

10 of 1897.

(2) Notwithstanding such repeal, but without prejudice to the application of section 6 of the General Clauses Act, 1897, anything done or any action taken or purported to have been done or taken under or in pursuance of the Acts so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under or in pursuance of the corresponding provision of this Act.

10 of 1897.

31. Sections 161 to 165A (both inclusive) of the Indian Penal Code shall be omitted, and section 6 of the General Clauses Act, 1897, shall apply to such omission as if the said sections had been repealed by a Central Act.

Omission of certain sections of Act 45 of 1860.

THE AIRCRAFT (AMENDMENT) ACT, 1988

No. 50 OF 1988

[23rd September, 1988.]

An Act further to amend the Aircraft Act, 1934.

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

Short title.

1. This Act may be called the Aircraft (Amendment) Act, 1988.

Amend-
ment of
Act 22 of
1934.

2. In section 10 of the Aircraft Act, 1934, after sub-section (1), the following sub-sections shall be inserted, namely:—

“(1A) if any person contravenes any provision of any rule made under clause (qq) of sub-section (2) of section 5 prohibiting the slaughter and flaying of animals and of depositing rubbish, filth and other polluted and obnoxious matters within a radius of ten kilometres from the aerodrome reference point, he shall be punishable with imprisonment which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

(1B) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence referred to in sub-section (1A) shall be cognizable.”.

2 of 1974.

THE LABOUR LAWS (EXEMPTION FROM FURNISHING RETURNS AND MAINTAINING REGISTERS BY CERTAIN ESTABLISHMENTS) ACT, 1988

No. 51 of 1988

[24th September, 1988.]

An Act to provide for the exemption of employers in relation to establishments employing a small number of persons from furnishing returns and maintaining registers under certain labour laws.

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

1. (1) This Act may be called the Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by certain Establishments) Act, 1988.

(2) It extends to the whole of India;

69 of 1951. Provided that nothing contained in this Act, in relation to the Plantations Labour Act, 1951 shall extend to the State of Jammu and Kashmir.

(3) 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 States, and any reference in any provision of this Act to the commencement of this Act shall be construed as a reference to the coming into force of that provision in that State.

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

(a) "employer", in relation to a Scheduled Act, which defines such expression, has the same meaning assigned to it in that Act, and in relation to any other Scheduled Act, means the person who is required to furnish returns or maintain registers under that Act;

(b) "establishment" has the meaning assigned to it in a Scheduled Act, and includes—

(i) an 'industrial or other establishment' as defined in section 2 of the Payment of Wages Act, 1936;

4 of 1936.

(ii) a 'factory' as defined in section 2 of the Factories Act, 1948;

63 of 1948.

¹ 1.5.1989; vide Notification No. G.S.R. 436(E), dated 10-4-1989, Gazette of India, Extraordinary, 1989, Pt. II; Sec. 3(ii).

Short title, extent and commencement.

Definitions.

(iii) a factory, workshop or place where employees are employed or work is given out to workers, in any scheduled employment to which the Minimum Wages Act, 1948, applies;

11 of 1948.

(iv) a 'plantation' as defined in section 2 of the Plantations Labour Act, 1951; and

69 of 1951.

(v) a 'newspaper establishment' as defined in section 2 of the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955;

45 of 1955.

(c) "Form" means a Form specified in the Second Schedule:

(d) "Scheduled Act" means an Act specified in the First Schedule and is in force on the commencement of this Act in the territories to which such Act extends generally, and includes the rules made thereunder;

(e) "small establishment" means an establishment in which not less than ten and not more than nineteen persons are employed or were employed on any day of the preceding twelve months;

(f) "very small establishment" means an establishment in which not more than nine persons are employed or were employed on any day of the preceding twelve months.

Amendment of certain labour laws.

3. On and from the commencement of this Act, the Scheduled Acts shall have effect subject to the provisions of this Act.

Exemption from returns and registers required under certain labour laws.

4. (1) On and from the commencement of this Act, it shall not be necessary for an employer in relation to any small establishment or very small establishment to which a Scheduled Act applies to furnish the returns or to maintain the registers required to be furnished or maintained under that Scheduled Act:

Provided that such employer—

(a) furnishes, in lieu of such returns, a Core Return in Form A;

(b) maintains, in lieu of such registers,—

(i) registers in Form B, Form C and Form D, in the case of small establishments; and

(ii) register in Form E, in the case of very small establishments;

Provided further that every such employer shall continue to—

(a) issue wage slips in the Form prescribed in the Minimum Wages (Central) Rules, 1950 made under sections 18 and 30 of the Minimum Wages Act, 1948 and slips relating to measurement of the amount of work done by piece-rated workers required to be issued under the Payment of Wages (Mines) Rules, 1956 made under sections 13A and 26 of the Payment of Wages Act, 1936; and

11 of 1948.

4 of 1936.

(b) file returns relating to accidents under sections 88 and 88A of the Factories Act, 1948 and sections 32A and 32B of the Plantations Labour Act, 1951.

63 of 1948
69 of 1951

(2) Save as provided in sub-section (1), all other provisions of a Scheduled Act, including in particular, the inspection of the registers by, and furnishing of their copies to, the authorities under that Act, shall apply to the returns and registers required to be furnished or maintained under this Act as they apply to the returns and registers under that Scheduled Act.

(3) Where an employer in relation to a small establishment or very small establishment to which a Scheduled Act applies, furnishes returns or maintains the registers as provided in the proviso to sub-section (1), nothing contained in that Scheduled Act shall render him liable to any penalty for his failure to furnish any return or to maintain any register under that Scheduled Act.

5. The commencement of this Act shall not affect—

Savings.

(a) the previous operation of any provision of any Scheduled Act or the validity, invalidity, effect or consequence of anything done or suffered under that provision, before the relevant period;

(b) any right, privilege, obligation or liability already acquired, accrued or incurred under any Scheduled Act, before the relevant period;

(c) any penalty, forfeiture or punishment incurred or inflicted in respect of any offence committed under any Scheduled Act, before the relevant period;

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment aforesaid,

and any such investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment shall be instituted, continued or disposed of, as the case may be, in accordance with that Scheduled Act.

Explanation.—For the purpose of this section, the expression “relevant period” means the period during which an establishment is or was a small establishment or a very small establishment under this Act.

6. Any employer who fails to comply with the provisions of this Act shall, on conviction, be punishable—

Penalty.

(a) in the case of the first conviction, with fine which may extend to rupees five thousand; and

(b) in the case of any second or subsequent conviction, with imprisonment for a period which shall not be less than one month but which may extend to six months or with fine which shall not be less than rupees ten thousand but may extend to rupees twenty-five thousand, or with both.

7. (1) The Central Government may, if it is of opinion that it is expedient so to do, by notification in the Official Gazette, amend any Form and thereupon such Form shall, subject to the provisions of sub-section (2), be deemed to have been amended accordingly.

Power to amend Form.

(2) Any notification issued under sub-section (1) shall be laid before each House of Parliament, if it is sitting as soon as may be after the

issue of the notification, and if it is not sitting, within seven days of its re-assembly and the Central Government shall seek the approval of Parliament to the notification by a resolution moved within a period of fifteen days beginning with the day on which the notification is so laid before the House of the People, and if Parliament makes any modification in the notification or directs that the notification should cease to have effect, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, but without prejudice to the validity of anything previously done thereunder.

Power to
remove
difficul-
ties.

8. 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 date on which this Act receives the assent of the President.

FIRST SCHEDULE

[See section 2(d)]

- (1) The Payment of Wages Act, 1936 (4 of 1936).
- (2) The Weekly Holidays Act, 1942 (18 of 1942).
- (3) The Minimum Wages Act, 1948 (11 of 1948).
- (4) The Factories Act, 1948 (63 of 1948).
- (5) The Plantations Labour Act, 1951 (69 of 1951).
- (6) The Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 (45 of 1955).
- (7) The Contract Labour (Regulation and Abolition) Act, 1970 (37 of 1970).
- (8) The Sales Promotion Employees (Conditions of Service) Act, 1976 (11 of 1976).
- (9) The Equal Remuneration Act, 1976 (25 of 1976).

SECOND SCHEDULE

[See section 2(c)]

FORM A

[See section 4(1) proviso (a)]

CORE RETURN

RETURN FOR THE YEAR ENDING 31ST DECEMBER

(To be furnished on or before the 15th February of the succeeding Year by small establishments and very small establishments).

1. (a) Name and postal address of the establishment.
(b) Name and residential address of the employer.

- (c) Name and residential address of the Manager or person responsible for supervision and control of the establishment.
- (d) Name of the principal employer in the case of a contractor's establishment.
- (e) Date of commencement of the establishment.

NATURE OF OPERATION | INDUSTRY | WORK CARRIED ON

- 2. (a) Number of days worked during the year.
 - (b) Number of man-days worked during the year.
 - (c) Daily hours of work.
 - (d) Day of weekly holiday.
- 3. (a) Average number of persons employed during the year.
 - (i) Males.
 - (ii) Females.
 - (iii) Adolescents (those who have completed 14 years but have not completed 18 years of age).
 - (iv) Children (those who have not completed 14 years of age).
 - (b) Maximum number of workers employed on any day during the year.
 - (c) Number of workers discharged, dismissed, retrenched or whose services were terminated during the year.
- 4. Rates of wages—categorywise.
 - (1) Males (2) Females (3) Adolescents (4) Children.
- 5. Gross Wages paid:
 - (a) in cash.
 - (b) in kind.
- 6. Deductions:
 - (a) Fines.
 - (b) Deductions for damage or loss.
 - (c) Other deductions.
- 7. Number of workers who were granted leave with wages during the year.
 - 8. Nature of Welfare amenities provided: Statutory (specify the Statute).
 - 9. Does the establishment carry out any hazardous process or dangerous operation coming within the meaning of the Factories Act, 1948. If so, give particulars.

Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by certain Establishments)

[ACT 51]

10. Number of Accidents:

(a) Fatal.

(b) Non-fatal.

11. Nature of safety measures provided as required under the Factories Act, 1948.

Signature of the employer with full name in capitals.

Date.....

Place.....

Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by certain Establishments)

FORM C

[See section 4(r) proviso (b) (i)]

REGISTER OF WAGES REQUIRED TO BE MAINTAINED BY SMALL ESTABLISHMENTS

(To be maintained within seven days of the expiry of the wage period)

Name of establishment _____ Name and address of employer _____
 Address (Local) _____ Nature of work _____
 (Permanent) _____ Wage period _____

Serial Number	Name of the employee	Sex	Designation	Classification, whether permanent/temporary/casual/part-time or any other	Father's or husband's name	Total days/number of units worked	Wages earned							
							Basic wage Statutory Minimum rate	Actual	Dearness allowance	Overtime or gratia	Bonus or ex-gratia	Maternity benefits	Gratuity	Any other allowance
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15

Wages earned		Deductions										Remarks
Total amount	Advances	Fines due to damage or loss by neglect or default	Provident Fund Employers' contribution	Employees' contribution	State Insurance Employers' contribution	Employees' contribution	Other deductions indicating the nature	Total deductions	Net amount payable	Signature or thumb impression of employee with date	Signature of Inspector with date	
16	17	18	19	20	21	22	23	24	25	26	27	28

- Notes : 1. In case of deduction of any advance taken by an employee, the employer shall also indicate therein the number of instalments paid/total instalments by which advance is to be repaid such as "5/20, 6/20" etc. The purpose of advance shall also be mentioned in the Remarks column.
2. In case of imposition of fines or deduction for damage or loss, the specific act or omission for which the penalty has been imposed has to be indicated in the Remarks column. A certificate shall also be recorded in the said column to the effect that an opportunity to show cause was given to the employee concerned before imposition of fine or deduction.

Signature of the employer with full name in capitals.

Date

Place

Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by certain Establishments)

FORM C

[See section 4(z) proviso (b)(i)]

MUSTER ROLL TO BE MAINTAINED BY SMALL ESTABLISHMENTS

Name of establishment..... Name and address of the employer.....
 Address (Local).....
 (Permanent) Wage period.....

Serial Number	Name of the employee	Date of employment	Permanent address	Age or date of birth	Father's or husband's name	For the period ending..... Number of units of work done during.....	Total attendance
1	2	3	4	5	6	7	8

Total overtime worked ¹	Total production ² in case of piece-rated workers ²	Compensatory rest ³		Signature of Inspector with date	Remarks
		Brought forward from previous wage period	Given during the wage period		
9	10	11	12	13	14

- NOTES: 1. In the case of daily-rated workers, the extent of overtime done on each occasion has to be reflected against each concerned date, such as "P/1" meaning "Present with one hour's overtime", "P/1.2" meaning "Present with one and a half hour's overtime", and so on.
2. The number of units of work done by a piece-rated worker has to be noted for each day in the Register. In case of employment of any child/adolescent, the employer shall indicate the hours worked each day with intervals of rest.
3. The compensatory rest availed by the worker has to be marked in the Register in red ink as 'CR'.
4. Column 7 to be filled up on each working day and the remaining columns to be completed within seven days of the expiry of the wage period.

Date.....

Signature of the employer with full name in capital

Place.....

FORM D

[See section 4(1) proviso (b)(i)]

MONTHLY REGISTER SHOWING WELFARE AMENITIES TO BE MAINTAINED BY SMALL ESTABLISHMENTS

Name and address of the employer..... Address of the establishment : Local/Permanent For the month of.....

Serial Number	Name of the employee	Sex	Designation	Weekly day of rest	Dates of holidays for festivals or similar other occasions	Number of casual leave availed by the employee	Quantum of annual leave with wages	
							Due	Availed
1	2	3	4	5	6	7	8	9

Whether Welfare Amenities provided for			Whether Scheduled Caste/Scheduled Tribe, Handicapped, or any other particular category	Signature of the employer or his agent	Remarks of the Inspecting Officer	Signature of Inspector with date
Rest room	Drinking water	First aid				
10	11	12	13	14	15	16

NOTE : To be completed within seven days of the expiry of each calendar month.

Date.....

Signature of the employer with full name in capitals.

Place

Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by certain Establishments)

FORM E

[See section 4(1) proviso (b) (ii)]

MONTHLY REGISTER OF MUSTER ROLL-CUM-WAGES REQUIRED TO BE MAINTAINED BY VERY SMALL ESTABLISHMENTS

Year
 Month.....or
 Wage period
 (where different).....

Name of establishment
 Name of employee Father's name
 Nature of work Rate of wages
 Wage period Date of employment

Date	Hours of work		Interval for Rest and Meal		Hours worked with the employer	Overtime		Casual or sick-ness leave availed during the month/wage period	Privilege Leave		Signature of the employer	Remarks of the employer
	From	To	From	To		Hours worked	Wages earned		Leave due	Leave Balance availed		

1 2 3 4 5 6 7 8 9 10 11 12 13 14

Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by certain Establishments)

Remuneration Due				Deductions					Net amount of payment	Date of payment	Signature or thumb impression of the employee	Signature of Inspector with remarks, if any, and date
Basic salary or wage	Overtime	Other allowances, if any	Total	Fines and deductions on account of damage or loss by neglect or default	Other deductions	Advance paid, if any						
						Date	Amount	Total				
15	16	17	18	19	20	21	22	23	24	25	26	27

Note : Columns 1 to 12 to be filled up on each working day and the remaining columns to be completed within seven days of the expiry of the wage period.

Date

Signature of the employer with full name in capitals.

Place

THE STATE OF ARUNACHAL PRADESH (AMENDMENT)
ACT, 1988

No. 52 OF 1988

[27th September, 1988.]

An Act further to amend the State of Arunachal Pradesh Act, 1986.

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

Short
title.

1. This Act may be called the State of Arunachal Pradesh (Amendment) Act, 1988.

Substitu-
tion of
new
section
for
section 10.

2. In the State of Arunachal Pradesh Act, 1986, for section 10, the following section shall be substituted, namely:— 69 of 1986.

Provision
as to
Legisla-
tive
Assembly.

“10. The total number of seats in the Legislative Assembly of the State of Arunachal Pradesh, to be filled by persons chosen by direct election from assembly constituencies shall be sixty, out of which fifty-nine seats shall be reserved for the Scheduled Tribes; and the provisions of the Representation of the People Act, 1950 shall be deemed to be amended accordingly.” 43 of 1950.

THE WATER (PREVENTION AND CONTROL OF POLLUTION) AMENDMENT ACT, 1988

No. 53 OF 1988

[29th September, 1988.]

An Act further to amend the Water (Prevention and Control of Pollution) Act, 1974.

WHEREAS in pursuance of clause (1) of article 252 of the Constitution, the Water (Prevention and Control of Pollution) Act, 1974 had been passed by Parliament;

AND WHEREAS some administrative and practical difficulties in effectively implementing the provisions of the aforesaid Act have come to light, it is considered necessary to make certain amendments thereto;

AND WHEREAS, in pursuance of clause (1) of article 252 of the Constitution read with clause (2) thereof, resolutions have been passed by the Legislative Assemblies of the States of Himachal Pradesh and Tripura to the effect that the said Act should be amended by an Act of Parliament for the purposes hereinafter appearing;

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

1. (1) This Act may be called the Water (Prevention and Control of Pollution) Amendment Act, 1988.

(2) It applies, in the first instance, to the whole of the States of Himachal Pradesh and Tripura and the Union territories; and it shall apply to such other State which adopts this Act by resolution passed in that behalf under clause (1) of article 252 of the Constitution read with clause (2) thereof.

(3) It shall come into force, at once in the States of Himachal Pradesh and Tripura and the Union territories, and in any other State which adopts this Act under clause (1) of article 252 of the Constitution read with clause (2) thereof on the date of such adoption.

2. In section 2 of the Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred to as the principal Act),—

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

“(b) “Central Board” means the Central Pollution Control Board constituted under section 3;”

Short title, application and commencement.

Amendment of section 2

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

“(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 includes, in relation to any substance, the person in possession of the substance;”

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

“(h) “State Board” means a State Pollution Control Board constituted under section 4;”

(d) in clause (k), for the words “trade or industry”, the words “industry, operation or process, or treatment and disposal system” shall be substituted.

Amend-
ment of
section 3.

3. In section 3 of the principal Act,—

(a) in sub-section (1), for the words “Central Board for the Prevention and Control of Water Pollution”, the words “Central Pollution Control Board” shall be substituted;

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

“(f) a full-time member-secretary, possessing qualifications, knowledge and experience of scientific, engineering or management aspects of pollution control, to be appointed by the Central Government.”

Amend-
ment of
section 4.

4. In section 4 of the principal Act,—

(a) in sub-section (1), for the words “State Board”, the words “State Pollution Control Board” shall be substituted;

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

“(f) a full-time member-secretary, possessing qualifications, knowledge and experience of scientific, engineering or management aspects of pollution control, to be appointed by the State Government.”

Amend-
ment of
section 5.

5. In section 5 of the principal Act, in sub-section (7), for the words “shall not be eligible for renomination for more than two terms”, the words “shall be eligible for renomination” shall be substituted.

Amend-
ment of
section 12.

6. In section 12 of the principal Act, after sub-section (3A), the following sub-section shall be inserted, namely:—

“(3B) The Board may, by general or special order, and subject to such conditions and limitations, if any, as may be specified in the order delegate to any officer of the Board such of its powers and functions under this Act as it may deem necessary.”

7. In section 14 of the principal Act,—

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

“(f) a full-time member-secretary, possessing qualifications, knowledge and experience of scientific, engineering or management aspects of pollution control, to be appointed by the Central Government.”;

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

“(f) a full-time member-secretary, possessing qualifications, knowledge and experience of scientific, engineering or management aspects of pollution control, to be appointed by the Central Government.”.

8. In section 16 of the principal Act, in sub-section (2), after clause (e), the following clause shall be inserted, namely:—

“(ee) perform such of the functions of any State Board as may be specified in an order made under sub-section (2) of section 18;”.

9. Section 18 of the principal Act shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-sections shall be inserted, namely:—

“(2) Where the Central Government is of the opinion that any State Board has defaulted in complying with any directions given by the Central Board under sub-section (1) and as a result of such default a grave emergency has arisen and it is necessary or expedient so to do in the public interest, it may, by order, direct the Central Board to perform any of the functions of the State Board in relation to such area, for such period and for such purposes, as may be specified in the order.

(3) Where the Central Board performs any of the functions of the State Board in pursuance of a direction under sub-section (2), the expenses, if any, incurred by the Central Board with respect to the performance of such functions may, if the State Board is empowered to recover such expenses, be recovered by the Central Board with interest (at such reasonable rate as the Central Government may, by order, fix) from the date when a demand for such expenses is made until it is paid from the person or persons concerned as arrears of land revenue or of public demand.

(4) For the removal of doubts, it is hereby declared that any directions to perform the functions of any State Board given under sub-section (2) in respect of any area would not preclude the State Board from performing such functions in any other area in the State or any of its other functions in that area.”.

10. In section 20 of the principal Act, in sub-section (3), for the words “industry or trade”, the words “industry, operation or process, or treatment and disposal system” shall be substituted.

Amendment of section 14.

Amendment of section 16.

Amendment of section 18.

Amendment of section 20.

Amend-
ment of
section 24.

11. In section 24 of the principal Act, in sub-section (1), in clause (a), for the words "stream or well", the words "stream or well or sewer or on land" shall be substituted.

Amend-
ment of
section 29.

12. In section 25 of the principal Act,—

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

"(1) Subject to the provisions of this section, no person shall, without the previous consent of the State Board,—

(a) establish or take any steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land (such discharge being hereafter in this section referred to as discharge of sewage); or

(b) bring into use any new or altered outlet for the discharge of sewage; or

(c) begin to make any new discharge of sewage:

Provided that a person in the process of taking any steps to establish any industry, operation or process immediately before the commencement of the Water (Prevention and Control of Pollution) Amendment Act, 1988, for which no consent was necessary prior to such commencement, may continue to do so for a period of three months from such commencement or, if he has made an application for such consent, within the said period of three months, till the disposal of such application.

(2) An application for consent of the State Board under sub-section (1) shall be made in such form, contain such particulars and shall be accompanied by such fees as may be prescribed.;"

(b) for sub-sections (4), (5) and (6), the following sub-sections shall be substituted, namely:—

"(4) The State Board may—

(a) grant its consent referred to in sub-section (1), subject to such conditions as it may impose, being—

(i) in cases referred to in clauses (a) and (b) of sub-section (1) of section 25, conditions as to the point of discharge of sewage or as to the use of that outlet or any other outlet for discharge of sewage;

(ii) 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 discharge or new discharge is to be made; and

(iii) that the consent will be valid only for such period as may be specified in the order,

and any such conditions imposed shall be binding on any person establishing or taking any steps to establish any industry, operation or process, or treatment and disposal system or extension or addition thereto, or using the new or altered outlet, or discharging the effluent from the land or premises aforesaid; or

(b) refuse such consent for reasons to be recorded in writing.

(5) Where, without the consent of the State Board, any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, is established, or any steps for such establishment have been taken or a new or altered outlet is brought into use for the discharge of sewage or a new discharge of sewage is made, the State Board may serve on the person who has established or taken steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, or 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 of such establishment, such outlet or discharge.

(6) Every State Board shall maintain a register containing particulars of the conditions imposed under this section and so much of the register as relates to any outlet, or to any effluent, from any land or premises shall be open to inspection at all reasonable hours by any person interested in, or affected by such outlet, 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."

13. In section 27 of the principal Act,—

Amend-
ment of
section 27.

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

"(1) A State Board shall not grant its consent under sub-section (4) of section 25 for the establishment of any industry, operation or process, or treatment and disposal system or extension or addition thereto, or to the bringing into use of a new or altered outlet unless the industry, operation or process, or treatment and disposal system or extension or addition thereto, or the outlet is so established as to comply with any conditions imposed by the Board to enable it to exercise its right to take samples of the effluent.";

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

"(a) any condition imposed under section 25 or section 26 and may serve on the person to whom a consent under section 25 or section 26 is granted a notice making any reasonable variation of or revoking any such condition;"

Amend-
ment of
section 30

14. In section 30 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Where under this Act, any conditions have been imposed on any person while granting consent under section 25 or section 26 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.”

Amend-
ment of
section 31.

15. In section 31 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) If at any place where any industry, operation or process, or any treatment and disposal system or any extension or addition thereto 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 or sewer or on land and, as a result of such discharge, the water in any stream or well is being polluted, or is likely to be polluted, then the person incharge of such place shall forthwith intimate the occurrence of such accident, act or event to the State Board and such other authorities or agencies as may be prescribed.”

Amend-
ment of
section 32.

16. In section 32 of the principal Act, in sub-section (1),—

(a) in the opening portion, for the words “any stream or well”, the words “any stream or well or on land by reason of the discharge of such matter in such stream or well or on such land” shall be substituted;

(b) in clause (a), for the words “stream or well”, the words “stream or well or on land” shall be substituted;

(c) in clause (c), for the words “into the stream or well”, the words “into the stream or well or on land” shall be substituted.

Amend-
ment of
section
33.

17. In section 33 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(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 or likely disposal of any matter in such stream or well or in any sewer or on any land, or otherwise, the Board may make an application to a court, not inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class, for restraining the person who is likely to cause such pollution from so causing.”

Insertion
of new
section
33A.

18. In Chapter V of the principal Act, after section 33, the following section shall be inserted, namely:—

Power
to give
directions.

“33A. Notwithstanding anything contained in any other law, but subject to the provisions of this Act, and to any directions that the Central Government may give in this behalf, a Board may, in

the exercise of its powers and performance of its functions under this Act, issue any directions in writing to any person, officer or authority, and such person, officer or authority shall be bound to comply with such directions.

Explanation.—For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct—

(a) the closure, prohibition or regulation of any industry, operation or process; or

(b) the stoppage or regulation of supply of electricity, water or any other service."

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

Insertion of new section 37A.

"37A. A Board may, with the consent of, or in accordance with, the terms of any general or special authority given to it by the Central Government or, as the case may be, the State Government, borrow money from any source by way of loans or issue of bonds, debentures or such other instruments, as it may deem fit, for the performance of all or any of its functions under this Act."

Borrowing powers of Board.

20. For section 39 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 39.

"39. (1) The Central Board shall, during each financial year, prepare, in such form as may be prescribed, an annual report giving full account of its activities under this Act during the previous financial year and copies thereof shall be forwarded to the Central Government within four months from the last date of the previous financial year and that Government shall cause every such report to be laid before both Houses of Parliament within nine months from the last date of the previous financial year.

Annual report.

(2) Every State Board shall, during each financial year, prepare, in such form as may be prescribed, an annual report giving full account of its activities under this Act during the previous financial year and copies thereof shall be forwarded to the State Government within four months from the last date of the previous financial year and that Government shall cause every such report to be laid before the State Legislature within a period of nine months from the last date of the previous financial year."

Substitution of new section for section 41.

21. For section 41 of the principal Act, the following section shall be substituted, namely:—

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 or directions issued under sub-section (2) of section 33 or section 33A.

“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 shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine which may extend to ten thousand rupees or with both and in case the failure continues, with an additional fine which may extend to five 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 order issued under clause (c) of sub-section (1) of section 32 or any direction issued by a court under sub-section (2) of section 33 or any direction issued under section 33A shall, in respect of each such failure and on conviction, be punishable with imprisonment for a term which shall not be less than one year and six months but which may extend to six years and with fine, and in case the failure continues, with an additional fine which may extend to five thousand rupees for every day during which such failure continues after the conviction for the first such failure.

(3) If the failure referred to in sub-section (2) continues beyond a period of one year after the date of conviction, the offender shall, on conviction, be punishable with imprisonment for a term which shall not be less than two years but which may extend to seven years and with fine.”

Amendment of section 42.

22. In section 42 of the principal Act, for the words “one thousand rupees”, wherever they occur, the words “ten thousand rupees” shall be substituted.

Amendment of sections 43 and 44.

23. In sections 43 and 44 of the principal Act, for the words “six months”, the words “one year and six months” shall, respectively, be substituted.

Amendment of section 45.

24. In section 45 of the principal Act, for the words “one year”, the words “two years” shall be substituted.

Insertion of new section 45A.

25. After section 45 of the principal Act, the following section shall be inserted, namely:—

Penalty for contravention of certain

“45A. Whoever contravenes any of the provisions of this Act or fails to comply with any order or direction given under this Act, for which no penalty has been elsewhere provided in this Act, shall be punishable with imprisonment which may extend to three

months or with fine which may extend to ten thousand rupees or with both, and in the case of continuing contravention or failure, with an additional fine which may extend to five thousand rupees for every day during which such contravention or failure continues after conviction for the first such contravention or failure.”.

provi-
sions of
the Act
not to
be

26. In section 49 of the principal Act,—

Amend-
ment of
section
49.

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

“(1) No court shall take cognizance of any offence under this Act except on a complaint made by—

(a) a Board or any officer authorised in this behalf by it; or

(b) any person who has given notice of not less than sixty days, in the manner prescribed, of the alleged offence and of his intention to make a complaint, to the Board or officer authorised as aforesaid,

and no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.”;

(b) sub-section (2) shall be renumbered as sub-section (3) and before sub-section (3) as so renumbered, the following sub-section shall be inserted, namely:—

(2) Where a complaint has been made under clause (b) of sub-section (1), the Board shall, on demand by such person, make available the relevant reports in its possession to that person:

Provided that the Board may refuse to make any such report available to such person if the same is, in its opinion, against the public interest.”.

27. In section 63 of the principal Act, in sub-section (2),—

Amend-
ment of
section
63.

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

(l) the form in which and the time within which the budget of the Central Board may be prepared and forwarded to the Central Government under section 38;

(ll) the form in which the annual report of the Central Board may be prepared under section 39;”;

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

“(mm) the manner in which notice of intention to make a complaint shall be given to the Central Board or officer authorised by it under section 49;”.

498 Water, (Prevention and Control of Pollution) [ACT 53 OF 1986] Amendment

Amendment of section 64.

28. In section 64 of the principal Act, in sub-section (2),—
(a) for clause (n), the following clauses shall be substituted, namely:—

“(n) the form in which and the time within which the budget of the State Board may be prepared and forwarded to the State Government under section 38;

(nn) the form in which the annual report of the State Board may be prepared under section 39;”;

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

“(oo) the manner in which notice of intention to make a complaint shall be given to the State Board or officer authorised by it under section 49.”;

(3) and before sub-section (3) the following sub-section shall be inserted, namely:—

(3) Where a complaint is made to the State Board or officer authorised by it under section 49, the State Board or officer authorised by it shall, if it is satisfied that the complaint is justified, refer the matter to the State Government for its consideration.

Provided that the Board may refer to make any such report available to such person if he so desires in its opinion, against the public interest.

Amendment of section 63.

27. In section 63 of the principal Act, in sub-section (1),—

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

(i) the form in which and the time within which the budget of the State Board may be prepared and forwarded to the State Government under section 38;

(ii) the form in which the annual report of the State Board may be prepared under section 39;

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

(jj) the manner in which notice of intention to make a complaint shall be given to the State Board or officer authorised by it under section 49.”;

THE AUROVILLE FOUNDATION ACT, 1988

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

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2. Definitions.

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THE SCHEDULE

THE AUROVILLE FOUNDATION ACT, 1988

No. 54 of 1988

[29th September, 1988.]

An Act to provide for the acquisition and transfer of the undertakings of Auroville and to vest such undertakings in a foundation established for the purpose with a view to making long-term arrangements for the better management and further development of Auroville in accordance with its original charter and for matters connected therewith or incidental thereto.

WHEREAS Auroville was founded by the 'Mother' on the 28th day of February, 1968 as an international cultural township;

AND WHEREAS in view of the serious difficulties which had arisen with regard to the management of Auroville, the management thereof had been vested in the Central Government for a limited period by the Auroville (Emergency Provisions) Act, 1980;

59 of 1980.

AND WHEREAS under the management of the Central Government and under the overall guidance of the International Advisory Council set up under the aforesaid Act, Auroville had been able to develop during the last eight years along several important lines and the residents of Auroville have also carried on activities for the development of Auroville which need further encouragement and consolidation;

West
Act
to IVXX
1981

AND WHEREAS Auroville was developed as a cultural township with the aid of funds received from different organisations in and outside India as also from substantial grants received from the Central and State Governments, and the United Nations Educational Scientific and Cultural Organisation also had, from time to time, reflected in its resolutions that the project on Auroville is contributing to international understanding and promotion of peace;

AND WHEREAS for the purpose of encouraging continuing and consolidating the aforesaid activities of Auroville, it is necessary in the public interest to acquire the undertakings of Auroville and to vest them in a body corporate established for the purpose;

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

CHAPTER I

PRELIMINARY

1. This Act may be called the Auroville Foundation Act, 1988.

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

(a) "appointed day" means the date of commencement of this Act;

Short title.

Definitions.

(b) "Auroville" means so much of the undertakings as form part of, or are relatable to, the cultural township which is known as Auroville and the charter of which was proclaimed by the 'Mother' on the 28th day of February, 1968;

(c) "Council" means the Auroville International Advisory Council constituted under sub-section (1) of section 21;

(d) "Custodian" means the person who is appointed as the Custodian under sub-section (2) of section 7 in respect of the undertakings;

(e) "Foundation" means the Auroville Foundation established under sub-section (1) of section 10;

(f) "Governing Board" means the Governing Board of the Foundation constituted under sub-section (1) of section 11;

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

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

(i) "Residents' Assembly" means the Residents' Assembly of the Foundation;

(j) "Society" means Sri Aurobindo Society, being a Society as defined in the West Bengal Societies Registration Act, 1961, and having its registered office at Calcutta in the State of West Bengal;

(k) "specified date" means such date as the Central Government may, for the purpose of section 9, by notification, specify;

(l) "trust" or "body" means a trust or body specified in the Schedule;

(m) "undertakings" means the undertakings of the Society, trust or body which had vested in the Central Government under section 3.

CHAPTER II

ACQUISITION AND TRANSFER OF UNDERTAKINGS OF AUROVILLE

3. On the appointed day, so much of the undertakings of the Society, trust and body as form part of, or are relatable to Auroville, and the right, title and interest of the Society, trust and body, in relation to such undertakings, shall, by virtue of this Act, stand transferred to, and vest in, the Central Government.

4. (1) The undertakings vested under section 3 shall be deemed to include all the assets, rights, leaseholds, powers, authorities and privileges, and all property (movable and immovable), including lands, buildings, works, workshops, projects, stores, instruments, machinery,

Transfer to, and vesting in, the Central Government of certain undertakings of the Society, trusts and bodies.

General effect of vesting.

West Bengal Act XXVI of 1961.

automobiles and other vehicles, cash balances, funds, including reserve funds, investments and book debts of the Society, trust or body as form part of, or are relatable to, Auroville and all other rights and interests arising out of such properties as were immediately before the appointed day in the ownership, possession, power or control of the Society, trust or body, whether within or without India, and all books of account, registers, maps, plans and all other documents of whatever nature relating thereto.

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

(3) Any licence or other instrument granted to the Society, trust or body in relation to any undertaking which has vested in the Central Government under section 3 at any time before the appointed day and in force immediately before the appointed day, shall continue to be in force on and after such day in accordance with its tenor in relation to and for the purposes of such undertaking or where the undertaking is directed under section 6 to vest in the Foundation, the Foundation shall be deemed to be substituted in such licence or other instrument as if such licence or other instrument had been granted to the Foundation and the Foundation shall hold it for the remainder of the period for which the Society, trust or body would have held it under the terms thereof.

(4) If, on the appointed day, any suit, appeal or other proceeding, of whatever nature, in relation to any property or asset which has vested in the Central Government under section 3, instituted or preferred by or against the Society, trust or body is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the undertakings of the Society, trust or body or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted or enforced by or against the Central Government, or where the undertakings of the Society, trust or body are directed under section 6 to vest in the Foundation, by or against the Foundation.

5. Every liability in relation to any undertaking in respect of any period prior to the appointed day shall be enforceable against the Central Government and not against the Society, trust or body, or where the said undertakings are directed, under section 6, to vest in the Foundation, against the Foundation.

Central Government or Foundation to be liable for certain prior liabilities.

6.(1) Notwithstanding anything contained in sections 3 and 4, the Central Government shall, as soon as may be after the appointed day, direct, by notification, that the undertakings and the right, title and interest of the Society, trust or body in relation to such undertakings which

Power of Central Government to

direct vesting of the undertakings in the Foundation.

had vested in the Central Government under section 3, shall, instead of continuing to vest in the Central Government, vest in the Foundation either on the date of publication of the notification or on such earlier or later date as may be specified in the notification.

(2) Where the right, title and interest of the Society, trust or body in relation to the undertakings vest, under sub-section (1), in the Foundation, the Foundation shall, on and from the date of such vesting, be deemed to have become the owner in relation to such undertakings and the rights and liabilities of the 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 Foundation.

Management, etc., of the undertakings.

7. (1) The general superintendence, direction, control and management of the affairs of the undertakings, the right, title and interest in relation to which have vested in the Central Government under section 3, shall,—

(a) where a direction has been made by the Central Government under sub-section (1) of section 6, vest in the Foundation; or

(b) where no such direction has been made by the Central Government, vest in a Custodian appointed by the Central Government under sub-section (2),

and, thereupon, the Foundation, or the Custodian so appointed, as the case may be, shall be entitled to exercise all such powers and do all such things as the Society, trust or body, as the case may be, is authorised to exercise and do in relation to its undertakings.

(2) The Central Government may appoint any person as the Custodian of the undertakings in relation to which no direction has been made by it under sub-section (1) of section 6.

(3) The Custodian so appointed shall receive such remuneration as the Central Government may fix and shall hold office during the pleasure of the Central Government.

Duties of persons in charge of management by undertakings to deliver all assets.

8. (1) On the vesting of the management of the undertakings in the Foundation or on the appointment of a Custodian under section 7, all persons in charge of the management of the undertakings immediately before such vesting or appointment shall be bound to deliver to the Foundation or Custodian, as the case may be, all assets, books of account, registers and other documents in their custody relating to the undertakings.

(2) The Central Government may issue such directions as it may deem desirable in the circumstances of the case to the Custodian as to the powers and duties of the Custodian and such Custodian may also, if it is considered necessary so to do, apply to the Central Government at any time for instructions as to the manner in which the management of the undertakings shall be conducted or in relation to any other matter arising in the course of such management.

(3) Any person, who on the appointed day, has in his possession or under his control, any books, documents or other papers relating to the undertakings shall be liable to account for the said books, documents or other papers to the Central Government or the Foundation, as

the case may be, and shall deliver them up to the Central Government or the Foundation or to such person or body of persons as the Central Government or the Foundation may specify in this behalf.

(4) The Central Government or the Foundation may take or cause to be taken, all necessary steps for securing possession of all undertakings which have vested in the Central Government or the Foundation under this Act.

(5) The Society, trust or body shall, within such period as the Central Government may allow in this behalf, furnish to that Government a complete inventory of all its properties and assets, as on the appointed day pertaining to the undertakings and, for this purpose, the Central Government or the Foundation shall afford to the Society, trust or body all reasonable facilities.

9. The Central Government or the Foundation shall be entitled to receive up to the specified date, to the exclusion of all other persons, any money due to the Society, trust or body in relation to its undertakings which have vested in the Central Government or the Foundation, as the case may be, and realised after the appointed day, notwithstanding that the realisation pertains to a period prior to the appointed day.

Certain powers of the Central Government or the Foundation.

CHAPTER III

THE AUROVILLE FOUNDATION

10. (1) With effect from such date as the Central Government may, by notification, appoint in this behalf, there shall be established for the purpose of this Act, a Foundation, to be called the Auroville Foundation.

Establishment and incorporation of the Foundation.

(2) The Foundation 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 Foundation shall consist of the following authorities, namely:—

- (a) the Governing Board;
- (b) the Residents' Assembly;
- (c) the Auroville International Advisory Council.

11. (1) The Governing Board shall consist of the following members, namely:—

Governing Board.

(i) not more than seven members to be nominated by the Central Government from amongst persons, who have—

- (a) rendered valuable service to Auroville;
- (b) dedicated themselves to the ideals of life-long education, synthesis of material and spiritual researches or human unity;
- (c) contributed significantly in activities that are being pursued or are envisaged to be promoted in Auroville, including activities relating to environment, afforestation, arts and crafts, industry, agriculture, humanities, sciences and integral yoga;

(ii) two representatives of the Central Government to be nominated by it.

(2) The Central Government shall nominate a Chairman of the Governing Board from amongst the members nominated by it under clause (i) of sub-section (1).

(3) The general superintendence, direction and management of the affairs of the Foundation shall vest in the Governing Board which may exercise all the powers and discharge all the functions which may be exercised or discharged by the Foundation.

(4) The Governing Board may associate with itself in such manner and for such purposes as may be prescribed, any persons whose assistance or advice it may desire in complying with any of the provisions of this Act and a person so associated shall have the right to take part in the discussions of the Governing Board relevant to the purposes for which he has been associated, but shall not have the right to vote.

(5) No act or proceeding of the Governing Board or any committee appointed by it under section 16 shall be invalidated merely by reason of,—

(a) any vacancy in, or any defect in the constitution of, the Governing Board or such committee; or

(b) any defect in the nomination of a person acting as a member of the Governing Board or such committee; or

(c) any irregularity in the procedure of the Governing Board or such committee not affecting the merits of the case.

Term of
office of
members.

12. (1) Subject to the provisions of this section, the term of office of the members of the Governing Board including the Chairman shall be four years from the date of their nomination.

(2) An outgoing member of the Governing Board shall be eligible for re-nomination.

(3) The term of office of a member nominated to fill a casual vacancy in the Governing Board shall continue for the remainder of the term of the member in whose place he is nominated.

(4) 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 that Government.

Salary
and
allow-
ances
and
other
condi-
tions of
service
of Chair-
man.

13. The Chairman of the Governing 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.

Meetings
of the
Govern-
ing
Board.

14. (1) The Governing Board shall meet at least once a year at Auroville at such time as may be fixed by the Chairman of the Governing Board.

(2) All the decisions at any meeting of the Governing Board shall be taken by a majority of the members present and voting:

Provided that in the case of equality of votes, the Chairman of the Governing Board shall have a casting vote.

15. (1) The Central Government shall appoint a Secretary to the Foundation to exercise such powers and perform such duties under the Chairman of the Governing Board as may be prescribed or as may be delegated to him by the Chairman.

Secretary and other officers of the Foundation.

(2) 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.

(3) Subject to such control, restrictions and conditions as may be prescribed, the Governing Board may appoint such other officers and employees as may be necessary for the efficient performance of its functions.

(4) The Chairman, Secretary and other officers and employees of the Foundation shall not undertake any work unconnected with their duties under this Act except with the permission of the Central Government.

16. (1) The Governing Board may appoint such committees as may be necessary for the efficient discharge of its duties and performance of its functions under this Act.

Committees of the Governing Board.

(2) The Governing Board shall have the power to co-opt as members of any committee appointed under sub-section (1), such number of persons who are not members of the Governing Board as it may think fit, and the persons so co-opted shall have the right to attend the meetings of the committee, and take part in the proceedings of the committee, but shall not have the right to vote.

17. The powers and functions of the Governing Board shall be—

Powers and functions of the Governing Board.

(a) to promote the ideals of Auroville and to coordinate activities and services of Auroville in consultation with the Residents' Assembly for the purposes of cohesion and integration of Auroville;

(b) to review the basic policies and the programmes of Auroville and give necessary directions for the future development of Auroville;

(c) to accord approval to the programmes of Auroville drawn up by the Residents' Assembly;

(d) to monitor and review the activities of Auroville and to secure proper management of the properties vested in the Foundation under section 6 and other properties relatable to Auroville;

(e) to prepare a master-plan of Auroville in consultation with the Residents' Assembly and to ensure development of Auroville as so planned;

(f) to authorise and coordinate fund-raising for Auroville and to secure proper arrangements for receipts and disbursement of funds for Auroville.

Resi-
dents'
Assem-
bly.

18. (1) The Residents' Assembly shall consist of all the residents of Auroville who are for the time being entered in the register of residents maintained under this section.

(2) The Secretary to the Governing Board shall maintain the register of residents in such manner as may be prescribed and all the persons who are residents of Auroville and who are of the age of eighteen years and above are entitled to have their names entered in the register on an application made to the Secretary in such form as may be prescribed.

(3) All the names of residents, which have been included in the register maintained by the Administrator appointed under section 5 of the Auroville (Emergency Provisions) Act, 1980 immediately before the appointed day, shall be deemed to have been included in the register maintained under this section.

59 of 1980.

Func-
tions of
Resi-
dents'
Assem-
bly.

19. (1) The Residents' Assembly shall perform such functions as are required by this Act and shall advise the Governing Board in respect of all activities relating to the residents of Auroville.

(2) In particular, and without prejudice to the foregoing powers, the Residents' Assembly may—

(a) allow the admission or cause the termination of persons in the register of residents in accordance with the regulations made under section 32;

(b) organise various activities relating to Auroville;

(c) formulate the master plan of Auroville and make necessary recommendations for the recognition of organisations engaged in activities relatable to Auroville for the approval of the Governing Board;

(d) recommend proposals for raising funds for Auroville for the approval of the Governing Board.

(3) For the purpose of carrying on its functions, the Residents' Assembly may establish such committees as it may consider necessary which shall represent it in relation to the functions to be performed by the Governing Board.

Work-
ing
Com-
mittee
of
Resi-
dents'
Assem-
bly.

20. (1) There shall be a Working Committee of the Residents' Assembly which shall assist the Residents' Assembly or, as the case may be, the Governing Board, in discharging its duties under this Act.

(2) The Working Committee shall consist of not more than seven members to be chosen by the Residents' Assembly from among themselves.

(3) The manner of choosing the members of the Working Committee and their term of office shall be such as may be decided by the Residents' Assembly.

(4) The Working Committee may, with the approval of the Governing Board, create or constitute other organisations, trusts, societies or associations relatable to Auroville if the Working Committee is satisfied that such organisations, trusts, societies or associations have—

(a) their headquarters at Auroville;

(b) declared that in all matters relating to Auroville they shall act in conformity with the decisions of the Governing Board and

that their main object is to promote the ideals laid down in the Charter of Auroville proclaimed by the 'Mother' on the 28th day of February, 1968.

21. (1) The Auroville International Advisory Council shall consist of not more than five members nominated by the Central Government.

(2) The Central Government may nominate the members of the Council from amongst persons who in its opinion are devoted to the ideals of human unity, peace and progress.

(3) The Council may, on its own motion or on a reference made to it by the Governing Board, advise the Governing Board on any matter relating to the development and management of Auroville.

(4) In tendering any advice to the Governing Board, the Council shall endeavour to secure that—

(a) the ideals for which Auroville has been established are encouraged, and

(b) the residents of Auroville are allowed freedom to grow and develop activities and institutions for the fulfilment of the aspirations and programmes envisaged in the said Charter of Auroville.

(5) There shall be a Chairman of the Council who shall be elected by the members of the Council from among themselves.

(6) The term of office of, the method of filling casual vacancies among, and the allowances and other remuneration, if any, payable to, the members of the Council, shall be such as may be determined by the Central Government.

(7) The Council shall have power to regulate its own procedure.

22. (1) The Central Government may, by notification and for reasons to be specified therein, direct that the Foundation shall be dissolved from such date and for such period as may be specified in the notification:

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Foundation to make representation against the proposed dissolution and shall consider the representation, if any, of the Foundation.

(2) When the Foundation is dissolved under the provisions of subsection (1),—

(a) all members of the Governing Board, notwithstanding that the terms of their office had not expired, shall, from the date of dissolution, vacate their offices as such members;

(b) all powers and duties of the Foundation 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 properties vested in the Foundation shall, during the period of dissolution, vest in the Central Government; and

(d) as soon as the period of dissolution expires, the Foundation shall be reconstituted in accordance with the provisions of this Act.

Advisory
Council

Dissolu-
tion
of the
Founda-
tion.

Grant by
Central
Government
to the
Founda-
tion.

23. For the purpose of enabling the Foundation to discharge its functions under this Act, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Foundation, in each financial year, such sums of money as that Government considers necessary by way of grant, loan or otherwise.

CHAPTER IV

MISCELLANEOUS

Duty to
furnish
returns,
etc.

24. (1) The Governing Board shall furnish to the Central Government at such time and in such form and manner as may be prescribed, or as the Central Government may direct, such returns and statements and such particulars as the Central Government may, from time to time, require.

(2) Without prejudice to the provisions of sub-section (1), the Governing Board shall, as soon as possible after the end of each financial year, submit to the Central Government a report in such form and before such date as may be prescribed giving a true and full account of its activities, policy and programmes during the previous year.

(3) A copy of the report received under sub-section (2) shall be laid, as soon as may be, after it is received before each House of Parliament.

Borrow-
ing
powers
of the
Govern-
ing Board.

25. Subject to such rules as may be made in this behalf, the Governing Board shall have the power to borrow on the security of the properties of Auroville or any other asset for carrying out the purposes of this Act.

Accounts
and
audit.

26. (1) The Governing Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the income and expenditure 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 Foundation shall be audited by the Comptroller and Auditor General of India at such intervals as may be specified by him and any expenses incurred in connection with such audit shall be payable by the Foundation 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 Foundation shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor General of India has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office of the Foundation.

(4) The accounts of the Foundation, 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.

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

Act to have overriding effect.

28. Every contract entered into by the Society, trust or body in relation to its undertakings for any service, sale or supply, and in force immediately before the appointed day, shall, on and from the expiry of one hundred and eighty days from that day, cease to have effect unless such contract is, before the expiry of the said period, ratified in writing by the Central Government or, as the case may be, the Foundation, and in ratifying such contract, the Central Government or, as the case may be, the Foundation may make such alterations or modifications therein as it may think fit:

Contracts to cease to have effect unless ratified by the foundation.

Provided that the Central Government or, as the case may be, the Foundation shall not omit to ratify a contract and shall not make any alteration or modification therein,—

(a) unless it is satisfied that such contract is unduly onerous or has been entered into in bad faith or is detrimental to the interests of the Central Government or, as the case may be, the Foundation; and

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

29. A person who,—

Penalties.

(a) having in his possession, custody or control any property forming part of the undertakings of the Society, trust or body, wrongfully withholds such property from the Central Government or, as the case may be, the Foundation or any person or body of persons authorised by that Government or the Foundation; or

(b) wrongfully obtains possession of, or retains, any property forming part of any undertaking of the Society, trust or body or wilfully withholds or fails to furnish to the Central Government or, as the case may be, the Foundation or any person or body of persons authorised by that Government or the Foundation, any documents relating to such undertakings which may be in his possession, custody or control, or fails to deliver to the Central Government or, as the case may be, the Foundation or any person or body of persons authorised by that Government or the Foundation, any assets, books of account, registers or other documents in his possession, custody or control relating to the undertakings of the Society, trust or body; or

(c) wrongfully removes or destroys any property forming part of the undertakings of the Society, trust or body,

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

Protection of
action
taken in
good faith.

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

Power to
make
rules.

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

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

(a) the manner in which and the purpose for which any person may be associated with the Governing Board under sub-section (4) of section 11;

(b) the powers and duties which the Secretary to the Governing Board may perform under sub-section (1) of section 15;

(c) the control, restrictions and conditions subject to which the Governing Board may appoint officers and employees under sub-section (3) of section 15;

(d) the manner in which the register of residents may be maintained under sub-section (2) of section 18;

(e) the time within which and the form and manner in which the Governing Board may furnish returns and reports under sub-section (1) of section 24;

(f) the form and the date before which the Governing Board shall submit reports to the Central Government under sub-section (2) of section 24;

(g) the rules subject to which the Governing Board shall have the power to borrow under section 25;

(h) any other matter which is to be or may be prescribed.

Power
to make
regulations.

32. (1) The Governing Board may make regulations, not inconsistent with this Act and the rules made thereunder, for enabling it to discharge its functions under this Act.

(2) Without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the procedure to be followed at meetings of the Governing Board or at the meetings of the committees appointed by it and the number of members which shall form a quorum at such meetings;

(b) the delegation to the Chairman, other members, Secretary or other officers of the Governing Board, of any of the powers, duties of the Governing Board under this Act;

(c) the travelling and other allowances payable to persons associated under sub-section (4) of section 11 or co-opted under sub-section (2) of section 16;

(d) 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 Foundation;

(e) the maintenance of the accounts of the Foundation;

(f) the maintenance of the registers and other records of the Foundation and its various committees;

(g) the appointment by the Governing Board of agents to discharge on its behalf any of its functions;

(h) admission or termination of persons in the register of residents.

(3) No regulation made by the Governing Board shall have effect until it has been approved by the Central Government and published in the Official Gazette, and the Central Government, in approving the regulation, may make changes therein which appear to it to be necessary.

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

Rules and regulations to be laid before Parliament.

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

Power to remove difficulties.

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

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

THE SCHEDULE

[See section 2 (1)]

TRUSTS AND BODIES

1. Auroville Trust, Auroville.
2. Artisane Trust, Auroville.
3. Auroservice d'Auroville Trust, Pondicherry.
4. Aurelec Trust, Auroville.
5. Auromitra, Auroville.
6. Centre for Scientific Research, Auroville.
7. Sri Aurobindo International Institute of Educational Research, Auroville.
8. Altecs Trust, Auroville.
9. New Engineering Trust, Auroville.
10. Auro Trust, Pondicherry.
11. Service Trust, Pondicherry.
12. Auro Press Trust, Pondicherry.
13. New Trust, Pondicherry.

THE MERCHANT SHIPPING (AMENDMENT) ACT, 1988

No. 55 OF 1988

[1st October, 1988.]

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

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

1. (1) This Act may be called the Merchant Shipping (Amendment) Act, 1988.

(2) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

44 of 1958. 2. In section 352H of the Merchant Shipping Act, 1958 (hereinafter referred to as the principal Act),—

(a) in sub-section (1),—

(i) the brackets and figure “(1)” shall be omitted;

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

‘(f) “tonnage” means the tonnage of a ship determined in accordance with the provisions of section 352B and where it is not so determinable, it means forty per cent. of the weight in tons of oil cargo the ship is capable of carrying.’;

(b) sub-section (2) shall be omitted.

3. In section 352J of the principal Act, in sub-section (1), for clauses (a) and (b), the following clauses shall be substituted, namely:—

“(a) one hundred and thirty-three Special Drawing Rights for each ton of the ship’s tonnage; or

(b) fourteen million Special Drawing Rights.”

4. In section 352K of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The amount in Special Drawing Rights to be deposited or secured in the fund under sub-section (1) shall be converted in

¹ 1-7-1989; vide Notification No. G.S.R. 586(E), dated 1-6-1989, Gazette of India, Extraordinary, 1989, Pt., sec. 3(i).

Short title and commencement.

Amendment of section 352H.

Amendment of section 352J.

Amendment of section 352K.

rupees on the basis of official value in rupees of the Special Drawing Rights as determined by the Reserve Bank of India on the date of constitution of the fund."

Amendment of section 352N.

5. In section 352N of the principal Act,—

(i) in sub-section (1), for clauses (a) and (b), the following clauses shall be substituted, namely:—

“(a) one hundred and thirty-three Special Drawing Rights for each ton of the ship’s tonnage; or

(b) fourteen million Special Drawing Rights;”

(ii) in sub-section (3), after the word and figures “November, 1969”, the words “, as amended from time to time” shall be inserted.

Amendment of section 352O.

6. In section 352O of the principal Act, after the word and figures “November, 1969”, the words “, as amended from time to time,” shall be inserted.

Amendment of section 352P.

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

“(a) one hundred and thirty-three Special Drawing Rights for each ton of the ship’s tonnage; or

(b) fourteen million Special Drawing Rights;”

(ii) in sub-section (3), after the word and figures “November, 1969”, the words “, as amended from time to time” shall be inserted.

Amendment of section 352Q.

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

“(a) one hundred and thirty-three Special Drawing Rights for each ton of the ship’s tonnage; or

(b) fourteen million Special Drawing Rights;”

Amendment of section 352R.

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

“(a) one hundred and thirty-three Special Drawing Rights for each ton of the ship’s tonnage; or

(b) fourteen million Special Drawing Rights;”

THE DOCK WORKERS (REGULATION OF EMPLOYMENT)
AMENDMENT ACT, 1988

No. 56 OF 1988

[1st October, 1988.]

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

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

1. This Act may be called the Dock Workers (Regulation of Employment) Amendment Act, 1988.

Short
title.

5 of 1948.

2. After section 5C of the Dock Workers (Regulation of Employment) Act, 1948, the following sections shall be inserted, namely:—

Insertion
of new
sections
5D and
5E.

“5D. Every Board shall prepare, in such form and at such time in each financial year as may be specified by rules made under this Act, its annual report, giving full account of its activities during the previous financial year, and submit a copy thereof to the Government.

Annual
report.

5E. The annual report, and the audited accounts of the Board, together with auditor's report thereon and a review by the Government on the working of the Board, shall, within a period of nine months of the close of the financial year, be laid before each House of Parliament, if such report and accounts have been submitted to the Central Government, and before the Legislature of the State, if such report and accounts have been submitted to the State Government:

Annual
report
and
audited
accounts
to be
laid
before
Parliament or
Legislature.

Provided that where such report, accounts and the review are not laid before Parliament or, as the case may be, before the Legislature of the State within the said period, the same shall be so laid thereafter along with the reasons for the delay.”

THE DELHI RENT CONTROL (AMENDMENT) ACT, 1988

No. 57 of 1988

[5th October, 1988.]

An Act further to amend the Delhi Rent Control Act, 1958.

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

Short
title
and
commence-
ment.

1. (1) This Act may be called the Delhi Rent Control (Amendment) Act, 1988.

(2) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

Amend-
ment of
section 3.

2. In section 3 of the Delhi Rent Control Act, 1958 (hereinafter referred to as the principal Act),—

59 of 1958.

(i) in clause (a), the word “or” shall be omitted;

(ii) after the proviso, the following clauses shall be inserted, namely:—

“(c) to any premises, whether residential or not, whose monthly rent exceeds three thousand and five hundred rupees; or

(d) to any premises constructed on or after the commencement of the Delhi Rent Control (Amendment) Act, 1988, for a period of ten years from the date of completion of such construction.”

Amend-
ment of
section 6.

3. In section 6 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (A), in sub-clause (2), in item (b),—

(a) for the words “seven and one-half per cent.”, the words “ten per cent.” shall be substituted;

(b) for the word “reasonable”, the word “actual” shall be substituted;

(c) the proviso shall be omitted;

(ii) in clause (B), in sub-clause (2), in item (b),—

(a) for the words “seven and one-half per cent.”, the words “ten per cent.” shall be substituted;

¹ 12-1988; vide Notification No. S. O. 1067(E), dated 21-11-1988, Gazette of India, Extraordinary, 1989, Pt. II; Sec. 3(ii).

(b) for the word "reasonable", the word "actual" shall be substituted;

(c) the proviso shall be omitted;

(b) in sub-section (2),—

(i) in clause (a), the word "and" occurring at the end shall be omitted;

(ii) in clause (b), after the words "the commencement of this Act," the words, brackets and figures "but before the commencement of the Delhi Rent Control (Amendment) Act, 1988" shall be inserted;

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

"(c) in the case of any premises, whether residential or not, constructed on or after the commencement of the Delhi Rent Control (Amendment) Act, 1988 and to which the provisions of this Act are made applicable by virtue of clause (d) of section 3, the rent calculated on the basis of ten per cent. per annum of the aggregate amount of the actual cost of construction of the premises and the market price of the land comprised in the premises on the date of commencement of the construction of the premises shall be deemed to be the standard rent."

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

Insertion of new section 6A.

"6A. Notwithstanding anything contained in this Act, the standard rent, or, where no standard rent is fixed under the provisions of this Act in respect of any premises, the rent agreed upon between the landlord and the tenant, may be increased by ten per cent. every three years."

Revision of rent.

5. In sub-section (1) of section 7 of the principal Act, for the words "seven and one-half per cent.", the words "ten per cent." shall be substituted.

Amendment of section 7.

6. In section 9 of the principal Act, to sub-section (2), the following proviso shall be added, namely:—

Amendment of section 9.

"Provided that in working out the cost of construction of any premises or the market price of the land comprised in such premises for the purposes of section 6, or the cost of improvement, addition or alteration referred to in section 7, the Controller may take the assistance of any valuer approved by the Central Government in accordance with such rules as may be prescribed and the assessment shall be made by such valuer in the manner prescribed."

7. In section 12 of the principal Act,—

Amendment of section 12.

(i) in clause (b), in the opening portion, after the words "commencement of this Act", the words, brackets and figures "but before

the commencement of the Delhi Rent Control (Amendment) Act, 1988" shall be inserted;

(ii) before the proviso, the following clause shall be inserted, namely:—

“(d) in the case of any premises referred to in clause (c) of sub-section (2) of section 6, within two years from the date of such application:”.

Amend-
ment of
section
14.

8. In the proviso to sub-section (1) of section 14 of the principal Act,—

(i) in clause (h), the word “built,” shall be omitted;

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

“(hh) that the tenant has, after the commencement of the Delhi Rent Control (Amendment) Act, 1988, built a residence and ten years have elapsed thereafter;”.

Insertion of
new sections
14B and
14C.

9. After section 14A of the principal Act, the following sections shall be inserted, namely:—

Right to
recover
immediate
possession
of
premises
to accrue
to
members
of the
armed
forces,
etc.

14B. (1) Where the landlord—

(a) is a released or retired person from any armed forces and the premises let out by him are required for his own residence; or

(b) is a dependent of a member of any armed forces who had been killed in action and the premises let out by such member are required for the residence of the family of such member,

such person or, as the case may be, the dependent may, within one year from the date of his release or retirement from such armed forces or, as the case may be, the date of death of such member, or within a period of one year from the date of commencement of the Delhi Rent Control (Amendment) Act, 1988, whichever is later, apply to the Controller for recovering the immediate possession of such premises.

(2) Where the landlord is a member of any of the armed forces and has a period of less than one year preceding the date of his retirement and the premises let out by him are required for his own residence after his retirement, he may, at any time, within a period of one year before the date of his retirement, apply to the Controller for recovering the immediate possession of such premises.

(3) Where the landlord referred to in sub-section (1) or sub-section (2) has let out more than one premises, it shall be open to him to make an application under that sub-section in respect of only one of the premises chosen by him.

Explanation.—For the purposes of this section, “armed forces” means an armed force of the Union constituted under an Act of Parliament and includes a member of the police force constituted under section 3 of the Delhi Police Act, 1973.

14C. (1) Where the landlord is a retired employee of the Central Government or of the Delhi Administration, and the premises let out by him are required for his own residence, such employee may, within one year from the date of his retirement or within a period of one year from the date of commencement of the Delhi Rent Control (Amendment) Act, 1988, whichever is later, apply to the Controller for recovering the immediate possession of such premises.

Right to recover immediate possession of premises to accrue to Central Government and Delhi Administration employees.

(2) Where the landlord is an employee of the Central Government or of the Delhi Administration and has a period of less than one year preceding the date of his retirement and the premises let out by him are required by him for his own residence after his retirement, he may, at any time within a period of one year before the date of his retirement, apply to the Controller for recovering the immediate possession of such premises.

(3) Where the landlord referred to in sub-section (1) or sub-section (2) has let out more than one premises, it shall be open to him to make an application under that sub-section in respect of only one of the premises chosen by him.

14D. (1) Where the landlord is a widow and the premises let out by her, or by her husband, are required by her for her own residence, she may apply to the Controller for recovering the immediate possession of such premises.

Right to recover immediate possession of premises to accrue to a widow.

(2) Where the landlord referred to in sub-section (1) has let out more than one premises, it shall be open to her to make an application under that sub-section in respect of any one of the premises chosen by her.

10. In sub-section (1) of section 19 of the principal Act, after the word and figures "section 14", the words, figures and letters "or under sections 14A, 14B, 14C, 14D and 21" shall be inserted.

Amendment of section 19.

11. Section 21 of the principal Act shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

Amendment of section 21.

"(2) While making an order under sub-section (1), the Controller may award to the landlord such damages for the use or occupation of the premises at such rates as he considers proper in the circumstances of the case for the period from the date of such order till the date of actual vacation by the tenant."

12. In the *Explanation* to section 22 of the principal Act, the words "but does not include any such institution set up by any private trust" shall be added at the end.

Amendment of section 22.

13. In section 25B of the principal Act, in sub-section (1), after the words, figures and letter "or under section 14A" the words, figures and letters "or under section 14B or under section 14C or under section 14D" shall be inserted.

Amendment of section 25B.

14. In section 26 of the principal Act,—

Amendment of section 26.

(a) in sub-section (1), the words "and where any default occurs in the payment of rent, the tenant shall be liable to pay simple in-

interest at the rate of fifteen per cent. per annum from the date on which such payment of rent is due to the date on which it is paid" shall be added at the end;

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

"Provided that it shall be open to the tenant to remit the rent to his landlord by postal money order."

Amendment of section 27.

15. In section 27 of the principal Act, in sub-section (1), the following proviso shall be inserted, namely:—

"Provided that in cases where there is a *bona fide* doubt as to the person or persons to whom the rent is payable, the tenant may remit such rent to the Controller by postal money order."

Amendment of section 38.

16. In sub-section (1) of section 38 of the principal Act,—

(a) after the words "made under this Act", the words "only on questions of law" shall be inserted;

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

"Provided that no appeal shall lie from an order of the Controller made under section 21."

Omission of section 39.

17. Section 39 of the principal Act shall be omitted.

Amendment of section 48.

18. For sub-section (3) of section 48 of the principal Act, the following sub-section shall be substituted, namely:—

"(3) If any landlord re-lets or transfers the whole or any part of any premises in contravention of the provisions of sub-section (1) or sub-section (2) of section 19 he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both."

Amendment of section 49.

19. In section 49 of the principal Act,—

(a) for the words "magistrate of the first class" at both the places where they occur, the words "Metropolitan Magistrate" shall be substituted;

(b) for the words and figures "section 32 of the Code of Criminal Procedure, 1898", the words and figures "section 29 of the Code of Criminal Procedure, 1973" shall be substituted;

(c) for the words "two thousand rupees", the words "five thousand rupees" shall be substituted.

Amendment of section 56.

20. In sub-section (2) of section 56 of the principal Act, clause (a) shall be relettered as clause (aa) thereof, and before the clause as so relettered, the following clause shall be inserted, namely:—

"(a) the manner of approval of valuers and the procedure to be followed by such valuers under the proviso to sub-section (2) of section 9;"

THE JAMIA MILLIA ISLAMIA ACT, 1988

ARRANGEMENT OF SECTIONS

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4. Dissolution of the Jamia Millia Islamia Society and transfer of all property to the University.
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39. Statutes, Ordinances and Regulations to be published in the Official Gazette and to be laid before Parliament.
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THE SCHEDULE.

THE JAMIA MILLIA ISLAMIA ACT, 1988

No. 58 OF 1988

[8th October, 1988.]

An Act to establish and incorporate a teaching University in the Union territory of Delhi and to provide for matters connected therewith or incidental thereto.

21 of 1860.

WHEREAS it is expedient to establish and incorporate a teaching University at New Delhi, to dissolve the "Jamia Millia Islamia Society, Delhi", a society registered under the Societies Registration Act, 1860 and to transfer to and vest in the said University all properties and rights of the said Society;

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

1. (1) This Act may be called the Jamia Millia Islamia Act, 1988.

(2) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

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

(a) "academic staff"¹ means such categories of staff as are designated as academic staff by the Ordinances;

(b) "Amir-i-Jamia (Chancellor)" and "Shaikh-ul-Jamia (Vice-Chancellor)" mean, respectively, the Amir-i-Jamia (Chancellor) and Shaikh-ul-Jamia (Vice-Chancellor) of the University;

(c) "Anjuman (Court)" means the Anjuman (Court) of the University;

(d) "Board of Studies" means the Board of Studies of the University;

(e) "Department" means a Department of Studies, and includes a Centre of Studies and Research;

(f) "employee" means any person appointed by the University, and includes teachers and other staff of the University;

(g) "Faculty" means a Faculty of the University;

(h) "Hall" means a unit of residence or of corporate life for the students of the University;

Short
title and
commence-
ment.

Defini-
tions.

¹. 26 12-1988; *vide* Notifications No. S.O. 1195(E), dated 21-12-1988, Gazette of India, Extraordinary, 1988, Pt. II; Sec. 3(ii).

(i) "Institution" means an Academic Institution, established or maintained by the University;

(j) "Majlis-i-Muntazimah (Executive Council)" means the Majlis-i-Muntazimah (Executive Council) of the University;

(k) "Majlis-i-Talimi (Academic Council)" means the Majlis-i-Talimi (Academic Council) of the University;

(l) "Principal" means the head of an Institution, School or Polytechnic, and includes where there is no Principal, the person for the time being duly appointed to act as Principal, and, in the absence of the Principal or acting Principal, a Vice-Principal duly appointed as such;

(m) "Statutes", "Ordinances" and "Regulations" mean, respectively, the Statutes, Ordinances and Regulations of the University for the time being in force;

(n) "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 and are designated as teachers by the Ordinances;

(o) "University" means the educational institution known as "Jamia Millia Islamia" founded in 1920 during the Khilafat and Non-Co-operation Movements in response to Gandhiji's call for a boycott of all Government-sponsored educational institutions which was subsequently registered in 1939 as Jamia Millia Islamia Society, and declared in 1962 as an institution deemed to be a University under section 3 of the University Grants Commission Act, 1956, and which is incorporated as a University under this Act.

3 of 1956

The Uni-
versity.

3. (1) There shall be established a University by the name of the Jamia Millia Islamia.

(2) The headquarters of the University shall be at New Delhi.

(3) The persons holding office as Amir-i-Jamia (Chancellor) and Shaikh-ul-Jamia (Vice-Chancellor) and the members of the Anjuman (Court), the Majlis-i-Muntazimah (Executive Council) and the Majlis-i-Talimi (Academic Council) of the University, for the time being, shall be a body corporate by the name of the Jamia Millia Islamia and shall have perpetual succession and a common seal and shall sue and be sued by that name.

4. On and from the commencement of this Act,—

(i) the Society known as the Jamia Millia Islamia Society, Delhi, shall be dissolved, and all property, movable or immovable, and all rights, powers and privileges of the said Society shall be transferred to and vest in the University and shall be applied to the objects and purposes for which the University is established;

(ii) all debts, liabilities and obligations of the said Society shall be transferred to the University and shall thereafter be discharged and satisfied by it;

(iii) all references in any enactment to the said Society shall be construed as references to the University;

Dissolu-
tion of
the Jamia
Millia
Islamia
Society
and
transfer
of all
property
to the
Univer-
sity.

(iv) any will, deed or other documents, whether made or executed before or after the commencement of this Act, which contains any bequest, gift or trust in favour of the said Society shall be construed as if the University was therein named instead of the Society;

(v) subject to any orders which the Majlis-i-Muntazimah (Executive Council) may make, the buildings which belonged to the Jamia Millia Islamia, Delhi, shall continue to be known and designated by the names and style as they were known and designated immediately before the commencement of this Act;

(vi) subject to the provisions of this Act, every person employed immediately before the commencement of this Act in the Jamia Millia Islamia, Delhi, shall hold such employment in the University by the same tenure and on the same terms and conditions and with the same rights and privileges as to pension and gratuity as he would have held under the Jamia Millia Islamia, Delhi, if this Act had not been passed.

5. The objects of the University shall be to disseminate and advance knowledge by providing instructional, research and extension facilities in such branches of learning as it may deem fit and the University shall endeavour to provide to students and teachers the necessary atmosphere and facilities for the promotion of—

Objects
of the
University.

(i) innovations in education leading to restructuring of courses, new methods of teaching and learning, and integral development of personality;

(ii) studies in various disciplines;

(iii) inter-disciplinary studies;

(iv) national integration, secularism and international understanding.

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

Powers
of the
Univer-
sity.

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

(ii) to promote the study of the religions, philosophy and culture of India;

(iii) to grant, subject to such conditions as the University may determine, diplomas or certificates to, and confer degrees or other academic distinctions on the basis of examinations, evaluation or any other method of testing, on persons, and to withdraw any such diplomas, certificates, degrees or other academic distinctions for good and sufficient cause;

(iv) to organise and to undertake extra-mural studies, extension services, and other measures for the promotion of adult education;

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

(vi) to provide, instruction, including correspondence and such other courses, to such persons as are not members of the University, as it may determine;

(vii) 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;

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

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

(x) to co-operate, collaborate or associate with any other University or authority or institution in such manner and for such purposes as the University may determine;

(xi) to establish and maintain Schools, Institutions and such Centres, Specialised Laboratories or other units for research and instructions as are, in the opinion of the University, necessary for the furtherance of its objects;

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

(xiii) to establish and maintain Halls for the students of the University;

(xiv) 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;

(xv) to declare a Centre, an Institution, a Department, a School as an autonomous Centre, Institution, Department or school, as the case may be, in accordance with the Statutes;

(xvi) to determine standards for admission into the University, which may include examination, evaluation or any other method of testing;

(xvii) to demand and receive payment of fees and other charges;

(xviii) to supervise the residences of the students of the University and to make arrangements for promoting their health and general welfare;

(xix) to make special arrangements in respect of women students as the University may consider desirable;

(xx) 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;

(xxi) to make arrangements for promoting the health and general welfare of the employees of the University;

(xxii) 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;

(xxiii) 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;

(xxiv) 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.

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:

Univer-
sity open
to all
classes,
castes
and
creed.

Provided that nothing in this section shall be deemed to prevent the University from making appropriate provisions for reservation for the Scheduled Castes, the Scheduled Tribes, physically handicapped persons and women.

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

The
Visitor.

(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 Centre, Department, Institution or School 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, Centre, Department, Institution or School.

(3) The Visitor shall, in every case, given notice to the University of his intention to cause an inspection or inquiry to be made, and the University shall, on receipt of such notice, have the right to make, within thirty days from the date of receipt of the notice or such other period as the Visitor may determine, 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 present and 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 Centre, Department, Institution or School maintained by it, address the Shaikh-ul-Jamia (Vice-Chancellor) with reference to the result of such inspection or inquiry, and the Shaikh-ul-Jamia (Vice-Chancellor) shall communicate to the Majlis-i-Muntazimah (Executive Council) the views of the Visitor with such advice as the Visitor may offer upon the action to be taken thereon.

(7) Where the Majlis-i-Muntazimah (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 Majlis-i-Muntazimah (Executive Council) issue such directions as he may think fit and the Majlis-i-Muntazimah (Executive Council), shall comply with such directions.

(8) 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 the Ordinances:

Provided that before making any such order, he shall call upon the University to show cause why such an order should not be made, and, if any cause is shown within a reasonable time, he shall consider the same.

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

Officers
of the
University.

9. The following shall be the officers of the University:—

- (i) the Amir-i-Jamia (Chancellor);
- (ii) the Shaikh-ul-Jamia (Vice-Chancellor);
- (iii) the Naib Shaikh-ul-Jamia (Pro-Vice-Chancellor);
- (iv) the Musajjil (Registrar);
- (v) the Deans of Faculties;
- (vi) the Dean of Students' Welfare;
- (vii) the Finance Officer; and
- (viii) such other officers as may be declared by the Statutes to be officers of the University.

The
Amir-i-
Jamia
(Chan-
cellor).

10. (1) The Amir-i-Jamia (Chancellor) shall be elected by the Anjuman (Court) in such manner as may be prescribed by the Statutes.

(2) The Amir-i-Jamia (Chancellor) shall, by virtue of his office, be the Head of the University.

(3) The Amir-i-Jamia (Chancellor) shall, if present, preside at the Convocation of the University held for conferring degrees.

The
Shaikh-
ul-
Jamia
(Vice-
Chan-
cellor).

11. (1) The Shaikh-ul-Jamia (Vice-Chancellor) shall be appointed by the Visitor in such manner as may be prescribed by the Statutes.

(2) The Shaikh-ul-Jamia (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 decision of all the authorities of the University.

(3) The Shaikh-ul-Jamia (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 Shaikh-ul-Jamia (Vice-Chancellor) under this sub-section shall have the right to appeal against such action to the Majlis-i-Muntazimah (Executive Council) within three months from the date on which decision on such action is communicated to him, and thereupon the Mujlis-i-Muntazimah (Executive Council) may confirm, modify or reverse the action taken by the Shaikh-ul-Jamia (Vice-Chancellor).

(4) The Shaikh-ul-Jamia (Vice-Chancellor) shall exercise such other powers and perform such other functions as may be prescribed by the Statutes or Ordinances.

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

The Naib Shaikh-ul-Jamia (Pro-Vice-Chancellor).

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

The Musajjil (Registrar).

(2) The Musajjil (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.

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

Deans of Faculties.

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

The Finance Officer.

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

Other officers.

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

Authorities of the University.

(i) the Anjuman (Court);

(ii) the Majlis-i-Muntazimah (Executive Council);

(iii) the Majlis-i-Talimi (Academic Council);

(iv) the Majlis-i-Maliyat (Finance Committee);

(v) the Faculties;

(vi) the Planning Board; and

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

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

The Anjuman (Court).

(2) Subject to the provisions of this Act, the Anjuman (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 this Act or Statutes.

19. (1) The Majlis-i-Muntazimah (Executive Council) shall be the principal executive body of the University.

(2) The constitution of the Majlis-i-Talimi (Academic Council), the term of office of its members and its powers and duties shall be prescribed by the Statutes.

20. (1) The Majlis-i-Talimi (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 Majlis-i-Talami (Academic Council), the term of office of its members and its powers and duties shall be prescribed by the Statutes.

21. (1) The Planning Board shall be the principal planning body of the University.

(2) The constitution of the Planning Board, term of office of its members and its powers and duties shall be prescribed by the Statutes.

22. The constitution, powers and functions of the Faculties 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. 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, filling of vacancies of members, and all other matters relating to those authorities for which it may be necessary or desirable to provide;

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

(d) the appointment of teachers of the University and other academic staff and their emoluments;

The
Majlis-
i-Mun-
tazimah
(Exe-
cutive
Council).

The
Majlis-
i-Talimi
(Acade-
mic
Council).

The
Planning
Board.

Other
authori-
ties of
the Uni-
versity.

Power to
make
Statutes.

(e) the appointment of teachers and other academic staff working in any other University or Institution for a specific 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 actions;

(g) the principles governing seniority of service of employees;

(h) the procedure for arbitration in case of disputes between employees or students and the University;

(i) the procedure for appeal to the Majlis-i-Muntazimah (Executive Council) by any employee or student against the action of any officer or authority of the University;

(j) the establishment and recognition of the students' union or association of teachers, academic staff or other employees;

(k) the participation of the 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 institutions of fellowships, scholarships, studentships, medals and prizes;

(o) the maintenance of discipline among the students;

(p) the establishment and abolition of Faculties, Departments, Centres and Schools;

(q) the delegation of powers vested in the authorities or officers of the University; and

(r) all other matters which by this Act are to be, or may be, prescribed by the Statutes.

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

(2) The Majlis-i-Muntazimah (Executive Council) may, from time to time, make new or additional Statutes referred to in sub-section (1):

Provided that the Majlis-i-Muntazimah (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 Majlis-i-Muntazimah (Executive Council).

(3) Every new Statute or addition to the Statutes or any amendment or repeal of a Statute shall require the assent of the Visitor who may assent thereto or withhold assent or remit to the Majlis-i-Muntazimah (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.

Statutes
how to
be made.

(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.

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

Power to
make
Ordinan-
ces.

25. (1) Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

(a) the admission of students to the University and their enrolment as such;

(b) the courses of study to be laid down for all degrees, diplomas and certificates of the University;

(c) the medium of instruction and examination;

(d) the award of degrees, diplomas, certificates and other academic distinctions, the qualifications for the same and the means to be taken relating to the granting and obtaining of the same;

(e) the fees to be charged for courses of study in the University and for admission to the examinations, degrees, diplomas and certificates of the University;

(f) the conditions for the award of fellowships, scholarships, studentships, medals and prizes;

(g) the conduct of examinations, including the term of office and manner of appointment and the duties of examining bodies, examiners and moderators;

(h) the conditions of residence of the students of the University;

(i) the special arrangements, if any, which may be made for the residence, discipline and teaching of women students and the prescribing of special courses of studies for them;

(j) the appointment and emoluments of employees other than those for whom provision has been made in the Statutes;

(k) the establishment of Centres of Studies, Boards of Studies, Inter-disciplinary Studies, Special Centres, Specialised Laboratories and other Committees;

(l) the manner of co-operation and collaboration with other Universities and authorities including learned bodies or associations;

(m) the creation, composition and functions of any other body which is considered necessary for improving the academic life of the University;

(n) the remuneration to be paid to the examiners, moderators, invigilators and tabulators;

(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 institutions established by the University; and

(q) all other matters which by this Act or the Statutes may be prescribed by the Ordinances.

(2) The regulations and by-laws in force immediately before the commencement of this Act shall be the first Ordinances of the University and may be repealed or amended at any time by the Majlis-i-Muntazimah (Executive Council).

26. 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.

Power to
make
Regu-
lations.

27. (1) The annual report of the University shall be prepared under the direction of the Majlis-i-Muntazimah (Executive Council) and shall be submitted to the Anjuman (Court) on or after such date as may be prescribed by the Statutes and the Anjuman (Court) shall consider the report in its annual meeting.

Annual
report.

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

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

28. (1) The annual accounts and balance-sheet of the University shall be prepared under the directions of the Majlis-i-Muntazimah (Executive Council) and shall, once at least every year and at intervals of not more than fifteen months, be audited by the Comptroller and Auditor-General of India or by such persons as he may authorise in this behalf.

Annual
accounts.

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

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

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

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

Condi-
tions
of services
of employ-
ees.

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

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

(3) The decision of the Tribunal of Arbitration referred to in sub-section (2), shall be final, and no suit shall lie in any civil court in respect of the matters decided by the Tribunal.

(4) Every request made by the employee under sub-section (2), shall be deemed to be a submission to arbitration upon the terms of this section within the meaning of the Arbitration Act, 1940.

10 of 1940.

Proce-
dure of
appeal
and
arbitra-
tion in
discip-
linary
cases
against
students.

30. (1) Any student or candidate for an examination whose name has been removed from the rolls of the University by the orders of resolution of the Shaikh-ul-Jamia (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 Majlis-i-Muntazimah (Executive Council) and the Shaikh-ul-Jamia (Vice-Chancellor) may confirm, modify or reverse the decision of the Shaikh-ul-Jamia (Vice-Chancellor) or the concerned 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-sections (2), (3) and (4) of section 29 shall as far as may be, apply to a reference made under this sub-section.

Right to
appeal.

31. 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 Majlis-i-Muntazimah (Executive Council), against the decision of any officer or authority of the University and thereupon the Majlis-i-Muntazimah (Executive Council) may confirm, modify or reverse the decision appealed against.

Provi-
dent
and pen-
sion
funds.

32. (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.

(2) Where such provident fund or pension fund has been so constituted, the Central Government may declare that the provisions of the Provident Funds Act, 1925, shall apply to such fund as if it were a Government provident fund.

19 of 1925.

Disput-
es as to
constitu-
tion of
Univer-
sity
autho-
rities and
bodies.

33. 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 thereupon shall be final.

34. 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.

Constitution of Committees.

35. 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 members 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.

Filling of casual vacancies.

36. 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.

Proceedings of University authorities or bodies not invalidated by vacancies.

37. No suit or other legal proceedings 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 the Ordinances.

Protection of action taken in good faith.

38. 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 Musajjil (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 transaction 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.

Mode of proof of University record.

1 of 1872.

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

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

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

Power to
remove
difficul-
ties.

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.

Transi-
tional
pro-
visions.

41. (1) The Anjuman (Court), the Majlis-i-Muntazimah (Executive Council), the Majlis-i-Talimi (Academic Council), the Majlis-i-Maliyat (Finance Committee) and Faculties of the University shall, as soon as may be, after the commencement of this Act, be constituted in accordance with the provisions of this Act and until so constituted, the Anjuman (Court), the Majlis-i-Muntazimah (Executive Council), the Majlis-i-Talimi (Academic Council), the Majlis-i-Maliyat (Finance Committee) and Faculties of the Jamia Millia Islamia functioning immediately before such commencement, shall continue to exercise all the powers and perform all the functions of such authority under this Act.

(2) The Amir-i-Jamia (Chancellor), the Shaikh-ul-Jamia (Vice Chancellor), the Musajjil (Registrar), Deans of Faculties, Heads of the Departments, Principals of Institutions, other officers and employees of the Jamia Millia Islamia holding office immediately before the commencement of this Act, shall, on and from such commencement, continue to hold their respective offices by the same tenure and upon the same terms and conditions as they held it immediately before such commencement.

(3) Anything done or any action taken or any degree or other academic distinction conferred by the Jamia Millia Islamia before the commencement of this Act shall, notwithstanding any change made by this Act in the constitution of the Anjuman (Court), the Majlis-i-Muntazimah (Executive Council), the Majlis-i-Talimi (Academic Council), the Majlis-i-Maliyat (Finance Committee), Faculties and other officers be valid as if such thing was done, action taken, or degree or academic distinction conferred under this Act.

THE SCHEDULE

(See section 24)

THE STATUTES OF THE UNIVERSITY

1. THE AMIR-I-JAMIA (CHANCELLOR)

(1) The Amir-i-Jamia (Chancellor) shall be elected by the Anjuman (Court) by a simple majority.

(2) The Amir-i-Jamia (Chancellor) shall hold office for a term of five years, and shall be eligible for re-election.

(3) The Amir-i-Jamia (Chancellor) shall, if present, preside over the meetings of the Anjuman (Court) and the Convocation of the University.

2. THE SHAIKH-UL-JAMIA (VICE-CHANCELLOR):

(1) The Shaikh-ul-Jamia (Vice-Chancellor) shall be appointed by the Visitor from a panel of at least three persons recommended by a Committee consisting of three persons: two to be nominated by the Majlis-i-Muntazimah (Executive Council) and one, who shall be the Chairman of the Committee to be nominated by the Visitor:

Provided that no member of the above Committee shall be connected with the University:

Provided further that if the Visitor does not approve of any of the persons so recommended, he may call for fresh recommendations.

(2) The Shaikh-ul-Jamia (Vice-Chancellor) shall be a whole time salaried officer of the University.

(3) The Shaikh-ul-Jamia (Vice-Chancellor) shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment for not more than another term:

Provided that notwithstanding the expiry of the said period of five years, he shall continue in office until his successor is appointed and enters upon his office.

(4) Notwithstanding anything contained in clause (3), a person appointed as Shaikh-ul-Jamia (Vice-Chancellor) shall, if he completes the age of sixty-five years during the term of his office, retire from office.

(5) The emoluments and other terms and conditions of service of the Shaikh-ul-Jamia (Vice-Chancellor) shall be such as may be prescribed by the Ordinances.

(6) If the office of the Shaikh-ul-Jamia (Vice-Chancellor) becomes vacant due to his death, resignation or otherwise or if he is unable to perform his duties owing to absence, illness or any other

cause, the Naib Shaikh-ul-Jamia (Pro-Vice-Chancellor) shall discharge the duties of the Shaikh-ul-Jamia (Vice-Chancellor) and will be designated as Qaim Maqam Shaikh-ul-Jamia (officiating Vice-Chancellor) until a new Shaikh-ul-Jamia (Vice-Chancellor) assumes office or the existing Shaikh-ul-Jamia (Vice-Chancellor) attends to the duties of his office, as the case may be:

Provided that if the Naib Shaikh-ul-Jamia (Pro-Vice-Chancellor) is not available, the seniormost Professor shall discharge the duties of the Shaikh-ul-Jamia (Vice-Chancellor) until a new Shaikh-ul-Jamia (Vice-Chancellor) or the Shaikh-ul-Jamia (Vice-Chancellor), as the case may be, assumes office.

3. POWERS AND DUTIES OF THE SHAIKH-UL-JAMIA (VICE-CHANCELLOR):

(1) The Shaikh-ul-Jamia (Vice-Chancellor) shall be the *ex officio* Chairman of the Majlis-i-Muntazimah (Executive Council), the Majlis-i-Talimi (Academic Council), the Majlis-i-Mayliyat (Finance Committee) and the Planning Board and shall, in the absence of the Amir-i-Jamia (Chancellor) preside at the meeting of the Anjuman (Court) and the Convocation held for conferring degrees and 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 Shaikh-ul-Jamia (Vice-Chancellor) to see that the Act, the Statutes, the Ordinances and the Regulations are duly observed and he shall have all powers necessary to ensure such observance.

(3) The Shaikh-ul-Jamia (Vice-Chancellor) shall have the power to convene or cause to be convened meetings of the Anjuman (Court), the Majlis-i-Muntazimah (Executive Council), the Majlis-i-Talimi (Academic Council) and the Majlis-i-Maliyat (Finance Committee) and the Planning Board.

4. NAIB SHAIKH-UL-JAMIA (PRO-VICE-CHANCELLOR):

(1) The Naib Shaikh-ul-Jamia (Pro-Vice-Chancellor) shall be appointed by the Majlis-i-Muntazimah (Executive Council) on the recommendation of the Shaikh-ul-Jamia (Vice-Chancellor) on such terms and conditions as may be laid down in the Ordinances:

Provided that where the recommendation of the Shaikh-ul-Jamia (Vice-Chancellor) is not accepted by the Majlis-i-Muntazimah (Executive Council), the matter shall be referred to the Visitor who may either appoint the person recommended by the Shaikh-ul-Jamia (Vice-Chancellor) or ask the Shaikh-ul-Jamia (Vice-Chancellor) to recommend another person to the Majlis-i-Muntazimah (Executive Council):

Provided further that the Majlis-i-Muntazimah (Executive Council) may, on the recommendation of the Shaikh-ul-Jamia (Vice-Chancellor) appoint a Professor to discharge the duties of the Naib Shaikh-ul-Jamia (Pro-Vice-Chancellor) in addition to his own duties as a Professor.

(2) The term of office of the Naib Shaikh-ul-Jamia (Pro-Vice-Chancellor) shall be such as may be decided by the Majlis-i-Muntazimah (Executive Council), but it shall not in any case exceed five years or until the expiration of the term of office of the Shaikh-ul-Jamia (Vice-Chancellor) whichever is earlier, and he shall be eligible for re-appointment:

Provided that the Naib Shaikh-ul-Jamia (Pro-Vice-Chancellor) shall retire on attaining the age of sixty-five years:

Provided further that the Naib Shaikh-ul-Jamia (Pro-Vice-Chancellor) shall, while discharging the duties of the Shaikh-ul-Jamia (Vice-Chancellor) under clause (6) of Statute 2, continue in office notwithstanding the expiration of the term of office until a new Shaikh-ul-Jamia (Vice-Chancellor), or the Shaikh-ul-Jamia (Vice-Chancellor), as the case may be, assumes office.

(3) The emoluments and other terms and conditions of service of the Naib Shaikh-ul-Jamia (Pro-Vice-Chancellor) shall be such as may be prescribed by the Ordinances.

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

5. THE MUSAJJIL (REGISTRAR):

(1) The Musajjil (Registrar) shall be a whole-time salaried employee of the University and shall be appointed on the recommendation of the Selection Committee constituted for the purpose under Statute 25.

(2) The emoluments and other terms and conditions of service of the Musajjil (Registrar) shall be such as may be prescribed by the Ordinances:

Provided that the Musajjil (Registrar) shall retire on attaining the age of sixty years.

(3) When the office of the Musajjil (Registrar) is vacant or when the Musajjil (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 Shaikh-ul-Jamia (Vice-Chancellor) may appoint for the purpose.

(4) (i) The Musajjil (Registrar) shall have power to take disciplinary action against such of the employees of the University, excluding teachers and academic staff, as may be specified in the orders of the Majlis-i-Muntazimah (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.

(ii) An appeal shall lie to the Shaikh-ul-Jamia (Vice-Chancellor) against any order of the Musajjil (Registrar) imposing any of the penalties specified in sub-clause (i).

(iii) In a case where the inquiry discloses that a punishment beyond the powers of the Musajjil (Registrar) is called for, the Musajjil (Registrar) shall, upon conclusion of the inquiry, make a report to the Shaikh-ul-Jamia (Vice-Chancellor) along with his recommendations:

Provided that an appeal shall lie to the Majlis-i-Muntazimah (Executive Council) against an order of the Shaikh-ul-Jamia (Vice-Chancellor) imposing any penalty.

(5) The Musajjil (Registrar) shall be the *ex officio* Secretary of the Majlis-i-Muntazimah (Executive Council), the Majlis-i-Talimi (Academic Council) and the Faculties, but shall not be deemed to be a member of any of these authorities. He shall be the *ex officio* Member-Secretary of the Anjuman (Court).

(6) It shall be the duty of the Musajjil (Registrar):

(i) to be the custodian of the records, the common seal and such other property of the University as the Majlis-i-Muntazimah (Executive Council), shall commit to his charge;

(ii) to issue all notices convening meetings of the Anjuman (Court), the Majlis-i-Muntazimah (Executive Council), the Majlis-i-Talimi (Academic Council) and Faculties, the Boards of Studies, the Boards of Examiners and of any Committee appointed by the authorities of the University;

(iii) to keep the minutes of all the meetings of the Anjuman (Court), the Majlis-i-Muntazimah (Executive Council), the Majlis-i-Talimi (Academic Council), Faculties and of any Committee appointed by the authorities of the University;

(iv) to conduct the official correspondence of the Anjuman (Court), the Majlis-i-Muntazimah (Executive Council) and the Majlis-i-Talimi (Academic Council);

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

(vi) 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;

(vii) 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

(viii) to perform such other duties as may be specified in these Statutes, or prescribed by the Ordinances or the Regulations or as may be required, from time to time, by the Majlis-i-Muntazimah (Executive Council) or the Shaikh-ul-Jamia (Vice-Chancellor).

6. FINANCE OFFICER:

(1) The Finance Officer shall be a whole-time salaried employee of the University and shall be appointed on the recommendation of the Selection Committee constituted for the purpose under Statute 25, on such terms and conditions as may be prescribed by the Ordinances:

Provided that a person appointed as a Finance Officer shall retire from office when he attains the age of sixty years.

(2) 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 Shaikh-ul-Jamia (Vice-Chancellor) may appoint for the purpose.

(3) The Finance Officer shall be the *ex officio* Secretary of the Majlis-i-Maliyat (Finance Committee), but shall not be deemed to be a member of such Committee.

(4) The Finance Officer shall advise the University as regards its financial policy and perform such other financial functions as may be assigned to him by the Majlis-i-Muntazimah (Executive Council) or as may be prescribed by these Statutes or the Ordinances.

(5) Subject to the control of the Majlis-i-Muntazimah (Executive Council), the Finance Officer shall—

(i) hold and manage the property and investments including trust and endowed property;

(ii) ensure that the limits fixed by the Majlis-i-Muntazimah (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;

(iii) be responsible for the preparation of annual accounts and the budget of the University for the next financial year and for their presentation to the Majlis-i-Muntazimah (Executive Council);

(iv) keep a constant watch on the state of the cash and bank balances and on the state of investment;

(v) watch the progress of the collection of revenue and advise on the methods of collection employed;

(vi) have the accounts of the University regularly audited by an internal audit party;

(vii) ensure that the registers of buildings, land, furniture and equipment are maintained up-to-date and that the stock-checking is conducted, of equipment and other consumable materials in all offices, Centres, Institutions and Schools maintained by the University;

(viii) call for explanation for unauthorised expenditure and for other financial irregularities and suggest disciplinary action against persons at fault; and

(ix) call for from any office, Institution, Centre, Department or School, under the University, any information or return that he may consider necessary for the performance of his duties.

(6) The receipt issued by the Finance Officer or by the person or persons duly authorised in this behalf by the Majlis-i-Muntazimah (Executive Council) for any money payable to the University shall be sufficient discharge for payment of such money.

7. DEANS OF FACULTIES:

(1) Each Faculty shall have a Dean who shall be appointed by the Shaikh-ul-Jamia (Vice-Chancellor) from amongst the Professors in the Faculty for a period of three years by rotation:

Provided that if at any time there is no Professor in a Faculty, the Shaikh-ul-Jamia (Vice-Chancellor) may appoint a Reader as Dean from amongst the Readers. However, if a Professor is appointed in the Faculty during the period of the Reader as Dean, his tenure will cease from the date of the appointment of a Professor who shall then be the Dean.

(2) A Dean on attaining the age of sixty years shall cease to hold office as such.

(3) A Dean may resign his office at any time during his tenure, and a Professor may decline the offer of appointment as the Dean of a Faculty.

(4) 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 Shaikh-ul-Jamia (Vice-Chancellor) may appoint for the purpose.

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

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

8. HEADS OF DEPARTMENT:

(1) Each Department shall have a Head of the Department who shall be a Professor and whose duties and functions and terms and conditions of appointment shall be prescribed by the Ordinances:

Provided that if there are more than one Professors in any Department the Head of the Department shall be appointed in accordance with the provisions made in respect thereof by the Ordinances:

Provided further that in a Department where there is no Professor, a Reader may be appointed as the Head of the Department in accordance with the provision made in respect thereof by the Ordinances:

Provided also that if there is no Professor or Reader in a Department, Dean of the Faculty concerned shall act as the Head of the Department.

(2) It shall be open to a Professor or a 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 the Department may resign his office at any time during his tenure of office.

9. DEAN OF STUDENTS' WELFARE:

(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 Majlis-i-Muntazimah (Executive Council) on the recommendation of the Shaikh-ul-Jamia (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 Majlis-i-Muntazimah (Executive Council) may, if it is considered necessary, appoint on the recommendation of the Shaikh-ul-Jamia (Vice-Chancellor) a teacher, not below the rank of a Reader to discharge duties of the Dean of Students' Welfare in addition to his duties and in such a case the Majlis-i-Muntazimah (Executive Council) may sanction a suitable allowance to be paid to him.

(3) A person who is appointed as the 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 Dean of Students' Welfare.

(4) When the office of the 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 Shaikh-ul-Jamia (Vice-Chancellor) may appoint for the purpose.

(5) The duties and powers of the Dean of Students' Welfare shall be prescribed by the Ordinances.

10. LIBRARIAN:

(1) The Librarian shall be appointed by the Majlis-i-Muntazimah (Executive Council) on the recommendation of a Selection Committee constituted for the purpose under Statute 25 and shall be a whole-time officer of the University.

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

11. ANJUMAN (COURT):

(1) The Court shall consist of the following persons, namely:—

Ex officio Members:

- (i) Amir-i-Jamia (Chancellor).
- (ii) Shaikh-ul-Jamia (Vice-Chancellor).
- (iii) Naib Shaikh-ul-Jamia (Pro-Vice-Chancellor).
- (iv) All Deans of Faculties.
- (v) Dean of Students' Welfare.
- (vi) Musajjil (Registrar).
- (vii) Finance Officer.
- (viii) Librarian.
- (ix) Ten Heads of Departments by rotation according to seniority.
- (x) Two Heads of other Institutions.

Life Members:

- (xi) Persons, who signed the pledge of 20 years of service to the Jamia.

Representatives of Teachers:

- (xii) Two Professors who are not Heads of Departments of Studies, by rotation according to seniority.
- (xiii) Two Readers by rotation according to seniority to be appointed by the Shaikh-ul-Jamia (Vice-Chancellor).
- (xiv) Two Lecturers by rotation according to seniority, to be appointed by the Shaikh-ul-Jamia (Vice-Chancellor).

Representatives of Non-teaching staff:

- (xv) Three representatives of non-teaching staff according to seniority, by rotation.

Nominated Members:

- (xvi) Eight persons to be nominated by the Visitor and two persons to be nominated by the Amir-i-Jamia (Chancellor).

Co-opted Members:

- (xvii) Six persons representing learned professions and special interests including representatives of industry, commerce, trade unions, banking and agriculture to be co-opted by the Anjuman (Court).

Representatives of Legislatures:

- (xviii) Three members of Parliament, two to be nominated by the Speaker of the Lok Sabha and one by the Chairman of the Rajya Sabha.
- (xix) One representative of Delhi Administration to be nominated by the Union territory administration.

(xx) The Chairman of the Central Board of Secondary Education, Delhi.

(2) All members of the Anjuman (Court) other than *ex officio* members, shall hold office for a term of three years.

(3) An *ex officio* member shall cease to be a member of the Anjuman (Court) as soon as he vacates the office by virtue of which he is such a member.

12. MEETINGS OF THE ANJUMAN (COURT):

(1) An annual meeting of the Anjuman (Court) shall be held on a date to be fixed by the Majlis-i-Muntazimah (Executive Council) unless some other date have been fixed by the Anjuman (Court) in respect of any year.

(2) At an annual meeting of the Anjuman (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 Anjuman (Court) at least seven days before the date of the annual meeting.

(4) One-fourth of the members of the Anjuman (Court) shall form the quorum for a meeting of the Anjuman (Court).

(5) Special meetings of the Anjuman (Court) may be convened by the Majlis-i-Muntazimah (Executive Council) or the Shaikh-ul-Jamia (Vice-Chancellor) or if there is no Shaikh-ul-Jamia (Vice-Chancellor), by the Naib Shaikh-ul-Jamia (Pro-Vice-Chairman), or, if there is no Naib Shaikh-ul-Jamia (Pro-Vice-Chancellor) by the Musajjil (Registrar).

13. MAJLIS-I-MUNTAZIMAH (EXECUTIVE COUNCIL):

(1) The Majlis-i-Muntazimah (Executive Council) shall consist of the following members, namely:—

(i) Shaikh-ul-Jamia (Vice-Chancellor);

(ii) Naib Shaikh-ul-Jamia (Pro-Vice-Chancellor);

(iii) two Deans of Faculties by rotation according to seniority;

(iv) Dean of Students' Welfare;

(v) one of the Directors of Boards of Management, Centres of the University, by rotation according to seniority;

(vi) three teachers—one each from amongst Professors, Readers and Lecturers of the University to be appointed by the Shaikh-ul-Jamia (Vice-Chancellor) by rotation according to seniority;

(vii) four persons to be nominated by the Visitor;

(viii) two persons from amongst the Life Members under Statute 11(1) (xi) chosen by the Anjuman (Court) by rotation.

(2) Five members shall form quorum for a meeting of the Majlis-i-Muntazimah (Executive Council).

(3) All the members of the Majlis-i-Muntazimah (Executive Council) other than the *ex officio* members shall hold office for a period of three years.

14. POWERS AND FUNCTIONS OF MAJLIS-I-MUNTAZIMAH (EXECUTIVE COUNCIL):

(1) The Majlis-i-Muntazimah (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 the Act, the Statutes and the Ordinances, the Majlis-i-Muntazimah (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 Institutions and Schools:

Provided that no action shall be taken by the Majlis-i-Muntazimah (Executive Council) in respect of the number, qualifications and the emoluments of teachers and academic staff otherwise than after consideration of the recommendation of the Majlis-i-Talimi (Academic Council);

(ii) to appoint such Professors, Readers, Lecturers and other academic staff, as may be necessary and Principals of Institutions on the recommendations of the Selection Committee constituted for the purpose under Statute 25 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 Amir-i-Jamia, (Chancellor), and the Shaikh-ul-Jamia (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 members of the teaching, administrative and other staff of the University in accordance with these Statutes and the Ordinances;

(vi) to manage and regulate the finances, accounts investments, property, business and all other administrative affairs of the University;

(vii) to invest any money belonging to the University, including any unapplied income, in such stocks, funds, shares or securities as it may, from time to time, think fit, or in the purchase of immovable property in India, with the like power of varying such investments from time to time;

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

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

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

(xi) to entertain, adjudicate upon and, if thought fit, to redress any grievances of the officers of the University, the teaching staff, other employees and the Students of the University, who may, for any reason, feel aggrieved;

(xii) to appoint examiners and moderators and to fix their fees, emoluments and travelling and other allowances, after consulting the Majlis-i-Talimi (Academic Council);

(xiii) to maintain a register of donors to the University;

(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 Shaikh-ul-Jamia (Vice-Chancellor), the Naib Shaikh-ul-Jamia (Pro-Vice-Chancellor), the Musajjil (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 the Act or these Statutes.

15. MAJLIS-I-TALIMI (ACADEMIC COUNCIL):

(1) The Majlis-i-Talimi (Academic Council) shall consist of the following members, namely:—

(i) Shaikh-ul-Jamia (Vice-Chancellor);

(ii) Naib Shaikh-ul-Jamia (Pro-Vice-Chancellor);

(iii) Directors of Centres;

(iv) Deans of Faculties;

(v) Dean of Students' Welfare;

(vi) Heads of the Departments;

(vii) Principals and Heads of Institutions and Schools;

(viii) Librarian;

(ix) two Professors other than Heads of Departments, according to seniority, to be nominated by the Shaikh-ul-Jamia (Vice-Chancellor);

(x) two Teachers of the University, at least one of whom should be a Reader, by rotation according to seniority, to be appointed by the Shaikh-ul-Jamia (Vice-Chancellor);

(xi) three persons not in the service of the University, co-opted by the Majlis-i-Talimi (Academic Council) for their special knowledge.

(2) One-third of the total members of the Majlis-i-Talimi (Academic Council) shall form the quorum.

(3) All the members of the Majlis-i-Talimi (Academic Council) other than the *ex officio* members shall hold office for a period of three years.

16. POWERS OF THE MAJLIS-I-TALIMI (ACADEMIC COUNCIL):

Subject to this Act, these Statutes and the Ordinances, the Majlis-i-Talimi (Academic Council) shall, in addition to all other powers vested in it, have the following powers, namely:—

(i) to exercise general supervision over the academic policies of the University and to give directions regarding methods of instruction, cooperative teaching among Departments and Institutions, evaluation of research or improvement in academic standards;

(ii) to bring about inter-faculty co-ordination, to establish or appoint Committees or Boards, for taking up projects on an inter-faculty basis;

(iii) to consider matters of general academic interest either at its own initiative or referred to by a Faculty, or the Majlis-i-Muntazimah (Executive Council), and to take appropriate action thereon; and

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

17. FACULTIES AND DEPARTMENTS:

The University shall have the following Faculties, namely:—

(i) the Faculty of Humanities and Languages;

(ii) the Faculty of Social Sciences;

(iii) the Faculty of Natural Sciences;

(iv) the Faculty of Education;

(v) the Faculty of Engineering and Technology;

(vi) the Faculty of Law; and

(vii) such other Faculties as may be prescribed by these Statutes.

18. CONSTITUTION OF FACULTIES:

(1) Each Faculty, other than the Faculty of Engineering and Technology, shall consist of the following members, namely:—

(i) Dean of the Faculty, who shall be the Chairman;

(ii) all Professors in the Faculty;

(iii) all Heads of Departments assigned to the Faculty who are not Professors;

(iv) one Reader from each Department by rotation according to seniority;

(v) two Lecturers from each Department (one above ten years of service and one below ten years) by rotation according to seniority;

(vi) four persons nominated by the Majlis-i-Talimi (Academic Council) from other Faculties of the University; and

(vii) five persons, not in the service of the University to be co-opted by the Faculty for their special knowledge of any subject assigned to the Faculty, provided that not more than one person may be co-opted in respect of a subject assigned to a single Department.

(2) The Faculty of Engineering and Technology shall consist of the following members, namely:—

(i) Dean of the Faculty, who shall be the Chairman;

(ii) Head of the University Polytechnic;

(iii) all Professors in the Faculty;

(iv) one Reader and one Lecturer by rotation according to seniority from each Department in the Faculty;

(v) not more than three Readers from the University Polytechnic;

(vi) one Lecturer at the University Polytechnic, by rotation according to seniority;

(vii) one person not in the service of the University, having expert knowledge of the subject or subjects concerned, to be co-opted by the Faculty for each Department; and

(viii) three members to be nominated by the Majlis-i-Talimi (Academic Council) for their special knowledge of any subject assigned to the Faculty or of any allied branches of knowledge.

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

(4) The conduct of the meetings of a Faculty and the quorum required for each Faculty shall be prescribed by the Ordinances.

19. POWERS AND FUNCTIONS OF THE FACULTIES:

In addition to the powers and functions of the Faculties prescribed under the Ordinances, they shall have power,—

(i) to co-ordinate teaching and research activities of Departments assigned to the Faculty, and to promote and provide for inter-disciplinary teaching and research and to arrange for examination and periodical tests in subjects falling within the purview of the Faculty;

(ii) to appoint Boards of Studies or Committees or to undertake research projects common to more than one Department;

(iii) to approve courses of study proposed by the Departments;

(iv) to forward to the Majlis-i-Muntazimah (Executive Council) the recommendations of the Boards of Studies or Committee for Advance Studies and Research;

(v) to propose the draft of Ordinances for the examination for courses conducted by the Faculty;

(vi) to recommend proposals for the creation and abolition of teaching posts; and

(vii) to perform such other functions as the Majlis-i-Muntazimah (Executive Council) and Majlis-i-Talimi (Academic Council) may prescribe.

20. DEPARTMENTS:

(1) Each Faculty shall have such Departments as may be assigned to it by the Ordinances.

(2) No Department shall be established or abolished except by these Statutes.

(3) The Departments in existence at the commencement of the Jamia Millia Islamia Act, 1988 and the Faculties relating thereto shall continue to function heretofore until decided otherwise by the Statutes.

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

(i) teachers of the Department;

(ii) persons conducting research in the Department;

(iii) Dean of the Faculty or Deans of the Faculties;

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

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

(5) Each Department shall have a Head of the Department who shall be appointed in accordance with these Statutes and shall perform such functions as may be prescribed by the Ordinances.

21. BOARDS OF STUDIES:

(1) Each Department shall have a Board of Studies which shall consist of:—

- (i) the Head of the Department, who shall be the Chairman;
- (ii) Dean of the Faculty concerned;
- (iii) all members of the Department;
- (iv) two persons teaching allied or cognate subjects in the University to be nominated by the Majlis-i-Talimi (Academic Council); and
- (v) two experts not in the service of the University to be co-opted by the Board of Studies.

(2) The appointment of members specified in items (iv) and (v) of sub-clause (1) shall be for a period of three years.

(3) The functions of Board of Studies shall be,—

- (i) to recommend to the Faculty in the manner prescribed by the Ordinances:
 - (a) courses of studies;
 - (b) appointment of examiners for under-graduate and post-graduate courses, but excluding research degrees;
 - (c) creation, abolition or upgrading of teaching posts;
 - (d) field of study of each post at the time of its creation;
 - (e) measures for improvement of standard of teaching and research;
 - (f) subjects for research for various degrees and other requirements of research work; and
 - (g) appointment of supervisors for research work;
- (ii) to allocate teaching work among the teachers;
- (iii) to consider matters of general and academic interest to the Department and of its functioning;
- (iv) to perform such other functions as may be assigned to it by the Faculty;

Provided that a Department, for reasons of its size or otherwise shall, in the interest of efficient discharge of its functions, constitute Committee and assign them responsibilities in specified areas as may be prescribed by the Ordinances.

22. MASS COMMUNICATION RESEARCH CENTRE:

(1) Subject to the provisions of the Act and these Statutes, the Mass Communication Research Centre will be an autonomous Centre of the University and shall organize instructions and research in the Mass Media in consonance with the objectives of the University.

(2) There shall be a Board of Management for the Mass Communication Research Centre which shall consist of the following members, namely:—

(i) the Chairman to be appointed by the Visitor from a panel of three persons recommended by the Majlis-i-Muntazimah (Executive Council) for a period of five years or till he attains the age of sixty-five years whichever is earlier. He shall be eligible for re-appointment;

(ii) four eminent persons in the field of Mass Communications to be nominated from outside the University by the Majlis-i-Muntazimah (Executive Council) in consultation with the Chairman;

(iii) a nominee of the Shaikh-ul-Jamia (Vice-Chancellor);

(iv) two persons to be nominated by the University Grants Commission;

(v) one except from amongst the Mass Communication Centres in other Universities to be nominated by the Majlis-i-Muntazimah (Executive Council);

(vi) Heads of all Departments of the Centre.

(3) The Administrative Officer of the Centre shall be the *ex officio* Secretary of the Board of Management, but he shall not be a member of the Board.

(4) The terms of members other than the *ex officio* members shall be for a period of three years.

(5) The Centre shall be a separate administrative unit of the University and shall enjoy administrative, financial and budgetary autonomy in its functions:

Provided that the Majlis-i-Muntazimah (Executive Council) may issue from time to time, such directions on all matters as it may consider necessary, for the smooth functioning of the Centre and in case the Board of Management does not agree with such directions, the matter may be referred to the Visitor whose decision thereon shall be final.

(6) The Board shall be competent to exercise all or any of the following powers, namely:—

(i) to appoint, from time to time, Professors, Readers, Lecturers, Librarian and such other members of the teaching staff, officers and other employees of the Centre on the recommendations of the Selection Committees constituted for the purpose and all such appointees shall be employees of the University and shall be governed by the Act, these Statutes, Ordinances and Regulations;

(ii) to delegate administrative, financial and other powers to such officer or officers subject to such conditions as it may deem necessary.

(iii) to manage and regulate the finances, accounts, business and all other administrative affairs of the Centre;

(iv) to institute and regulate the award of fellowships, scholarships, studentships, medals, prizes, certificates and merit certificates;

(v) to appoint on the recommendations of the *Majlis-i-Talimi* (Academic Council), Examiners, Moderators and other persons concerned with the conduct of the examinations and to fix their remuneration;

(vi) to entertain, adjudicate upon and redress any grievances of the officers, teaching staff or other employees of the Centre who may feel aggrieved or for any other reason;

(vii) to exercise such other powers and perform such other functions and discharge such other duties as may be deemed necessary to achieve the objectives of the University.

(7) The Board of Management shall submit its annual report, in respect of all matters concerning the affairs of the Centre, to the *Majlis-i-Muntazimah* (Executive Council).

(8) The annual accounts and financial estimates of the Centre shall be submitted to the *Majlis-i-Maliyat* (Finance Committee).

(9) The Chairman of the Board of Management shall be an officer of the University and shall be responsible to the *Majlis-i-Muntazimah* (Executive Council), for the overall functioning and supervision of the Centre and shall exercise such powers and perform such duties as may be assigned to him from time to time by the Board.

(10) The Chairman of the Board of Management shall be invited to participate in all meetings of the *Majlis-i-Muntazimah* (Executive Council), whenever any matter concerning the Centre is on the agenda.

(11) The Board of Management shall make regulations for regulating the proper working and management of the Centre.

(12) The Board of Management may constitute such bodies as it deems necessary for the functioning of the Centre and frame regulations therefor.

(13) The Shaikh-ul-Jamia (Vice-Chancellor) shall have the privilege to attend any or all the meetings of the Board of Management of the Centre.

23. JAMIA SCHOOLS:

(1) Subject to the provisions of the Act and these Statutes, the Schools established and maintained by the University shall function as an autonomous unit with a Board of Management to manage and supervise their working:

Provided that the *Majlis-i-Muntazimah* (Executive Council) may issue, from time to time, such directions on all matters, as it may consider necessary, for the smooth functioning of the Schools and in

case the Board of Management does not agree with such directions, the matter may be referred to the Visitor, whose decision thereon shall be final.

(2) The Board of Management shall consist of the following members, namely:—

(i) the Shaikh-ul-Jamia (Vice-Chancellor), who shall be the Chairman;

(ii) the Naib Shaikh-ul-Jamia (Pro-Vice-Chancellor);

(iii) the Dean, Faculty of Education;

(iv) the Principal, Senior Secondary School;

(v) the Headmaster, Middle School;

(vi) the Director, Nursery School;

(vii) the Director, Balak Mata Centres;

(viii) one Principal from among the Principals of the Senior Secondary Schools of Delhi, to be nominated by the Shaikh-ul-Jamia (Vice-Chancellor);

(ix) the Secretary, Central Board of Secondary Education, Delhi;

(x) the Assistant Registrar for Schools, who shall be the Secretary.

(3) The Board of Management shall be competent to exercise the following powers, namely:—

(i) to appoint the members of the teaching and administrative staff on the recommendation of the Selection Committees constituted for the purpose and all such appointees shall be the employees of the University and shall be governed by the Act, these Statutes, Ordinances and Regulations;

(ii) to manage and regulate the finances, accounts, business and all other administrative affairs of the Schools;

(iii) to appoint examiners, moderators and others concerned with the conduct of examination and to fix their remuneration;

(iv) to institute and regulate the award of scholarships, studentships, certificates, medals and prizes;

(v) to entertain and adjudicate upon any grievances of the members of the teaching and administrative staff of the Schools; and

(vi) to exercise such other powers and perform such other functions as may be deemed necessary for the smooth functioning of the Schools.

24. THE MAJLIS-I-MALIYAT (FINANCE COMMITTEE):

(1) The Majlis-i-Maliyat (Finance Committee) shall consist of the following members, namely:—

(i) the Shaikh-ul-Jamia (Vice-Chancellor);

- (ii) the Naib Shaikh-ul-Jamia (Pro-Vice-Chancellor);
 - (iii) two Deans of the Faculties to be nominated by the Majlis-i-Muntazimah (Executive Council);
 - (iv) two persons to be nominated by the Majlis-i-Muntazimah (Executive Council) from amongst its members other than those in the service of the University;
 - (v) three persons to be nominated by the Visitor.
- (2) The Finance Officer shall be the *ex officio* Secretary of the Committee but shall not be the member of the Committee.
 - (3) The Majlis-i-Maliyat (Finance Committee) shall meet at least twice a year to examine the accounts and to scrutinise proposals for expenditure.
 - (4) All the members of the Majlis-i-Maliyat (Finance Committee) other than *ex officio* members, shall hold office for a term of three years.
 - (5) Five members of the Majlis-i-Maliyat (Finance Committee) shall form the quorum.
 - (6) The Annual Accounts and the financial estimates of the University prepared by the Finance Officer shall be laid before the Majlis-i-Maliyat (Finance Committee) for consideration and comments and thereafter submitted to the Majlis-i-Muntazimah (Executive Council) for approval.
 - (7) The Majlis-i-Maliyat (Finance Committee) shall fix 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) and expenditure shall not be incurred by the University in excess of the limits so fixed.
 - (8) No expenditure other than that provided for in the budget shall be incurred by the University without the approval of the Majlis-i-Maliyat (Finance Committee).

25. SELECTION COMMITTEES:

- (1) There shall be Selection Committees for making recommendation to the Majlis-i-Muntazimah (Executive Council) for appointment to the posts of Professors, Readers, Lecturers, Librarian, Registrar, Finance Officer and Principals of 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 Shaikh-ul-Jamia (Vice-Chancellor), Naib Shaikh-ul-Jamia (Pro-Vice-Chancellor), a nominee of the Visitor and the persons specified in the corresponding entry in column (2) of the said Table:

Provided that where the appointment of teacher is to be made in an Institution, the Principal of that Institution shall also be an *ex officio* member of the Selection Committee constituted for such appointment:

TABLE

(1)	(2)
Professor	<p>(i) The Head of the Department concerned, if he is a Professor.</p> <p>(ii) One Professor to be nominated by the Shaikh-ul-Jamia (Vice-Chancellor).</p> <p>(iii) Three persons not in the service of the University, nominated by the Majlis-i-Muntazimah (Executive Council) out of a panel of names recommended by the Majlis-i-Talimi (Academic Council) for their special knowledge of, or interest in, the subject with which the Professor will be concerned.</p>
Reader/Lecturer	<p>(i) The Head of the Department concerned.</p> <p>(ii) One Professor to be nominated by the Shaikh-ul-Jamia (Vice-Chancellor).</p> <p>(iii) Two persons not in the service of the University, nominated by the Majlis-i-Muntazimah (Executive Council) out of a panel of names recommended by the Majlis-i-Talimi (Academic Council), for their special knowledge of, or interest in, the subject with which the Reader or Lecturer will be concerned.</p>
Musajjil (Registrar)/ Finance Officer	<p>(i) Two members of the Majlis-i-Muntazimah (Executive Council) nominated by it.</p> <p>(ii) One person not connected with the University nominated by the Majlis-i-Muntazimah (Executive Council).</p>
Librarian	<p>(i) Two persons not in the service of the University, who have special knowledge of the subject of Library Science/Library Administration to be nominated by the Majlis-i-Muntazimah (Executive Council).</p> <p>(ii) One person, not in the service of the University, nominated by the Majlis-i-Muntazimah (Executive Council).</p>

(1)	(2)
Principal of an Institution maintained by the University	Three persons not in the service of the University of whom two shall be nominated by the Majlis-i-Muntazimah (Executive Council) and one by the Majlis-i-Talimi (Academic Council) for their special knowledge of, or interest in, a subject in which instruction is being provided by the Institution.
Principal, Higher Secondary School;	(i) The Dean, Faculty of Education;
Headmaster, Middle School; Director, Nursery School; and Director, Balak Mata Centre	(ii) Three persons, who are not employees of the Jamia and not members of the Majlis-i-Muntazimah or the Majlis-i-Talimi, out of whom two be nominated by the Shaikh-ul-Jamia out of a panel of 7 persons to be suggested by the Majlis-i-Talimi and one be nominated by the Majlis-i-Muntazimah.
Other Teachers	(i) The Dean, Faculty of Education; (ii) The Head of the School concerned; (iii) One person, who is not engaged in teaching at the Jamia and not member of the Majlis-i-Muntazimah or the Majlis-i-Talimi, be nominated by the Shaikh-ul-Jamia out of a panel of four persons for their experience of school education and administration.
Library Staff	The Majlis-i-Muntazimah will appoint a permanent Selection Committee for the Library Staff, other than Librarian (from time to time).
Administrative Staff	The Majlis-i-Muntazimah will appoint a permanent Selection Committee for Administrative Staff (from time to time).

(3) The Shaikh-ul-Jamia (Vice-Chancellor) or in his absence, the Naib Shaikh-ul-Jamia (Pro-Vice-Chancellor) shall preside at the meetings of the Selection Committee.

(4) The meetings of the Selection Committee shall be convened by the Shaikh-ul-Jamia (Vice-Chancellor) or in his absence by the Naib Shaikh-ul-Jamia (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 Majlis-i-Muntazimah (Executive Council) is unable to accept the recommendations made by the 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 laid down in the foregoing clauses;

(ii) if the temporary vacancy is for a period less than one academic session, an appointment to such vacancy shall be made on the recommendation of a Local Selection Committee consisting of the Dean of the Faculty, the Head of the Department and a nominee of the Shaikh-ul-Jamia (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 Shaikh-ul-Jamia (Vice-Chancellor):

Provided further that in case of sudden casual vacancies of teaching posts caused by death or any other reason, the Dean, may, in consultation with the Head of the Department concerned, make a temporary appointment for a month and report to the Shaikh-ul-Jamia (Vice-Chancellor) and the Musajjil (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, or given a fresh appointment 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.

(8) Notwithstanding anything contained in the foregoing clauses, the Majlis-i-Muntazimah (Executive Council) may invite a person of high academic distinction and professional attainment 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.

(9) The Majlis-i-Muntazimah (Executive Council) of the University may appoint a teacher or any other academic staff working in any other University or institution for undertaking a joint project in accordance with the manner prescribed in the Ordinances.

Note:—1. Where the appointment is being made for an interdisciplinary project, the Head of the Project shall be deemed to be the Head of the Department concerned.

2. The Professor to be nominated shall be a Professor concerned with the speciality for which the selection is being made and that the Shaikh-ul-Jamia (Vice-Chancellor) shall consult the Head of the Department and the Dean of the Faculty before nominating the Professor.

(10) The Majlis-i-Muntazimah (Executive Council) may appoint a person selected in accordance with the procedure laid down in the

foregoing clauses for a fixed tenure on such terms and conditions as it deems fit.

26. COMMITTEES:

Any authority of the University may appoint as many Standing or Special Committees as it may deem fit, consisting of members of the authority making such appointment and of such other persons (if any) as that authority in each case may think fit; and any such Committee may deal with any subject assigned to it subject to subsequent confirmation of the authority appointing it.

27. TERMS AND CONDITIONS OF SERVICE OF UNIVERSITY TEACHERS:

(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 the Statutes, the Ordinances and the Regulations.

(2) Every teacher of the University shall be appointed on a written contract, the form of which shall be prescribed by the Ordinances and a copy of the contract shall be desposited with the Musajjil (Registrar).

28. SENIORITY LISTS:

(1) Whenever, in accordance with these Statutes, any person is to hold an office or be a member of an authority of the University by rotation according to seniority, such seniority shall be determined according to the length of continuous service of such person in his grade, and in accordance with such other principles as the Majlis-i-Muntazimah (Executive Council) may, from time to time, determine.

(2) It shall be the duty of the Musajjil (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 the foregoing clause.

(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 Musajjil (Registrar) may, on his own motion and shall at the request of any such person, submit the matter to the Majlis-i-Muntazimah (Executive Council) whose decision thereon shall be final.

29. HONORARY DEGREES:

(1) The Majlis-i-Muntazimah (Executive Council) may, on the recommendation of the Majlis-i-Talimi (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 Majlis-i-Muntazimah (Executive Council) may, on its own, make such proposals.

(2) The Majlis-i-Muntazimah (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. WITHDRAWAL OF DEGREES, ETC.:

The Majlis-i-Muntazimah (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 Majlis-i-Muntazimah (Executive Council).

31. MAINTENANCE OF DISCIPLINE AMONG STUDENTS OF THE UNIVERSITY:

(1) All powers relating to discipline and disciplinary action in relation to students shall vest in the Shaikh-ul-Jamia (Vice-Chancellor).

(2) The Shaikh-ul-Jamia (Vice-Chancellor) may delegate all or any of his powers as he deems proper to any officer as he may specify in this behalf.

(3) Without prejudice to the generality of his power relating to the maintenance of discipline and taking such action in the interest of maintaining discipline as may seem to him appropriate, the Shaikh-ul-Jamia (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 Department or an Institution 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 or a Department or an Institution 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 Chairman of the Centre, the Chairman of the Board of Management of the School, the Deans of Faculties, the Heads of Departments and the Principals of Institutions, shall have the authority to exercise all such disciplinary powers over the students in their respective Centres, Schools, Faculties, Institutions and Departments as may be necessary for the proper conduct of such Centres, Schools, Faculties, Departments and Institutions.

(5) Without prejudice to the powers of the Shaikh-ul-Jamia (Vice-Chancellor), the detailed rules of discipline and proper conduct shall be framed by the University. The Chairman of the Centre,

the Chairman of the Board of Management of the School, Directors of Centres, Deans of Faculties and Heads of Departments and Principals of Institutions may frame such supplementary rules, as they may deem necessary for the aforesaid purposes.

(6) At the time of admission, every student shall be required to sign a declaration to the effect that he submits himself to the disciplinary jurisdiction of the Shaikh-ul-Jamia (Vice-Chancellor) and the other authorities of the University.

32. ESTABLISHMENT OF INSTITUTIONS:

The establishment of Institutions and the abolition thereof shall be governed by these Statutes.

33. CONVOCATION:

The 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.

34. ACTING CHAIRMAN OF MEETINGS:

Where no provision is made for a President or Chairman to preside over a meeting of an 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.

35. RESIGNATION:

(1) Any member, other than an *ex officio* member of the Anjuman (Court), the Majlis-i-Muntazimah (Executive Council), the Majlis-i-Talimi (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.

(2) Any officer of the University, whether salaried or otherwise, may resign his office by letter addressed to the Registrar:

Provided that such resignation shall take effect only on the date from which the same is accepted by the authority competent to fill the vacancy.

36. DISQUALIFICATIONS:

(1) A person shall be disqualified for being chosen as, and for being, a member of any of the authorities of the University—

(i) if he is of unsound mind or is a deaf-mute;

(ii) if he is an undischarged insolvent;

(iii) if he has been convicted by a court of law of an offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months.

(2) If any question arises as to whether a person is or had been subjected to any of the disqualifications mentioned in clause (1), the question shall be referred 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.

37. REMOVAL OF TEACHERS:

(1) Where there is an allegation of misconduct against a teacher, or a member of the academic staff, the Shaikh-ul-Jamia (Vice-Chancellor) may, if he thinks fit, by order in writing, place the teacher under suspension and shall forthwith report to the Majlis-i-Muntazimah (Executive Council) the circumstances in which the order was made:

Provided that the Majlis-i-Muntazimah (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 Majlis-i-Muntazimah (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 Majlis-i-Muntazimah (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 thereof.

(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 Majlis-i-Muntazimah (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 the Statutes, a teacher or a member of the academic staff may resign by giving three months' notice in writing to the Majlis-i-Muntazimah (Executive Council) or on payment to the University of three months' salary in lieu thereof.

38. REMOVAL OF EMPLOYEES OTHER THAN TEACHERS OF THE UNIVERSITY:

(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—

(i) if he is of unsound mind or is a deaf-mute;

(ii) if he is an undischarged insolvent;

(iii) if he has been convicted by a court of law of an offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months;

(iv) 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 Majlis-i-Muntazimah (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 (iii) of sub-clause (iv) of clause (1), he shall be given three months' notice in writing or paid three months' salary in lieu thereof.

(4) Notwithstanding anything contained in the 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.

39. ORDINANCES HOW MADE:

(1) The Ordinances made under sub-section (2) of section 25 of the Act may be amended, repealed or added to at any time by the Majlis-i-Muntazimah (Executive Council) in the manner specified below.

(2) No Ordinance in respect of the matters enumerated in section 25, other than those enumerated in clause (p) of sub-section (1) thereof, shall be made by the Majlis-i-Muntazimah (Executive Council) unless a draft of such Ordinance has been proposed by the Majlis-i-Talimi (Academic Council).

(3) The Majlis-i-Muntazimah (Executive Council) shall not have power to amend any draft of any Ordinance proposed by the Majlis-i-Talimi (Academic Council) under clause (2), but may reject the proposal or return the draft to the Majlis-i-Talimi (Academic Council) for re-consideration, either in whole or in part,

together with any amendment which the Majlis-i-Muntazimah (Executive Council), may suggest.

(4) Where the Majlis-i-Muntazimah (Executive Council) has rejected or returned the draft of an Ordinance proposed by the Majlis-i-Talimi (Academic Council), the Majlis-i-Talimi (Academic Council) may consider the question afresh and in case the original draft is reaffirmed by a majority of not less than two-thirds of the members present and voting and more than half the total number of members of the Majlis-i-Talimi (Academic Council) the draft may be sent back to the Majlis-i-Muntazimah (Executive Council) which shall either adopt it or refer it to the Visitor whose decision thereon shall be final.

(5) Every Ordinance made by the Majlis-i-Muntazimah (Executive Council) shall come into effect immediately.

(6) Every Ordinance made by the Majlis-i-Muntazimah (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 Majlis-i-Muntazimah (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 thereon shall be final.

40. REGULATIONS:

(1) The authorities of the University may make regulations consistent with the Act, the Statutes and the Ordinances for the following matters, namely:—

(i) laying down the procedure to be observed at their meetings and the number of members required to form a quorum;

(ii) providing for all matters which are required by the Act, the Statutes or the Ordinances to be prescribed by Regulations; and

(iii) providing for all other matters solely concerning such authorities or Committee appointed by them and not provided for by the Act, the Statutes or the Ordinances.

(2) Every authority of the University shall make Regulations providing for the giving of notice to the members of such authority of the dates of meetings and of the business to be considered at meetings and for the keeping of a record of the proceedings of meetings.

(3) The Majlis-i-Muntazimah (Executive Council) may direct the amendment, in such manner as it may specify, of any Regulation made under the Statutes or the annulment of any such Regulation.

41. DELEGATION OF POWERS:

Subject to the provisions of the Act and the Statutes, any officer or authority of the University may delegate his or its powers to

any other officer or authority or person under his or its respective control and subject to the condition that overall responsibility for the exercise of the powers so delegated shall continue to vest in the officer or authority delegating such powers.

42. RESIDENCE CONDITION FOR MEMBERSHIP AND OFFICE:

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

SHIP OF OTHER BODIES:

43. MEMBERSHIP OF AUTHORITIES BY VIRTUE OF MEMBERSHIP OF OTHER BODIES:

Notwithstanding anything contained in these Statutes, a person who holds any post in the University or is a member of any Authority or body of the University in his capacity as a member of a particular authority or body or as the holder of a particular appointment shall hold office so long only 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.

44. ALUMNI (OLD BOYS) ASSOCIATION:

(1) There shall be an Alumni (Old Boys') Association for the University.

(2) No person shall be a member of the Association unless—

(i) he has paid such subscription and satisfies such conditions as may be prescribed by the Ordinances; and

(ii) he is a graduate of the Jamia Millia Islamia or the University.

THE MOTOR VEHICLES ACT, 1988

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THE SCHEDULE.

THE MOTOR VEHICLES ACT, 1988

No. 59 OF 1988

[14th October, 1988.]

An Act to consolidate and amend the law relating to motor vehicles;

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Motor Vehicles Act, 1988.

(2) It extends to the whole of India.

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

Short title,
extent
and
commence-
ment.

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

(1) “area”, in relation to any provision of this Act, means such area as the State Government may, having regard to the requirements of that provision, specify by notification in the Official Gazette;

Defini-
tions.

(2) “articulated vehicle” means a motor vehicle to which a semi-trailer is attached;

(3) “axle weight” means in relation to an axle of a vehicle the total weight transmitted by the several wheels attached to that axle to the surface on which the vehicle rests;

(4) “certificate of registration” means the certificate issued by a competent authority to the effect that a motor vehicle has been duly registered in accordance with the provisions of Chapter IV;

(5) “conductor”, in relation to a stage carriage, means a person engaged in collecting fares from passengers, regulating their entrance into, or exit from, the stage carriage and performing such other functions as may be prescribed;

(6) “conductor’s licence” means the licence issued by a competent authority under Chapter III authorising the person specified therein to act as a conductor;

¹ 1-7-1989, vide Notification No. S.O. 368(E), dated 22-5-1989, Gazette of India, Extraordinary, 1989, Pt. II; Sec. 3(ii).

(7) "contract carriage" means a motor vehicle which carries a passenger or passengers for hire or reward and is engaged under a contract, whether expressed or implied, for the use of such vehicle as a whole for the carriage of passengers mentioned therein and entered into by a person with a holder of a permit in relation to such vehicle, or any person authorised by him in this behalf on a fixed or an agreed rate or sum—

(a) on a time basis, whether or not with reference to any route or distance; or

(b) from one point to another,

and in either case, without stopping to pick up or set down passengers not included in the contract anywhere during the journey, and includes—

(i) a maxicab; and

(ii) a motor cab notwithstanding that separate fares are charged for its passengers;

(8) "dealer" includes a person who is engaged—

(a) in the manufacture of motor vehicles; or

(b) in building bodies for attachment to chassis; or

(c) in the repair of motor vehicles; or

(d) in the business of hypothecation, leasing or hire-purchase of motor vehicle;

(9) "driver" includes, in relation to a motor vehicle which is drawn by another motor vehicle, the person who acts as a steersman of the drawn vehicle;

(10) "driving licence" means the licence issued by a competent authority under Chapter II authorising the person specified therein to drive, otherwise than as a learner, a motor vehicle or a motor vehicle of any specified class or description;

(11) "educational institution bus" means an omnibus, which is owned by a college, school or other educational institution and used solely for the purpose of transporting students or staff of the educational institution in connection with any of its activities;

(12) "fares" includes sums payable for a season ticket or in respect of the hire of a contract carriage;

(13) "goods" includes live-stock, and anything (other than equipment ordinarily used with the vehicle) carried by a vehicle except living persons, but does not include luggage or personal effects carried in a motor car or in a trailer attached to a motor car or the personal luggage of passengers travelling in the vehicle;

(14) "goods carriage" means any motor vehicle constructed or adapted for use solely for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods;

(15) "gross vehicle weight" means in respect of any vehicle the total weight of the vehicle and load certified and registered by the registering authority as permissible for that vehicle;

(16) "heavy goods vehicle" means any goods carriage the gross vehicle weight of which, or a tractor or a road-roller the unladen weight of either of which, exceeds 12,000 kilograms;

(17) "heavy passenger motor vehicle" means any public service vehicle or private service vehicle or educational institution bus or omnibus the gross vehicle weight of any of which, or a motor car the unladen weight of which, exceeds 12,000 kilograms;

(18) "invalid carriage" means a motor vehicle specially designed and constructed, and not merely, adapted, for the use of a person suffering from some physical defect or disability, and used solely by or for such a person;

(19) "learner's licence" means the licence issued by a competent authority under Chapter II authorising the person specified therein to drive as a learner, a motor vehicle or a motor vehicle of any specified class or description;

(20) "licensing authority" means an authority empowered to issue licences under Chapter II or, as the case may be, Chapter III;

(21) "light motor vehicle" means a transport vehicle or omnibus the gross vehicle weight of either of which or a motor car or tractor or road-roller the unladen weight of any of which, does not exceed 6,000 kilograms;

(22) "maxicab" means any motor vehicle constructed or adapted to carry more than six passengers, but not more than twelve passengers, excluding the driver, for hire or reward;

(23) "medium goods vehicle" means any goods carriage other than a light motor vehicle or a heavy goods vehicle;

(24) "medium passenger motor vehicle" means any public service vehicle or private service vehicle, or educational institution bus other than a motor cycle, invalid carriage, light motor vehicle or heavy passenger motor vehicle;

(25) "motorcab" means any motor vehicle constructed or adapted to carry not more than six passengers excluding the driver for hire or reward;

(26) "motor car" means any motor vehicle other than a transport vehicle, omnibus, road-roller, tractor, motor cycle or invalid carriage;

(27) "motor cycle" means a two-wheeled motor vehicle, inclusive of any detachable side-car having an extra wheel, attached to the motor vehicle;

(28) "motor vehicle" or "vehicle" means any mechanically propelled vehicle adapted for use upon roads whether the power of

propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or a vehicle having less than four wheels fitted with engine capacity of not exceeding thirty-five cubic centimetres;

(29) "omnibus" means any motor vehicle constructed or adapted to carry more than six persons excluding the driver;

(30) "owner" means a person in whose name a motor vehicle stands registered, and where such person is a minor, the guardian of such minor, and in relation to a motor vehicle which is the subject of a hire-purchase, agreement, or an agreement of lease or an agreement of hypothecation, the person in possession of the vehicle under that agreement;

(31) "permit" means a permit issued by a State or Regional Transport Authority or an authority prescribed in this behalf under this Act authorising the use of a motor vehicle as a transport vehicle;

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

(33) "private service vehicle" means a motor vehicle constructed or adapted to carry more than six persons excluding the driver and ordinarily used by or on behalf of the owner of such vehicle for the purpose of carrying persons for, or in connection with, his trade or business otherwise than for hire or reward but does not include a motor vehicle used for public purposes;

(34) "public place" means a road, street, way or other place, whether a thoroughfare or not, to which the public have a right of access, and includes any place or stand at which passengers are picked up or set down by a stage carriage;

(35) "public service vehicle" means any motor vehicle used or adapted to be used for the carriage of passengers for hire or reward, and includes a maxicab, a motorcab, contract carriage, and stage carriage;

(36) "registered axle weight" means in respect of the axle of any vehicle, the axle weight certified and registered by the registering authority as permissible for that axle;

(37) "registering authority" means an authority empowered to register motor vehicles under Chapter IV;

(38) "route" means a line of travel which specifies the highway which may be traversed by a motor vehicle between one terminus and another;

(39) "semi-trailer" means a trailer drawn by a motor vehicle and so constructed that a part of it is super-imposed on, and a part of its weight is borne by, the drawing vehicle;

(40) "stage carriage" means a motor vehicle constructed or adapted to carry more than six passengers excluding the driver for hire or reward at separate fares paid by or for individual passengers, either for the whole journey or for stages of the journey;

(41) "State Government" in relation to a Union territory means the Administrator thereof appointed under article 239 of the Constitution;

(42) "State transport undertaking" means any undertaking providing road transport service, where such undertaking is carried on by,—

(i) the Central Government or a State Government;

64 of 1950.

(ii) any Road Transport Corporation established under section 3 of the Road Transport Corporations Act, 1950;

(iii) any municipality or any corporation or company owned or controlled by the Central Government or one or more State Governments, or by the Central Government and one or more State Governments.

Explanation.—For the purposes of this clause, "road transport service" means a service of motor vehicles carrying passengers or goods or both by road for hire or reward;

(43) "tourist vehicle" means a contract carriage constructed or adapted and equipped and maintained in accordance with such specifications as may be prescribed in this behalf;

(44) "tractor" means a motor vehicle which is not itself constructed to carry any load (other than equipment used for the purpose of propulsion); but excludes a road-roller;

(45) "traffic signs" includes all signals, warning sign posts, direction posts, markings on the road or other devices for the information, guidance or direction of drivers of motor vehicles;

(46) "trailer" means any vehicle, other than a semi-trailer and a side-car, drawn or intended to be drawn by a motor vehicle;

(47) "transport vehicle" means a public service vehicle, a goods carriage, an educational institution bus or a private service vehicle;

(48) "unladen weight" means the weight of a vehicle or trailer including all equipment ordinarily used with the vehicle or trailer when working, but excluding the weight of a driver or attendant; and where alternative parts or bodies are used the unladen weight of the vehicle means the weight of the vehicle with the heaviest such alternative part or body;

(49) "weight" means the total weight transmitted for the time being by the wheels of a vehicle to the surface on which the vehicle rests.

CHAPTER II

LICENSING OF DRIVERS OF MOTOR VEHICLES

Necessity
for
driving
licence.

3. (1) No person shall drive a motor vehicle in any public place unless he holds an effective driving licence issued to him authorising him to drive the vehicle; and no person shall so drive a transport vehicle [other than a motor cab hired for his own use or rented under any scheme made under sub-section (2) of section 75] unless his driving licence specifically entitles him so to do.

(2) The conditions subject to which sub-section (1) shall not apply to a person receiving instructions in driving a motor vehicle shall be such as may be prescribed by the Central Government.

Age limit
in connection
with
driving
of motor
vehicles.

4. (1) No person under the age of eighteen years shall drive a motor vehicle in any public place:

Provided that a motor cycle without gear may be driven in a public place by a person after attaining the age of sixteen years.

(2) Subject to the provisions of section 18, no person under the age of twenty years shall drive a transport vehicle in any public place.

(3) No learner's licence or driving licence shall be issued to any person to drive a vehicle of the class to which he has made an application unless he is eligible to drive that class of vehicle under this section.

Responsi-
bility of
owners
of
motor
vehicles
for con-
traven-
tion of
sections
3 and 4.

5. No owner or person in charge of a motor vehicle shall cause or permit any person who does not satisfy the provisions of section 3 or section 4 to drive the vehicle.

Restric-
tions on
the
hold-
ing of
driving
licences.

6. (1) No person shall, while he holds any driving licence for the time being in force, hold any other driving licence except a learner's licence or a driving licence issued in accordance with the provisions of section 18 or a document authorising, in accordance with the rules made under section 139, the person specified therein to drive a motor vehicle.

(2) No holder of a driving licence or a learner's licence shall permit it to be used by any other person.

(3) Nothing in this section shall prevent a licensing authority having the jurisdiction referred to in sub-section (1) of section 9 from adding to the classes of vehicles which the driving licence authorises the holder to drive.

Restric-
tions on
the grant-
ing of
learner's
licences
for
certain
vehicles.

7. (1) No person shall be granted a learner's licence—

(a) to drive a heavy goods vehicle unless he has held a driving licence for at least two years to drive a light motor vehicle or for at least one year to drive a medium goods vehicle;

(b) to drive a heavy passenger motor vehicle unless he has held a driving licence for at least two years to drive a light motor vehicle or for at least one year to drive a medium passenger motor vehicle;

(c) to drive a medium goods vehicle or a medium passenger motor vehicle unless he has held a driving licence for at least one year to drive a light motor vehicle.

(2) No person under the age of eighteen years shall be granted a learner's licence to drive a motor cycle without gear except with the consent in writing of the person having the care of the person desiring the learner's licence.

8. (1) Any person who is not disqualified under section 4 for driving a motor vehicle and who is not for the time being disqualified for holding or obtaining a driving licence may, subject to the provisions of section 7, apply to the licensing authority having jurisdiction in the area—

Grant of learner's licence.

(i) in which he ordinarily resides or carries on business, or

(ii) in which the school or establishment referred to in section 12 from where he intends to receive instruction in driving a motor vehicle is situate,

for the issue to him of a learner's licence.

(2) Every application under sub-section (1) shall be in such form and shall be accompanied by such documents and with such fee as may be prescribed by the Central Government.

(3) Every application under sub-section (1) shall be accompanied by a medical certificate in such form as may be prescribed by the Central Government and signed by such registered medical practitioner, as the State Government or any person authorised in this behalf by the State Government may, by notification in the Official Gazette, appoint for this purpose.

(4) If, from the application or from the medical certificate referred to in sub-section (3), it appears that the applicant is suffering from any disease or disability which is likely to cause the driving by him of a motor vehicle of the class which he would be authorised by the learner's licence applied for to drive to be a source of danger to the public or to the passengers, the licensing authority shall refuse to issue the learner's licence:

Provided that a learner's licence limited to driving an invalid carriage may be issued to the applicant, if the licensing authority is satisfied that he is fit to drive such a carriage.

(5) No learner's licence shall be issued to any applicant unless he passes to the satisfaction of the licensing authority such test as may be prescribed by the Central Government.

(6) When an application has been duly made to the appropriate licensing authority and the applicant has satisfied such authority of his physical fitness under sub-section (3) and has passed to the satisfaction of the licensing authority the test referred to in sub-section (5), the licensing authority shall, subject to the provisions of section 7, issue the applicant a learner's licence unless the applicant is disqualified under section 4 for driving a motor vehicle or is for the time being disqualified for holding or obtaining a licence to drive a motor vehicle:

Provided that a licensing authority may issue a learner's licence to drive a motor cycle or a light motor vehicle notwithstanding that it is not the appropriate licensing authority, if such authority is satisfied that there is good reason for the applicant's inability to apply to the appropriate licensing authority.

(7) Where the Central Government is satisfied that it is necessary or expedient so to do, it may, by rules made in this behalf, exempt generally, either absolutely or subject to such conditions as may be specified in the rules, any class of persons from the provisions of sub-section (3), or sub-section (5), or both.

(8) Any learner's licence for driving a motor cycle in force immediately before the commencement of this Act shall, after such commencement, be deemed to be effective for driving a motor cycle with or without gear.

Grant of
driving
licence.

9. (1) Any person who is not for the time being disqualified for holding or obtaining a driving licence may apply to the licensing authority having jurisdiction in the area—

(i) in which he ordinarily resides or carries on business, or

(ii) in which the school or establishment referred to in section 12 from where he is receiving or has received instruction in driving a motor vehicle is situated,

for the issue to him of a driving licence.

(2) Every application under sub-section (1) shall be in such form and shall be accompanied by such fee and such documents as may be prescribed by the Central Government.

(3) No driving licence shall be issued to any applicant unless he passes to the satisfaction of the licensing authority such test of competence to drive as may be prescribed by the Central Government:

Provided that, where the application is for a driving licence to drive a motor cycle or a light motor vehicle, the licensing authority shall exempt the applicant from the test of competence prescribed under this sub-section, if the licensing authority is satisfied—

(a) (i) that the applicant has previously held a driving licence and that the period between the date of expiry of that licence and the date of such application does not exceed five years; or

(ii) that the applicant holds or has previously held a driving licence issued under section 18; or

(iii) that the applicant holds a driving licence issued by a competent authority of any country outside India; and

(b) that the applicant is not suffering from any disease or disability which is likely to cause the driving by him of a motor cycle or, as the case may be, a light motor vehicle to be a source of danger to the public; and the licensing authority may for that purpose require the applicant to produce a medical certificate in the same form and in the same manner as is referred to in sub-section (3) of section 8:

Provided further that where the application is for a driving licence to drive a motor vehicle (not being a transport vehicle), the licensing authority may exempt the applicant from the test of competence to drive prescribed under this sub-section, if the applicant possesses a driving certificate issued by an automobile association recognised in this behalf by the State Government.

(4) Where the application is for a licence to drive a transport vehicle, no such authorisation shall be granted to any applicant unless he possesses such minimum educational qualification as may be prescribed by the Central Government and a driving certificate issued by a school or establishment referred to in section 12.

(5) Where the applicant does not pass to the satisfaction of the licensing authority the test of competence to drive under sub-section (3), he shall not be qualified to re-appear for such test,—

(a) in the case of first three such tests, before a period of one month from the date of last such test; and

(b) in the case of such test after the first three tests, before a period of one year from the date of last such test.

(6) The test of competence to drive shall be carried out in a vehicle of the type to which the application refers:

Provided that a person who passed a test in driving a motor cycle with gear shall be deemed also to have passed a test in driving a motor cycle without gear.

(7) When any application has been duly made to the appropriate licensing authority and the applicant has satisfied such authority of his competence to drive, the licensing authority shall issue the applicant a driving licence unless the applicant is for the time being disqualified for holding or obtaining a driving licence:

Provided that a licensing authority may issue a driving licence to drive a motor cycle or a light motor vehicle notwithstanding that it is not the appropriate licensing authority, if the licensing authority is satisfied that there is good and sufficient reason for the applicant's inability to apply to the appropriate licensing authority:

Provided further that the licensing authority shall not issue a new driving licence to the applicant, if he had previously held a driving licence, unless it is satisfied that there is good and sufficient reason for his inability to obtain a duplicate copy of his former licence.

(8) If the licensing authority is satisfied, after giving the applicant an opportunity of being heard, that he—

(a) is a habitual criminal or a habitual drunkard; or

(b) is a habitual addict to any narcotic drug or psychotropic substance within the meaning of the Narcotic Drugs and Psychotropic Substances Act, 1985; or

(c) is a person whose licence to drive any motor vehicle has, at any time earlier, been revoked,

it may, for reasons to be recorded in writing, make an order refusing to issue a driving licence to such person and any person aggrieved by

an order made by a licensing authority under this sub-section may, within thirty days of the receipt of the order, appeal to the prescribed authority.

(9) Any driving licence for driving a motor cycle in force immediately before the commencement of this Act shall, after such commencement, be deemed to be effective for driving a motor cycle with or without gear.

Form and contents of licences to drive.

10. (1) Every learner's licence and driving licence, except a driving licence issued under section 18, shall be in such form and shall contain such information as may be prescribed by the Central Government.

(2) A learner's licence or, as the case may be, driving licence shall also be expressed as entitling the holder to drive a motor vehicle of one or more of the following classes, namely:—

- (a) motor cycle without gear;
- (b) motor cycle with gear;
- (c) invalid carriage;
- (d) light motor vehicle;
- (e) medium goods vehicle;
- (f) medium passenger motor vehicle;
- (g) heavy goods vehicle;
- (h) heavy passenger motor vehicle;
- (i) road-roller;
- (j) motor vehicle of a specified description.

Additions to driving licence.

11. (1) Any person holding a driving licence to drive any class or description of motor vehicles, who is not for the time being disqualified for holding or obtaining a driving licence to drive any other class or description of motor vehicles, may apply to the licensing authority having jurisdiction in the area in which he resides or carries on his business in such form and accompanied by such documents and with such fees as may be prescribed by the Central Government for the addition of such other class or description of motor vehicles to the licence.

(2) Subject to such rules as may be prescribed by the Central Government, the provisions of section 9 shall apply to an application under this section as if the said application were for the grant of a licence under that section to drive the class or description of motor vehicles which the applicant desires to be added to his licence.

Licensing and regulation of schools or establishments for imparting instruction in driving of motor vehicles.

12. (1) The Central Government may make rules for the purpose of licensing and regulating, by the State Governments, schools or establishments (by whatever name called) for imparting instruction in driving of motor vehicles and matters connected therewith.

(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) licensing of such schools or establishments including grant, renewal and revocation of such licences;

(b) supervision of such schools or establishments;

(c) the form of application and the form of licence and the particulars to be contained therein;

(d) fee to be paid with the application for such licences;

(e) conditions subject to which such licences may be granted;

(f) appeals against the orders of refusal to grant or renew such licences and appeals against the orders revoking such licences;

(g) conditions subject to which a person may establish and maintain any such school or establishment for imparting instruction in driving of motor vehicles;

(h) nature, syllabus and duration of course or courses for efficient instruction in driving any motor vehicle;

(i) apparatus and equipments (including motor vehicles fitted with dual control) required for the purpose of imparting such instruction;

(j) suitability of the premises at which such schools or establishments may be established or maintained and facilities to be provided therein;

(k) qualifications, both educational and professional (including experience), which a person imparting instruction in driving a motor vehicle shall possess;

(l) inspection of such schools and establishments (including the services rendered by them and the apparatus, equipments and motor vehicles maintained by them for imparting such instruction);

(m) maintenance of records by such schools or establishments;

(n) financial stability of such schools or establishments;

(o) the driving certificates, if any, to be issued by such schools or establishments and the form in which such driving certificates shall be issued and the requirements to be complied with for the purposes of issuing such certificates;

(p) such other matters as may be necessary to carry out the purposes of this section.

(3) Where the Central Government is satisfied that it is necessary or expedient so to do, it may, by rules made in this behalf, exempt generally, either absolutely or subject to such conditions as may be specified in the rules, any class of schools or establishments imparting instruction in driving of motor vehicles or matters connected therewith from the provisions of this section.

(4) A school or establishment imparting instruction in driving of motor vehicles or matters connected therewith immediately before the commencement of this Act whether under a licence or not, may continue to impart such instruction without a licence issued under this Act for a period of one month from such commencement, and if it has made an application for such licence under this Act within the said period of one month and such application is in the prescribed form, contains the prescribed particulars and is accompanied by the prescribed fee, till the disposal of such application by the licensing authority.

Extent of effectiveness of licences, to drive motor vehicles.

13. A learner's licence or a driving licence issued under this Act shall be effective throughout India.

Currency of licences to drive motor vehicles.

14. (1) A learner's licence issued under this Act shall, subject to the other provisions of this Act, be effective for a period of six months from the date of issue of the licence.

(2) A driving licence issued or renewed under this Act shall,—

(a) in the case of a licence to drive a transport vehicle, be effective for a period of three years; and

(b) in the case of any other licence,—

(i) if the person obtaining the licence, either originally or on renewal thereof, has not attained the age of forty years on the date of issue or, as the case may be, renewal thereof,—

(A) be effective for a period of twenty years from the date of such issue or renewal; or

(B) until the date on which such person attains the age of forty years,

whichever is earlier;

(ii) if the person referred to in sub-clause (i) has attained the age of forty years on the date of issue or, as the case may be, renewal thereof, be effective for a period of five years from the date of such issue or renewal:

Provided that every driving licence shall, notwithstanding its expiry under this sub-section, continue to be effective for a period of thirty days from such expiry.

Renewal of driving licences.

15. (1) Any licensing authority may, on application made to it, renew a driving licence issued under the provisions of this Act with effect from the date of its expiry:

Provided that in any case where the application for the renewal of a licence is made more than thirty days after the date of its expiry, the driving licence shall be renewed with effect from the date of its renewal:

Provided further that where the application is for the renewal of a licence to drive a transport vehicle or where in any other case the applicant has attained the age of forty years, the same shall be

accompanied by a medical certificate in the same form and in the same manner as is referred to in sub-section (3) of section 8, and the provisions of sub-section (4) of section 8 shall, so far as may be, apply in relation to every such case as they apply in relation to a learner's licence.

(2) An application for the renewal of a driving licence shall be made in such form and accompanied by such documents as may be prescribed by the Central Government.

(3) Where an application for the renewal of a driving licence is made previous to, or not more than thirty days after the date of its expiry, the fee payable for such renewal shall be such as may be prescribed by the Central Government in this behalf.

(4) Where an application for the renewal of a driving licence is made more than thirty days after the date of its expiry, the fee payable for such renewal shall be such amount as may be prescribed by the Central Government:

Provided that the fee referred to in sub-section (3) may be accepted by the licensing authority in respect of an application for the renewal of a driving licence made under this sub-section if it is satisfied that the applicant was prevented by good and sufficient cause from applying within the time specified in sub-section (3):

Provided further that if the application is made more than five years after the driving licence has ceased to be effective, the licensing authority may refuse to renew the driving licence, unless the applicant undergoes and passes to its satisfaction the test of competence to drive referred to in sub-section (3) of section 9.

(5) Where the application for renewal has been rejected, the fee paid shall be refunded to such extent and in such manner as may be prescribed by the Central Government.

(6) Where the authority renewing the driving licence is not the authority which issued the driving licence it shall intimate the fact of renewal to the authority which issued the driving licence.

16. Notwithstanding anything contained in the foregoing sections, any licensing authority may at any time revoke a driving licence or may require, as a condition of continuing to hold such driving licence, the holder thereof to produce a medical certificate in the same form and in the same manner as is referred to in sub-section (3) of section 8; if the licensing authority has reasonable grounds to believe that the holder of the driving licence is, by virtue of any disease or disability, unfit to drive a motor vehicle and where the authority revoking a driving licence is not the authority which issued the same, it shall intimate the fact of revocation to the authority which issued that licence.

17. (1) Where a licensing authority refuses to issue any learner's licence or to issue or renew, or revokes, any driving licence, or refuses to add a class or description of motor vehicle to any driving licence, it shall do so by an order communicated to the applicant or the holder, as the case may be, giving the reasons in writing for such refusal or revocation.

Revocation of driving licence on grounds of disease or disability.

Orders refusing or revoking driving licences and appeals therefrom.

(2) Any person aggrieved by an order made under sub-section (1) may, within thirty days of the service on him of the order, appeal to the prescribed authority which shall decide the appeal after giving such person and the authority which made the order an opportunity of being heard and the decision of the appellate authority shall be binding on the authority which made the order.

Driving licences to drive motor vehicles, belonging to the Central Government.

18. (1) Such authority as may be prescribed by the Central Government may issue driving licence valid throughout India to persons who have completed their eighteenth year to drive motor vehicles which are the property or for the time being under the exclusive control of the Central Government and are used for Government purposes relating to the defence of the country and unconnected with any commercial enterprise.

(2) A driving licence issued under this section shall specify the class or description of vehicle which the holder is entitled to drive and the period for which he is so entitled.

(3) A driving licence issued under this section shall not entitle the holder to drive any motor vehicle except a motor vehicle referred to in sub-section (1).

(4) The authority issuing any driving licence under this section shall, at the request of any State Government, furnish such information respecting any person to whom a driving licence is issued as that Government may at any time require.

Power of licensing authority to disqualify from holding a driving licence or revoke such licence.

19. (1) If a licensing authority is satisfied, after giving the holder of a driving licence an opportunity of being heard, that he—

(a) is a habitual criminal or a habitual drunkard; or

(b) is a habitual addict to any narcotic drug or psychotropic substance within the meaning of the Narcotic Drugs and Psychotropic Substances Act, 1985; or

(c) is using or has used a motor vehicle in the commission of a cognizable offence; or

(d) has by his previous conduct as driver of a motor vehicle shown that his driving is likely to be attended with danger to the public; or

(e) has obtained any driving licence or a licence to drive a particular class or description of motor vehicle by fraud or misrepresentation; or

(f) has committed any such act which is likely to cause nuisance or danger to the public, as may be prescribed by the Central Government, having regard to the objects of this Act; or

(g) has failed to submit to, or has not passed, the tests referred to in the proviso to sub-section (3) of section 22; or

(h) being a person under the age of eighteen years who has been granted a learner's licence or a driving licence with the consent

in writing of the person having the care of the holder of the licence and has ceased to be in such care,

it may, for reasons to be recorded in writing, make an order—

(i) disqualifying that person for a specified period for holding or obtaining any driving licence to drive all or any classes or descriptions of vehicles specified in the licence; or

(ii) revoke any such licence.

(2) Where an order under sub-section (1) is made, the holder of a driving licence shall forthwith surrender his driving licence to the licensing authority making the order, if the driving licence has not already been surrendered, and the licensing authority shall,—

(a) if the driving licence is a driving licence issued under this Act, keep it until the disqualification has expired or has been removed; or

(b) if it is not a driving licence issued under this Act, endorse the disqualification upon it and send it to the licensing authority by which it was issued; or

(c) in the case of revocation of any licence, endorse the revocation upon it and if it is not the authority which issued the same, intimate the fact of revocation to the authority which issued that licence:

Provided that where the driving licence of a person authorises him to drive more than one class or description of motor vehicles and the order, made under sub-section (1), disqualifies him from driving any specified class or description of motor vehicles, the licensing authority shall endorse the disqualification upon the driving licence and return the same to the holder.

(3) Any person aggrieved by an order made by a licensing authority under sub-section (1) may, within thirty days of the receipt of the order, appeal to the prescribed authority, and such appellate authority shall give notice to the licensing authority and hear either party if so required by that party and may pass such order as it thinks fit and an order passed by any such appellate authority shall be final.

20. (1) Where a person is convicted of an offence under this Act or of an offence in the commission of which a motor vehicle was used, the Court by which such person is convicted may, subject to the provisions of this Act, in addition to imposing any other punishment authorised by law, declare the persons so convicted to be disqualified, for such period as the Court may specify, from holding any driving licence to drive all classes or description of vehicles, or any particular class or description of such vehicles, as are specified in such licence:

Power of
Court to
disqualify.

Provided that in respect of an offence punishable under section 183 no such order shall be made for the first or second offence.

(2) Where a person is convicted of an offence under clause (c) of sub-section (1) of section 132, section 134 or section 185, the Court convicting any person of any such offence shall order the disqualification under sub-section (1), and if the offence is relatable to clause (c) of sub-section

(1) of section 132 or section 134, such disqualification shall be for a period of not less than one month, and if the offence is relatable to section 185, such disqualification shall be for a period of not less than six months.

(3) A Court shall, unless for special reasons to be recorded in writing it thinks fit to order otherwise, order the disqualification of a person—

(a) who having been convicted of an offence punishable under section 184 is again convicted of an offence punishable under that section,

(b) who is convicted of an offence punishable under section 189, or

(c) who is convicted of an offence punishable under section 192:

Provided that the period of disqualification shall not exceed, in the case referred to in clause (a), five years, or, in the case referred to in clause (b), two years or, in the case referred to in clause (c), one year.

(4) A Court ordering the disqualification of a person convicted of an offence punishable under section 184 may direct that such person shall, whether he has previously passed the test of competence to drive as referred to in sub-section (3) of section 9 or not, remain disqualified until he has subsequent to the making of the order of disqualification passed that test to the satisfaction of the licensing authority.

(5) The Court to which an appeal would ordinarily lie from any conviction of an offence of the nature specified in sub-section (1) may set aside or vary any order of disqualification made under that sub-section notwithstanding that no appeal would lie against the conviction as a result of which such order of disqualification was made.

Suspension of driving licence in certain cases.

21. (1) Where, in relation to a person who had been previously convicted of an offence punishable under section 184, a case is registered by a police officer on the allegation that such person has, by such dangerous driving as is referred to in the said section 184, of any class or description of motor vehicle caused the death of, or grievous hurt to, one or more persons, the driving licence held by such person shall in relation to such class or description of motor vehicle become suspended—

(a) for a period of six months from the date on which the case is registered, or

(b) if such person is discharged or acquitted before the expiry of the period aforesaid, until such discharge or acquittal, as the case may be.

(2) Where by virtue of the provisions of sub-section (1), the driving licence held by a person becomes suspended, the police officer, by whom the case referred to in sub-section (1) is registered, shall bring such suspension to the notice of the Court competent to take cognizance of such offence, and thereupon, such Court shall take possession of the driving licence, endorse the suspension thereon and intimate the fact of such endorsement to the licensing authority by which the licence was granted or last renewed.

(3) Where the person referred to in sub-section (1) is acquitted or discharged, the Court shall cancel the endorsement on such driving licence with regard to the suspension thereof.

(4) If a driving licence in relation to a particular class or description of motor vehicles is suspended under sub-section (1), the person holding such licence shall be debarred from holding or obtaining any licence to drive such particular class or description of motor vehicles so long as the suspension of the driving licence remains in force.

22. (1) Without prejudice to the provisions of sub-section (3) of section 20 where a person, referred to in sub-section (1) of section 21 is convicted of an offence of causing, by such dangerous driving as is referred to in section 184 of any class or description of motor vehicle the death of, or grievous hurt to, one or more persons, the Court by which such person is convicted may cancel, or suspend for such period as it may think fit, the driving licence held by such person in so far as it relates to that class or description of motor vehicle.

Suspension or cancellation of driving licence on conviction.

(2) Without prejudice to the provisions of sub-section (2) of section 20, if a person, having been previously convicted of an offence punishable under section 185 is again convicted of an offence punishable under that section, the Court, making such subsequent conviction, shall, by order, cancel the driving licence held by such person.

(3) If a driving licence is cancelled or suspended under this section, the Court shall take the driving licence in its custody, endorse the cancellation or, as the case may be, suspension, thereon and send the driving licence so endorsed to the authority by which the licence was issued or last renewed and such authority shall, on receipt of the licence, keep the licence in its safe custody, and in the case of a suspended licence, return the licence to the holder thereof after the expiry of the period of suspension on an application made by him for such return:

Provided that no such licence shall be returned unless the holder thereof has, after the expiry of the period of suspension, undergone and passed, to the satisfaction of the licensing authority by which the licence was issued or last renewed, a fresh test of competence to drive referred to in sub-section (3) of section 9 and produced a medical certificate in the same form and in the same manner as is referred to in sub-section (3) of section 8.

(4) If a licence to drive a particular class or description of motor vehicles is cancelled or suspended under this section, the person holding such a licence shall be debarred from holding, or obtaining, any licence to drive such particular class or description of motor vehicles so long as the cancellation or suspension of the driving licence remains in force.

23. (1) A person in respect of whom any disqualification order is made under section 19 or section 20 shall be debarred to the extent and for the period specified in such order from holding or obtaining a driving licence and the driving licence, if any, held by such person at the date of the order shall cease to be effective to such extent and during such period.

Effect of disqualification order.

(2) The operation of a disqualification order made under section 20 shall not be suspended or postponed while an appeal is pending against such order or against the conviction as a result of which such order is made, unless the appellate court so directs.

(3) Any person in respect of whom any disqualification order has been made may at any time after the expiry of six months from the date of the order apply to the Court or other authority by which the order was made, to remove the disqualification; and the Court or authority, as the case may be, may, having regard to all the circumstances, either cancel or vary the disqualification order:

Provided that where the Court or other authority refuses to cancel or vary any disqualification order under this section, a second application thereunder shall not be entertained before the expiry of a period of three months from the date of such refusal.

Endorse-
ment.

24. (1) The Court or authority making an order of disqualification shall endorse or cause to be endorsed upon the driving licence if any, held by the person disqualified, particulars of the order of disqualification and of any conviction of an offence in respect of which an order of disqualification is made; and particulars of any cancellation or variation of an order of disqualification made under sub-section (3) of section 23 shall be similarly so endorsed.

(2) A Court by which any person is convicted of an offence under this Act as may be prescribed by the Central Government, having regard to the objects of this Act, shall, whether or not a disqualification order is made in respect of such conviction, endorse or cause to be endorsed particulars of such conviction on any driving licence held by the person convicted.

(3) Any person accused of an offence prescribed under sub-section (2) shall when attending the Court bring with him his driving licence if it is in his possession.

(4) Where any person is convicted of any offence under this Act and sentenced to imprisonment for a period exceeding three months the Court awarding the sentence shall endorse the fact of such sentence upon the driving licence of the person concerned and the prosecuting authority shall intimate the fact of such endorsement to the authority by which the driving licence was granted or last renewed.

(5) When the driving licence is endorsed or caused to be endorsed by any Court, such Court shall send the particulars of the endorsement to the licensing authority by which the driving licence was granted or last renewed.

(6) Where on an appeal against any conviction or order of a Court, which has been endorsed on a driving licence, the appellate court varies or sets aside the conviction or order, the appellate court shall inform the licensing authority by which the driving licence was granted or last renewed and such authority shall amend or cause to be amended the endorsement.

25. (1) An endorsement on any driving licence shall be transferred to any new or duplicate driving licence obtained by the holder thereof until the holder becomes entitled under the provisions of this section to have a driving licence issued to him free from endorsement.

(2) Where a driving licence is required to be endorsed and the driving licence is not in the possession of the Court or authority by which the endorsement is to be made, then—

(a) if the person in respect of whom the endorsement is to be made is at the time the holder of a driving licence, he shall produce the driving licence to the Court or authority within five days, or such longer time as the Court or authority may fix; or

(b) if, not being then the holder of a driving licence, he subsequently obtains a driving licence, he shall within five days after obtaining the driving licence produce it to the Court or authority,

and if the driving licence is not produced within the time specified, it shall, on the expiration of such time, be of no effect until it is produced for the purpose of endorsement.

(3) A person whose driving licence has been endorsed shall, if during a continuous period of three years after such endorsement no further endorsement has been made against him, be entitled on surrendering his driving licence and on payment of a fee of five rupees, to receive a new driving licence free from all endorsements:

Provided that if the endorsement is only in respect of an offence contravening the speed limits referred to in section 112, such person shall be entitled to receive a new driving licence free from such endorsements on the expiration of one year of the date of the endorsement:

Provided further that in reckoning the said period of three years and one year, respectively, any period during which the said person was disqualified for holding or obtaining a driving licence shall be excluded.

26. (1) Each State Government shall maintain, in such form as may be prescribed by the Central Government, a register to be known as the State Register of Driving Licences, in respect of driving licences issued and renewed by the licensing authorities of the State Government, containing the following particulars, namely:—

(a) names and addresses of holders of driving licences;

(b) licence numbers;

(c) dates of issue or renewal of licences;

(d) dates of expiry of licences;

(e) classes and types of vehicles authorised to be driven; and

(f) such other particulars as the Central Government may prescribe.

(2) Each State Government shall supply to the Central Government a printed copy of the State Register of Driving Licences and shall inform the Central Government without delay of all additions to and other amendments in such register made from time to time.

Transfer of endorsement and issue of driving licence free from endorsement.

Maintenance of State Registers of Driving Licences.

(3) The State Register of Driving Licences shall be maintained in such manner as may be prescribed by the State Government.

Power of
Central
Govern-
ment to
make
rules.

27. The Central Government may make rules—

(a) regarding conditions referred to in sub-section (2) of section 3;

(b) providing for the form in which the application for learner's licence may be made, the information it shall contain and the documents to be submitted with the application referred to in sub-section (2) of section 8;

(c) providing for the form of medical certificate referred to in sub-section (3) of section 8;

(d) providing for the particulars for the test referred to in sub-section (5) of section 8;

(e) providing for the form in which the application for driving licence may be made, the information it shall contain and the documents to be submitted with the application referred to in sub-section (2) of section 9;

(f) providing for the particulars regarding test of competence to drive, referred to in sub-section (3) of section 9;

(g) specifying the minimum educational qualifications of persons to whom licences to drive transport vehicles may be issued under this Act and the time within which such qualifications are to be acquired by such persons;

(h) providing for the form and contents of the licences referred to in sub-section (1) of section 10;

(i) providing for the form and contents of the application referred to in sub-section (1) of section 11 and documents to be submitted with the application and the fee to be charged;

(j) providing for the conditions subject to which section 9 shall apply to an application made under section 11;

(k) providing for the form and contents of the application referred to in sub-section (1) of section 15 and the documents to accompany such application under sub-section (2) of section 15;

(l) providing for the authority to grant licences under sub-section (1) of section 18;

(m) specifying the fees payable under sub-section (2) of section 8, sub-section (2) of section 9 and sub-sections (3) and (4) of section 15 for the grant of learner's licences, and for the grant and renewal of driving licences and licences for the purpose of regulating the schools or establishment for imparting instructions in driving motor vehicles;

(n) specifying the acts for the purposes of clause (f) of sub-section (1) of section 19;

(o) specifying the offences under this Act for the purposes of sub-section (2) of section 24;

(p) to provide for all or any of the matters referred to in sub-section (1) of section 26;

(g) any other matter which is, or has to be, prescribed by the Central Government.

28. (1) A State Government may make rules for the purpose of carrying into effect the provisions of this Chapter other than the matters specified in section 27.

Power of State Government to make rules.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the appointment, jurisdiction, control and functions of licensing authorities and other prescribed authorities;

(b) the conduct and hearing of appeals that may be preferred under this Chapter, the fees to be paid in respect of such appeals and the refund of such fees:

Provided that no fee so fixed shall exceed twenty-five rupees;

(c) the issue of duplicate licences to replace licences lost, destroyed or mutilated, the replacement of photographs which have become obsolete and the fees to be charged therefor;

(d) the badges and uniform to be worn by drivers of transport vehicles and the fees to be paid in respect of badges;

(e) the fee payable for the issue of a medical certificate under sub-section (3) of section 8;

(f) the exemption of prescribed persons, or prescribed classes of persons, from payment of all or any portion of the fees payable under this Chapter;

(g) the communication of particulars of licences granted by one licensing authority to other licensing authorities;

(h) the duties, functions and conduct of such persons to whom licences to drive transport vehicles are issued;

(i) the exemption of drivers of road-rollers from all or any of the provisions of this Chapter or of the rules made thereunder;

(j) the manner in which the State Register of Driving Licences shall be maintained under section 26;

(k) any other matter which is to be, or may be, prescribed.

CHAPTER III

LICENSING OF CONDUCTORS OF STAGE CARRIAGES

29. (1) No person shall act as a conductor of a stage carriage unless he holds an effective conductor's licence issued to him authorising him to act as such conductor; and no person shall employ or permit any person who is not so licensed to act as a conductor of a stage carriage.

Necessity for conductor's licence.

(2) A State Government may prescribe the conditions subject to which sub-section (1) shall not apply to a driver of a stage carriage performing the functions of a conductor or to a person employed to act as a conductor for a period not exceeding one month.

Grant
of con-
ductor's
licence.

30. (1) Any person who possesses such minimum educational qualification as may be prescribed by the State Government and is not disqualified under sub-section (1) of section 31 and who is not for the time being disqualified for holding or obtaining a conductor's licence may apply to the licensing authority having jurisdiction in the area in which he ordinarily resides or carries on business for the issue to him of a conductor's licence.

(2) Every application under sub-section (1) shall be in such form and shall contain such information as may be prescribed.

(3) Every application for a conductor's licence shall be accompanied by a medical certificate in such form as may be prescribed, signed by a registered medical practitioner and shall also be accompanied by two clear copies of a recent photograph of the applicant.

(4) A conductor's licence issued under this Chapter shall be in such form and contain such particulars as may be prescribed and shall be effective throughout the State in which it is issued.

(5) The fee for a conductor's licence and for each renewal thereof shall be one-half of that for a driving licence.

Disqualifi-
cations
for the
grant
of con-
ductor's
licence.

31. (1) No person under the age of eighteen years shall hold, or be granted, a conductor's licence.

(2) The licensing authority may refuse to issue a conductor's licence—

(a) if the applicant does not possess the minimum educational qualification;

(b) if the medical certificate produced by the applicant discloses that he is physically unfit to act as a conductor; and

(c) if any previous conductor's licence held by the applicant was revoked.

Revoca-
tion of a
conduc-
tor's
licence
on
grounds
of dis-
ease or
disability.

32. A conductor's licence may at any time be revoked by any licensing authority if that authority has reasonable grounds to believe that the holder of the licence is suffering from any disease or disability which is likely to render him permanently unfit to hold such a licence and where the authority revoking a conductor's licence is not the authority which issued the same, it shall intimate the fact of such revocation to the authority which issued that licence:

Provided that before revoking any licence, the licensing authority shall give the person holding such licence a reasonable opportunity of being heard.

Orders
refusing,
etc., con-
ductor's
licences
and
appeals
there-
from.

33. (1) Where a licensing authority refuses to issue or renew, or revokes any conductor's licence, it shall do so by an order communicated to the applicant or the holder, as the case may be, giving the reasons in writing for such refusal or revocation.

(2) Any person aggrieved by an order made under sub-section (1) may, within thirty days of the service on him of the order, appeal to the prescribed authority which shall decide the appeal after giving such person and the authority which made the order an opportunity of being heard and the decision of the appellate authority shall be binding on the authority which made the order.

34. (1) If any licensing authority is of opinion that it is necessary to disqualify the holder of a conductor's licence for holding or obtaining such a licence on account of his previous conduct as a conductor, it may, for reasons to be recorded, make an order disqualifying that person for a specified period, not exceeding one year, for holding or obtaining a conductor's licence:

Power of
licensing
authority
to dis-
qualify.

Provided that before disqualifying the holder of a licence, the licensing authority shall give the person holding such licence a reasonable opportunity of being heard.

(2) Upon the issue of any such order, the holder of the conductor's licence shall forthwith surrender the licence to the authority making the order, if the licence has not already been surrendered, and the authority shall keep the licence until the disqualification has expired or has been removed.

(3) Where the authority disqualifying the holder of a conductor's licence under this section is not the authority which issued the licence, it shall intimate the fact of such disqualification to the authority which issued the same.

(4) Any person aggrieved by an order made under sub-section (1) may, within thirty days of the service on him of the order, appeal to the prescribed authority which shall decide the appeal after giving such person and the authority which made the order an opportunity of being heard and the decision of the appellate authority shall be binding on the authority which made the order.

35. (1) Where any person holding a conductor's licence is convicted of an offence under this Act, the Court by which such person is convicted may, in addition to imposing any other punishment authorised by law, declare the person so convicted to be disqualified for such period as the Court may specify for holding a conductor's licence.

Power of
Court
to dis-
qualify.

(2) The Court to which an appeal lies from any conviction of an offence under this Act may set aside or vary any order of disqualification made by the Court below, and the Court to which appeals ordinarily lie from such Court, may set aside or vary any order of disqualification made by that Court, notwithstanding that no appeal lies against the conviction in connection with which such order was made.

36. The provisions of sub-section (2) of section 6, sections 14, 15 and 23, sub-section (1) of section 24 and section 25 shall, so far as may be, apply in relation to a conductor's licence, as they apply in relation to a driving licence.

Certain
provi-
sions of
Chapter
II to
apply to
conduc-
tor's
licence.

37. If any licence to act as a conductor of a stage carriage (by whatever name called) has been issued in any State and is effective immediately before the commencement of this Act, it shall continue to be effective, notwithstanding such commencement, for the period for which it would have been effective, if this Act had not been passed, and every such licence shall be deemed to be a licence issued under this

Savings.

Chapter as if this Chapter had been in force on the date on which that licence was granted.

Power
of State
Govern-
ment
to make
rules.

38. (1) A State Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the appointment, jurisdiction, control and functions of licensing authorities and other prescribed authorities under this Chapter;

(b) the conditions subject to which drivers of stage carriages performing the functions of a conductor and persons temporarily employed to act as conductors may be exempted from the provisions of sub-section (1) of section 29;

(c) the minimum educational qualifications of conductors; their duties and functions and the conduct of persons to whom conductor's licences are issued;

(d) the form of application for conductor's licences or for renewal of such licences and the particulars it may contain;

(e) the form in which conductor's licences may be issued or renewed and the particulars it may contain;

(f) the issue of duplicate licences to replace licences lost, destroyed or mutilated, the replacement of photographs which have become obsolete and the fees to be charged therefor;

(g) the conduct and hearing of appeals that may be preferred under this Chapter, the fees to be paid in respect of such appeals and the refund of such fees:

Provided that no fee so fixed shall exceed twenty-five rupees;

(h) the badges and uniform to be worn by conductors of stage carriages and the fees to be paid in respect of such badges;

(i) the grant of the certificates referred to in sub-section (3) of section 30 by registered medical practitioners and the form of such certificates;

(j) the conditions subject to which, and the extent to which, a conductor's licence issued in another State shall be effective in the State;

(k) the communication of particulars of conductor's licences from one authority to other authorities; and

(l) any other matter which is to be, or may be, prescribed.

CHAPTER IV

REGISTRATION OF MOTOR VEHICLES

Necessity
for
registra-
tion.

39. No person shall drive any motor vehicle and no owner of a motor vehicle shall cause or permit the vehicle to be driven in any public place or in any other place unless the vehicle is registered in accordance with this Chapter and the certificate of registration of the vehicle has not

been suspended or cancelled and the vehicle carries a registration mark displayed in the prescribed manner:

Provided that nothing in this section shall apply to a motor vehicle in possession of a dealer subject to such conditions as may be prescribed by the Central Government.

40. Subject to the provisions of section 42, section 43 and section 60, every owner of a motor vehicle shall cause the vehicle to be registered by a registering authority in whose jurisdiction he has the residence or place of business where the vehicle is normally kept.

Registra-
tion,
where
to be
made.

41. (1) An application by or on behalf of the owner of a motor vehicle for registration shall be in such form and shall be accompanied by such documents, particulars and information and shall be made within such period as may be prescribed by the Central Government:

Registra-
tion,
how
to be
made.

Provided that where a motor vehicle is jointly owned by more persons than one, the application shall be made by one of them on behalf of all the owners and such applicant shall be deemed to be the owner of the motor vehicle for the purposes of this Act.

(2) An application referred to in sub-section (1) shall be accompanied by such fee as may be prescribed by the Central Government.

(3) The registering authority shall issue to the owner of a motor vehicle registered by it a certificate of registration in such form and containing such particulars and information and in such manner as may be prescribed by the Central Government.

(4) In addition to the other particulars required to be included in the certificate of registration, it shall also specify the type of the motor vehicle, being a type as the Central Government may, having regard to the design, construction and use of the motor vehicle, by notification in the Official Gazette, specify.

(5) The registering authority shall enter the particulars of the certificate referred to in sub-section (3) in a register to be maintained in such form and manner as may be prescribed by the Central Government.

(6) The registering authority shall assign to the vehicle, for display thereon, a distinguishing mark (in this Act referred to as the registration mark) consisting of one of the groups of such of those letters and followed by such letters and figures as are allotted to the State by the Central Government from time to time by notification in the Official Gazette, and displayed and shown on the motor vehicle in such form and in such manner as may be prescribed by the Central Government.

(7) A certificate of registration issued under sub-section (3), whether before or after the commencement of this Act, in respect of a motor vehicle, other than a transport vehicle, shall, subject to the provisions contained in this Act, be valid only for a period of fifteen years from the date of issue of such certificate and shall be renewable.

(8) An application by or on behalf of the owner of a motor vehicle, other than a transport vehicle, for the renewal of a certificate of registration shall be made within such period and in such form, containing such particulars and information as may be prescribed by the Central Government.

(9) An application referred to in sub-section (8) shall be accompanied by such fee as may be prescribed by the Central Government.

(10) Subject to the provisions of section 56, the registering authority may, on receipt of an application under sub-section (8), renew the certificate of registration for a period of five years and intimate the fact to the original registering authority, if it is not the original registering authority.

(11) If the owner fails to make an application under sub-section (1), or, as the case may be, under sub-section (8) within the period prescribed, the registering authority may, having regard to the circumstances of the case, require the owner to pay, in lieu of any action that may be taken against him under section 177, such amount not exceeding one hundred rupees as may be prescribed under sub-section (13):

Provided that action under section 177 shall be taken against the owner where the owner fails to pay the said amount.

(12) Where the owner has paid the amount under sub-section (11), no action shall be taken against him under section 177.

(13) For the purposes of sub-section (11), the State Government may prescribe different amounts having regard to the period of delay on the part of the owner in making an application under sub-section (1) or sub-section (8).

(14) An application for the issue of a duplicate certificate of registration shall be made to the original registering authority in such form, containing such particulars and information along with such fee as may be prescribed by the Central Government.

Special
provi-
sion for
registra-
tion of
motor
vehicles
of diplo-
matic
officers,
etc.

42. (1) Where an application for registration of a motor vehicle is made under sub-section (1) of section 41 by or on behalf of any diplomatic officer or consular officer, then, notwithstanding anything contained in sub-section (3) or sub-section (6) of that section, the registering authority shall register the vehicle in such manner and in accordance with such procedure as may be provided by rules made in this behalf by the Central Government under sub-section (3) and shall assign to the vehicle for display thereon a special registration mark in accordance with the provisions contained in those rules and shall issue a certificate (hereafter in this section referred to as the certificate of registration) that the vehicle has been registered under this section; and any vehicle so registered shall not, so long as it remains the property of any diplomatic officer or consular officer, require to be registered otherwise under this Act.

(2) If any vehicle registered under this section ceases to be the property of any diplomatic officer or consular officer, the certificate of registration issued under this section shall also cease to be effective, and the provisions of sections 39 and 40 shall thereupon apply.

(3) The Central Government may make rules for the registration of motor vehicles belonging to diplomatic officers and consular officers regarding the procedure to be followed by the registering authority for registering such vehicles, the form in which the certificates of registration

of such vehicles are to be issued, the manner in which such certificates of registration are to be sent to the owners of the vehicles and the special registration marks to be assigned to such vehicles.

(4) For the purposes of this section, "diplomatic officer" or "consular officer" means any person who is recognised as such by the Central Government and if any question arises as to whether a person is or is not such an officer, the decision of the Central Government thereon shall be final.

43. (1) Notwithstanding anything contained in section 40 the owner of a motor vehicle may apply to any registering authority or other prescribed authority to have the vehicle temporarily registered in the prescribed manner and for the issue in the prescribed manner of a temporary certificate of registration and a temporary registration mark.

Tempo-
rary
registra-
tion.

(2) A registration made under this section shall be valid only for a period not exceeding one month, and shall not be renewable:

Provided that where a motor vehicle so registered is a chassis to which a body has not been attached and the same is detained in a workshop beyond the said period of one month for being fitted with a body, the period may, on payment of such fees, if any, as may be prescribed, be extended by such further period or periods as the registering authority or other prescribed authority, as the case may be, may allow.

44. The registering authority shall before proceeding to register a motor vehicle or renew the certificate of registration in respect of a motor vehicle, other than a transport vehicle, require the person applying for registration of the vehicle or, as the case may be, for renewing the certificate of registration to produce the vehicle either before itself or such authority as the State Government may by order appoint in order that the registering authority may satisfy itself that the particulars contained in the application are true and that the vehicle complies with the requirements of this Act and of the rules made thereunder.

Produc-
tion of
vehicle
at the
time of
registra-
tion.

45. The registering authority may, by order, refuse to register any motor vehicle, or renew the certificate of registration in respect of a motor vehicle (other than a transport vehicle), if in either case, the registering authority has reason to believe that it is a stolen motor vehicle or the vehicle is mechanically defective or fails to comply with the requirements of this Act or of the rules made thereunder, or if the applicant fails to furnish particulars of any previous registration of the vehicle or furnishes inaccurate particulars in the application for registration of the vehicle or, as the case may be, for renewal of the certificate or registration thereof and the registering authority shall furnish the applicant whose vehicle is refused registration, or whose application for renewal of the certificate of registration is refused, a copy of such order, together with the reasons for such refusal.

Refusal of
registra-
tion or
renewal
of the
certifi-
cate of
registra-
tion.

46. Subject to the provisions of section 47, a motor vehicle registered in accordance with this Chapter in any State shall not require to be registered elsewhere in India and a certificate of registration issued or in force under this Act in respect of such vehicle shall be effective throughout India.

Effecti-
veness in
India of
registra-
tion.

Assign-
ment of
new
registra-
tion
mark on
removal
to an-
other
State.

47. (1) When a motor vehicle registered in one State has been kept in another State, for a period exceeding twelve months, the owner of the vehicle shall, within such period and in such form containing such particulars as may be prescribed by the Central Government, apply to the registering authority, within whose jurisdiction the vehicle then is, for the assignment of a new registration mark and shall present the certificate of registration to that registering authority:

Provided that an application under this sub-section shall be accom-
panied—

- (i) by the no objection certificate obtained under section 48, or
- (ii) in a case where no such certificate has been obtained, by—

(a) the receipt obtained under sub-section (2) of section 48;
or

(b) the postal acknowledgement received by the owner of the vehicle if he has sent an application in this behalf by registered post acknowledgement due to the registering authority referred to in section 48;

together with a declaration that he has not received any communication from such authority refusing to grant such certificate or requiring him to comply with any direction subject to which such certificate may be granted:

Provided further that, in a case where a motor vehicle is held under a hire-purchase, lease or hypothecation agreement, an application under this sub-section shall be accompanied by a no objection certificate from the person with whom such agreement has been entered into, and the provisions of section 51, so far as may be, regarding obtaining of such certificate from the person with whom such agreement has been entered into, shall apply.

(2) The registering authority, to which application is made under sub-section (1), shall after making such verification, as it thinks fit, of the returns, if any, received under section 62, assign the vehicle a registration mark as specified in sub-section (6) of section 41 to be displayed and shown thereafter on the vehicle and shall enter the mark upon the certificate of registration before returning it to the applicant and shall, in communication with the registering authority by whom the vehicle was previously registered, arrange for the transfer of the registration of the vehicle from the records of that registering authority to its own records.

(3) Where a motor vehicle is held under a hire-purchase or lease or hypothecation agreement, the registering authority shall, after assigning the vehicle a registration mark under sub-section (2), inform the person whose name has been specified in the certificate of registration as the person with whom the registered owner has entered into the hire-purchase or lease or hypothecation agreement (by sending to such person a notice by registered post acknowledgement due at the address of such person entered in the certificate of registration the fact of assignment of the said registration mark).

(4) A State Government may make rules under section 65 requiring the owner of a motor vehicle not registered within the State, which is

brought into or is for the time being in the State, to furnish to the prescribed authority in the State such information with respect to the motor vehicle and its registration as may be prescribed.

(5) If the owner fails to make an application under sub-section (1) within the period prescribed, the registering authority may, having regard to the circumstances of the case, require the owner to pay, in lieu of any action that may be taken against him under section 177, such amount not exceeding one hundred rupees as may be prescribed under sub-section (7):

Provided that action under section 177 shall be taken against the owner where the owner fails to pay the said amount.

(6) Where the owner has paid the amount under sub-section (5), no action shall be taken against him under section 177.

(7) For the purposes of sub-section (5), the State Government may prescribe different amounts having regard to the period of delay on the part of the owner in making an application under sub-section (1):

48. (1) The owner of a motor vehicle when applying for the assignment of a new registration mark under sub-section (1) of section 47, or where the transfer of a motor vehicle is to be effected in a State other than the State of its registration, the transferor of such vehicle when reporting the transfer under sub-section (1) of section 50, shall make an application in such form and in such manner as may be prescribed by the Central Government to the registering authority by which the vehicle was registered for the issue of a certificate (hereafter in this section referred to as the no objection certificate), to the effect that the registering authority has no objection for assigning a new registration mark to the vehicle or, as the case may be, for entering the particulars of the transfer of ownership in the certificate of registration:

No objection certificate.

(2) The registering authority shall, on receipt of an application under sub-section (1), issue a receipt in such form as may be prescribed by the Central Government.

(3) On receipt of an application under sub-section (1), the registering authority may, after making such inquiry and requiring the applicant to comply with such directions as it deems fit and within thirty days of the receipt thereof, by order in writing, communicate to the applicant that it has granted or refused to grant the no objection certificate:

Provided that a registering authority shall not refuse to grant the no objection certificate unless it has recorded in writing the reasons for doing so and a copy of the same has been communicated to the applicant.

(4) Where within a period of thirty days referred to in sub-section (3), the registering authority does not refuse to grant the no objection certificate or does not communicate the refusal to the applicant, the registering authority shall be deemed to have granted the no objection certificate.

(5) Before granting or refusing to grant the no objection certificate, the registering authority shall obtain a report in writing from the police

that no case relating to the theft of the motor vehicle concerned has been reported or is pending, verify whether all the amounts due to Government including road tax in respect of that motor vehicle have been paid and take into account such other factors as may be prescribed by the Central Government.

Change of residence or place of business.

49. (1) If the owner of a motor vehicle ceases to reside or have his place of business at the address recorded in the certificate of registration of the vehicle, he shall, within thirty days of any such change of address, intimate in such form accompanied by such documents as may be prescribed by the Central Government, his new address, to the registering authority by which the certificate of registration was issued, or, if the new address is within the jurisdiction of another registering authority, to that other registering authority, and shall at the same time forward the certificate of registration to the registering authority or, as the case may be, to the other registering authority in order that the new address may be entered therein.

(2) If the owner of a motor vehicle fails to intimate his new address to the concerned registering authority within the period specified in sub-section (1), the registering authority may, having regard to the circumstances of the case, require the owner to pay, in lieu of any action that may be taken against him under section 177, such amount not exceeding one hundred rupees as may be prescribed under sub-section (4):

Provided that action under section 177 shall be taken against the owner where he fails to pay the said amount.

(3) Where a person has paid the amount under sub-section (2), no action shall be taken against him under section 177.

(4) For the purposes of sub-section (2), a State Government may prescribe different amounts having regard to the period of delay in intimating his new address.

(5) On receipt of intimation under sub-section (1), the registering authority may, after making such verification as it may think fit, cause the new address to be entered in the certificate of registration.

(6) A registering authority other than the original registering authority making any such entry shall communicate the altered address to the original registering authority.

(7) Nothing in sub-section (1) shall apply where the change of the address recorded in the certificate of registration is due to a temporary absence not intended to exceed six months in duration or where the motor vehicle is neither used nor removed from the address recorded in the certificate of registration.

50. (1) Where the ownership of any motor vehicle registered under this Chapter is transferred,—

(a) the transferor shall,—

(i) in the case of a vehicle registered within the same State, within fourteen days of the transfer, report the fact of transfer, in such form with such documents and in such manner, as may be prescribed by the Central Government to the registering authority within whose jurisdiction the transfer is to be effected and

Transfer of ownership.

shall simultaneously send a copy of the said report to the transferee; and

(ii) in the case of a vehicle registered outside the State, within forty-five days of the transfer, forward to the registering authority referred to in sub-clause (i)—

(A) the no objection certificate obtained under section 48;

or

(B) in a case where no such certificate has been obtained,—

(I) the receipt obtained under sub-section (2) of section 48; or

(II) the postal acknowledgement received by the transferee if he has sent an application in this behalf by registered post acknowledgement due to the registering authority referred to in section 48,

together with a declaration that he has not received any communication from such authority refusing to grant such certificate or requiring him to comply with any direction subject to which such certificate may be granted;

(b) the transferee shall, within thirty days of the transfer, report the transfer to the registering authority within whose jurisdiction he has the residence or place of business, where the vehicle is normally kept, as the case may be, and shall forward the certificate of registration to that registering authority together with the prescribed fee and a copy of the report received by him from the transferor in order that particulars of the transfer of ownership may be entered in the certificate of registration.

(2) Where—

(a) the person in whose name a motor vehicle stands registered dies, or

(b) a motor vehicle has been purchased or acquired at a public auction conducted by, or on behalf of, Government,

the person succeeding to the possession of the vehicle or, as the case may be, who has purchased or acquired the motor vehicle, shall make an application for the purpose of transferring the ownership of the vehicle in his name, to the registering authority in whose jurisdiction he has the residence or place of business where the vehicle is normally kept, as the case may be, in such manner, accompanied with such fee, and within such period as may be prescribed by the Central Government.

(3) If the transferor or the transferee fails to report to the registering authority the fact of transfer within the period specified in clause (a) or clause (b) of sub-section (1), as the case may be, or if the person who is required to make an application under sub-section (2) (hereafter in this section referred to as the other person) fails to make such application within the period prescribed, the registering authority may, having regard to the circumstances of the case, require the transferor or the transferee, or the other person, as the case may be, to pay, in lieu of any action that

may be taken against him under section 177 such amount not exceeding one hundred rupees as may be prescribed under sub-section (5):

Provided that action under section 177 shall be taken against the transferor or the transferee or the other person, as the case may be, where he fails to pay the said amount.

(4) Where a person has paid the amount under sub-section (3), no action shall be taken against him under section 177.

(5) For the purposes of sub-section (3), a State Government may prescribe different amounts having regard to the period of delay on the part of the transferor or the transferee in reporting the fact of transfer of ownership of the motor vehicle or of the other person in making the application under sub-section (2).

(6) On receipt of a report under sub-section (1), or an application under sub-section (2), the registering authority may cause the transfer of ownership to be entered in the certificate of registration.

(7) A registering authority making any such entry shall communicate the transfer of ownership to the transferor and to the original registering authority, if it is not the original registering authority.

51. (1) Where an application for registration of a motor vehicle which is held under a hire-purchase, lease or hypothecation agreement (hereafter in this section referred to as the said agreement) is made, the registering authority shall make an entry in the certificate of registration regarding the existence of the said agreement.

(2) Where the ownership of any motor vehicle registered under this Chapter is transferred and the transferee enters into the said agreement with any person, the original registering authority shall, on receipt of an application in such form as the Central Government may prescribe from the parties to the said agreement, make an entry as to the existence of the said agreement in the certificate of registration.

(3) Any entry made under sub-section (1) or sub-section (2), may be cancelled by the original registering authority on proof of the termination of the said agreement by the parties concerned on an application being made in such form as the Central Government may prescribe.

(4) No entry regarding the transfer of ownership of any motor vehicle which is held under the said agreement shall be made in the certificate of registration except with the written consent of the person whose name has been specified in the certificate of registration as the person with whom the registered owner has entered into the said agreement.

(5) Where the person whose name has been specified in the certificate of registration as the person with whom the registered owner has entered into the said agreement, satisfies the registering authority that he has taken possession of the vehicle owing to the default of the registered owner under the provisions of the said agreement and that the registered owner refuses to deliver the certificate of registration or has absconded, such authority may, after giving the registered owner an opportunity to make such representation as he may wish to make (by sending to him a notice by registered post acknowledgement due at his address entered in the certificate of registration) and notwithstanding that the certificate of registration is not produced before it, cancel the certificate and issue

Special provisions regarding motor vehicle subject to hire-purchase agreement, etc.

a fresh certificate of registration in the name of the person with whom the registered owner has entered into the said agreement:

Provided that a fresh certificate of registration shall not be issued in respect of a motor vehicle, unless such person pays the prescribed fee:

Provided further that a fresh certificate of registration issued in respect of a motor vehicle, other than a transport vehicle, shall be valid only for the remaining period for which the certificate cancelled under this sub-section would have been in force.

(6) The registered owner shall, before applying to the appropriate authority, for the renewal of a permit under section 81 or for the issue of duplicate certificate of registration under sub-section (14) of section 41, or for the assignment of a new registration mark under section 47, make an application to the person with whom the registered owner has entered into the said agreement (such person being hereafter in this section referred to as the financier) for the issue of a no objection certificate (hereafter in this section referred to as the certificate):

Explanation.—For the purposes of this sub-section and sub-sections (8) and (9), “appropriate authority”, in relation to any permit, means the authority which is authorised by this Act to renew such permit and, in relation to registration, means the authority which is authorised by this Act to issue duplicate certificate of registration or to assign a new registration mark.

(7) Within seven days of the receipt of an application under sub-section (6), the financier may issue, or refuse, for reasons which shall be recorded in writing and communicated to the applicant, to issue, the certificate applied for and where the financier fails to issue the certificate and also fails to communicate the reasons for refusal to issue the certificate to the applicant within the said period of seven days, the certificate applied for shall be deemed to have been issued by the financier.

(8) The registered owner shall, while applying to the appropriate authority for the renewal of any permit under section 81, or for the issue of a duplicate certificate of registration under sub-section (14) of section 41, or while applying for assignment of a new registration mark under section 47, submit with such application the certificate, if any, obtained under sub-section (7) or, where no such certificate has been obtained, the communication received from the financier under that sub-section or, as the case may be, a declaration that he has not received any communication from the financier within the period of seven days specified in that sub-section.

(9) On receipt of an application for the renewal of any permit or for the issue of duplicate certificate of registration or for assignment of a new registration mark in respect of a vehicle which is held under the said agreement, the appropriate authority may, subject to the other provisions of this Act,—

(a) in a case where the financier has refused to issue the certificate applied for, after giving the applicant an opportunity of being heard, either—

(i) renew or refuse to renew the permit, or

(ii) issue or refuse to issue the duplicate certificate of registration; or

(iii) assign or refuse to assign a new registration mark;

(b) in any other case,—

(i) renew the permit, or

(ii) issue duplicate certificate of registration, or

(iii) assign a new registration mark.

(10) A registering authority making an entry in the certificate of registration regarding—

(a) hire-purchase, lease or hypothecation agreement of a motor vehicle, or

(b) the cancellation under sub-section (3) of an entry, or

(c) recording transfer of ownership of motor vehicle, or

(d) any alteration in a motor vehicle; or

(e) suspension or cancellation of registration of a motor vehicle; or

(f) change of address,

shall communicate to the financier that such entry has been made.

(11) A registering authority issuing a duplicate certificate of registration shall intimate the financier of such issue.

52. (1) No owner of a motor vehicle shall so alter the vehicle that the particulars contained in the certificate of registration are no longer accurate, unless—

Alteration in motor vehicle.

(a) he has given notice to the registering authority within whose jurisdiction he has the residence or the place of business where the vehicle is normally kept, as the case may be, of the alteration he proposes to make; and

(b) he has obtained the approval of that registering authority to make such alteration:

Provided that it shall not be necessary to obtain such approval, for not taking any change in the unladen weight of the motor vehicle consequent on the addition or removal of fittings or accessories, if such change does not exceed two per cent. of the weight entered in the certificate of registration.

(2) Where a registering authority receives a notice under sub-section (1), it shall, within seven days of the receipt thereof, communicate, by post, to the owner of the vehicle its approval to the proposed alteration or otherwise:

Provided that, where the owner of the motor vehicle has not received any such communication within the said period of seven days, the approval of such authority to the proposed alteration shall be deemed to have been given.

(3) Notwithstanding anything contained in sub-section (1), a State Government may, by notification in the Official Gazette, authorise, subject to such conditions as may be specified in the notification, the owners of not less than ten transport vehicles to alter any vehicle owned by them so as to replace the engine thereof without the approval of the registering authority.

(4) Where any alteration has been made in a motor vehicle either with the approval of the registering authority given or deemed to have been given under sub-section (2) or by reason of replacement of its engine without such approval under sub-section (3), the owner of the vehicle shall, within fourteen days of the making of the alteration, report the alteration to the registering authority within whose jurisdiction he resides and shall forward the certificate of registration to that authority together with the prescribed fee in order that particulars of the alteration may be entered therein.

(5) A registering authority other than the original registering authority making any such entry shall communicate the details of the entry to the original registering authority.

53. (1) If any registering authority or other prescribed authority has reason to believe that any motor vehicle within its jurisdiction—

(a) is in such a condition that its use in a public place would constitute a danger to the public, or that it fails to comply with the requirements of this Act or of the rules made thereunder, or

(b) has been, or is being, used for hire or reward without a valid permit for being used as such,

the authority may, after giving the owner an opportunity of making any representation he may wish to make (by sending to the owner a notice by registered post acknowledgement due at his address entered in the certificate of registration), for reasons to be recorded in writing, suspend the certificate of registration of the vehicle—

(i) in any case falling under clause (a), until the defects are rectified to its satisfaction; and

(ii) in any case falling under clause (b), for a period not exceeding four months.

(2) An authority other than a registering authority shall, when making a suspension order under sub-section (1), intimate in writing the fact of such suspension and the reasons therefor to the registering authority within whose jurisdiction the vehicle is at the time of the suspension.

(3) Where the registration of a motor vehicle has been suspended under sub-section (1), for a continuous period of not less than one month, the registering authority, within whose jurisdiction the vehicle was when the registration was suspended, shall, if it is not the original registering authority, inform that authority of the suspension.

(4) The owner of a motor vehicle shall, on the demand of a registering authority or other prescribed authority which has suspended the certificate of registration of the vehicle under this section, surrender the certificate of registration.

Suspension of registration.

(5) A certificate of registration surrendered under sub-section (4) shall be returned to the owner when the order suspending registration has been rescinded and not before.

Cancellation of registration suspended under section 53.

54. Where the suspension of registration of a vehicle under section 53 has continued without interruption for a period of not less than six months, the registering authority within whose jurisdiction the vehicle was when the registration was suspended, may, if it is the original registering authority, cancel the registration, and if it is not the original registering authority, shall forward the certificate of registration to that authority which may cancel the registration.

Cancellation of registration.

55. (1) If a motor vehicle has been destroyed or has been rendered permanently incapable of use, the owner shall, within fourteen days or as soon as may be, report the fact to the registering authority within whose jurisdiction he has the residence or place of business where the vehicle is normally kept, as the case may be, and shall forward to that authority the certificate of registration of the vehicle.

(2) The registering authority shall, if it is the original registering authority, cancel the registration and the certificate of registration, or, if it is not, shall forward the report and the certificate of registration to the original registering authority and that authority shall cancel the registration.

(3) Any registering authority may order the examination of a motor vehicle within its jurisdiction by such authority as the State Government may by order appoint and, if, upon such examination and after giving the owner an opportunity to make any representation he may wish to make (by sending to the owner a notice by registered post acknowledgement due at his address entered in the certificate of registration), it is satisfied that the vehicle is in such a condition that it is incapable of being used or its use in a public place would constitute a danger to the public and that it is beyond reasonable repair, may cancel the registration.

(4) If a registering authority is satisfied that a motor vehicle has been permanently removed out of India, the registering authority shall cancel the registration.

(5) If a registering authority is satisfied that the registration of a motor vehicle has been obtained on the basis of documents which were, or by representation of facts which was, false in any material particular, or the engine number or the chassis number embossed thereon are different from such number entered in the certificate of registration, the registering authority shall after giving the owner an opportunity to make such representation as he may wish to make (by sending to the owner a notice by registered post acknowledgement due at his address entered in the certificate of registration), and for reasons to be recorded in writing, cancel the registration.

(6) A registering authority cancelling the registration of a motor vehicle under section 54 or under this section shall communicate such fact in writing to the owner of the vehicle, and the owner of the vehicle shall forthwith surrender to that authority the certificate of registration of the vehicle.

(7) A registering authority making an order of cancellation under section 54 or under this section shall, if it is the original registering authority, cancel the certificate of registration and the entry relating to the vehicle in its records, and, if it is not the original registering authority, forward the certificate of registration to that authority, and that authority shall cancel the certificate of registration and the entry relating to the motor vehicle in its records.

(8) The expression "original registering authority" in this section and in sections 41, 49, 50, 51, 52, 53 and 54 means the registering authority in whose records the registration of the vehicle is recorded.

(9) In this section, "certificate of registration" includes a certificate of registration renewed under the provisions of this Act.

56. (1) Subject to the provisions of sections 59 and 60, a transport vehicle shall not be deemed to be validly registered for the purposes of section 39, unless it carries a certificate of fitness in such form containing such particulars and information as may be prescribed by the Central Government, issued by the prescribed authority, or by an authorized testing station mentioned in sub-section (2), to the effect that the vehicle complies for the time being with all the requirements of this Act and the rules made thereunder:

Certificate of fitness of transport vehicles.

Provided that where the prescribed authority or the authorized testing station refuses to issue such certificate, it shall supply the owner of the vehicle with its reasons in writing for such refusal.

(2) The "authorized testing station" referred to in sub-section (1) means a vehicle service station or public or private garage which the State Government, having regard to the experience, training and ability of the operator of such station or garage and the testing equipment and the testing personnel therein, may specify in accordance with the rules made by the Central Government for regulation and control of such stations or garages.

(3) Subject to the provisions of sub-section (4), a certificate of fitness shall remain effective for such period as may be prescribed by the Central Government having regard to the objects of this Act.

(4) The prescribed authority may for reasons to be recorded in writing cancel a certificate of fitness at any time, if satisfied that the vehicle to which it relates no longer complies with all the requirements of this Act and the rules made thereunder; and on such cancellation the certificate of registration of the vehicle and any permit granted in respect of the vehicle under Chapter V shall be deemed to be suspended until a new certificate of fitness has been obtained.

(5) A certificate of fitness issued under this Act shall, while it remains effective, be valid throughout India.

57. (1) Any owner of a motor vehicle aggrieved by an order of refusal under section 45 to register a motor vehicle or to renew the certificate of registration in respect of a motor vehicle (other than a transport vehicle) or under section 48 to issue a no objection certificate or under section 50 to enter the particulars of the transfer of ownership in the certificate

Appeals.

of registration or under sub-section (1) of section 56 to issue a certificate of fitness or by an order of suspension under section 53 or cancellation under section 54 or section 55 or by an order of cancellation under sub-section (4) of section 56 may, within thirty days of the date on which he has received notice of such order, appeal against the order to the prescribed authority.

(2) The appellate authority shall give notice of the appeal to the original authority and after giving an opportunity to the original authority and the appellant to be heard in the appeal pass such orders as it thinks fit.

Special provisions in regard to transport vehicles.

58. (1) The Central Government may, having regard to the number, nature and size of the tyres attached to the wheels of a transport vehicle, (other than a motorcab), and its make and model and other relevant considerations, by notification in the Official Gazette, specify, in relation to each make and model of a transport vehicle, the maximum safe laden weight of such vehicle and the maximum safe axle weight of each axle of such vehicle.

(2) A registering authority, when registering a transport vehicle, other than a motorcab, shall enter in the record of registration and shall also enter in the certificate of registration of the vehicle the following particulars, namely:—

(a) the unladen weight of the vehicle;

(b) the number, nature and size of the tyres attached to each wheel;

(c) the gross vehicle weight of the vehicle and the registered axle weights pertaining to the several axles thereof; and

(d) if the vehicle is used or adapted to be used for the carriage of passengers solely or in addition to goods, the number of passengers for whom accommodation is provided,

and the owner of the vehicle shall have the same particulars exhibited in the prescribed manner on the vehicle.

(3) There shall not be entered in the certificate of registration of any such vehicle any gross vehicle weight or a registered axle weight of any of the axles different from that specified in the notification under sub-section (1) in relation to the make and model of such vehicle and to the number, nature and size of the tyres attached to its wheels:

Provided that where it appears to the Central Government that heavier weights than those specified in the notification under sub-section (1) may be permitted in a particular locality for vehicles of a particular type, the Central Government may, by order in the Official Gazette direct that the provisions of this sub-section shall apply with such modifications as may be specified in the order.

(4) When by reason of any alteration in such vehicle, including an alteration in the number, nature or size of its tyres, the gross vehicle weight of the vehicle or the registered axle weight of any of its axles no longer accords with the provisions of sub-section (3), the provisions of section 52 shall apply and the registering authority shall enter in the certificate of registration of the vehicle revised registered weights which accord with the said sub-section.

(5) In order that the gross vehicle weight entered in the certificate of registration of a vehicle may be revised in accordance with the provisions of sub-section (3), the registering authority may require the owner of transport vehicle in accordance with such procedure as may be prescribed to produce the certificate of registration within such time as may be specified by the registering authority.

59. (1) The Central Government may, having regard to the public safety, convenience and objects of this Act, by notification in the Official Gazette, specify the life of a motor vehicle reckoned from the date of its manufacture, after the expiry of which the motor vehicle shall not be deemed to comply with the requirements of this Act and the rules made thereunder:

Power to fix the age limit of motor vehicle.

Provided that the Central Government may specify different ages for different classes or different types of motor vehicles.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may, having regard to the purpose of a motor vehicle, such as, display or use for the purposes of a demonstration in any exhibition, use for the purposes of technical research or taking part in a vintage car rally, by notification in the Official Gazette, exempt, by a general or special order, subject to such conditions as may be specified in such notification, any class or type of motor vehicle from the operation of sub-section (1) for the purpose to be stated in the notification.

(3) Notwithstanding anything contained in section 56, no prescribed authority or authorized testing station shall grant a certificate of fitness to a motor vehicle in contravention of the provisions of any notification issued under sub-section (1).

60. (1) Such authority as the Central Government may, by notification in the Official Gazette, specify, may register any motor vehicle which is the property or for the time being under the exclusive control of the Central Government and is used for Government purposes relating to the defence of the country and unconnected with any commercial enterprise and any vehicle so registered shall not, so long as it remains the property or under the exclusive control of the Central Government, require to be registered otherwise under this Act.

Registration of vehicles belonging to the Central Government.

(2) The authority registering a vehicle under sub-section (1) shall assign a registration mark in accordance with the provisions contained in the rules made in this behalf by the Central Government and shall issue a certificate in respect of that vehicle to the effect that such vehicle complies for the time being with all the requirements of this Act and the rules made thereunder and that the vehicle has been registered under this section.

(3) A vehicle registered under this section shall carry the certificate issued under sub-section (2).

(4) If a vehicle registered under this section ceases to be the property or under the exclusive control of the Central Government, the provisions of sections 39 and 40 shall thereupon apply.

(5) The authority registering a vehicle under sub-section (1) shall furnish to any State Government all such information regarding the

general nature, overall dimensions and axle weights of the vehicle as the State Government may at any time require.

Application of Chapter to trailers.

61. (1) The provisions of this Chapter shall apply to the registration of trailers as they apply to the registration of any other motor vehicle.

(2) The registration mark assigned to a trailer shall be displayed in such manner on the side of the drawing vehicle, as may be prescribed by the Central Government.

(3) No person shall drive a motor vehicle to which a trailer is or trailers are attached unless the registration mark of the motor vehicle so driven is displayed on the trailer or on the last trailer in the train, as the case may be, in such manner as may be prescribed by the Central Government.

Information regarding stolen and recovered motor vehicles to be furnished by the police to the State Transport Authority.

62. The State Government may, if it thinks necessary or expedient so to do in the public interest, direct the submission by the Inspector General of Police (by whatever designation called) and such other police officers as the State Government may specify in this behalf, of such returns containing the information regarding vehicles which have been stolen and stolen vehicles which have been recovered of which the police are aware, to the State Transport Authority, and may prescribe the form in which and the period within which such returns shall be made.

Maintenance of State Registers of Motor Vehicles.

63. (1) Each State Government shall maintain in such form as may be prescribed by the Central Government a register to be known as the State Register of Motor Vehicle, in respect of the motor vehicles in that State, containing the following particulars, namely:—

- (a) registration numbers;
- (b) years of manufacture;
- (c) classes and types;
- (d) names and addresses of registered owners; and
- (e) such other particulars as may be prescribed by the Central Government.

(2) Each State Government shall supply to the Central Government a printed copy of the State Register of Motor Vehicles and shall also inform the Central Government without delay of all additions to and other amendments in such register made from time to time.

(3) The State Register of Motor Vehicles shall be maintained in such manner as may be prescribed by the State Government.

Power of Central Government to make rules.

64. The Central Government may make rules to provide for all or any of the following matters, namely:—

- (a) the period within which and the form in which an application shall be made and the documents, particulars and information it shall accompany under sub-section (1) of section 41;

- (b) the form in which the certificate of registration shall be made and the particulars and information it shall contain and the manner in which it shall be issued under sub-section (3) of section 41;
- (c) the form and manner in which the particulars of the certificate of registration shall be entered in the records of the registering authority under sub-section (5) of section 41;
- (d) the manner in which and the form in which the registration mark, the letters and figures and other particulars referred to in sub-section (6) of section 41 shall be displayed and shown;
- (e) the period within which and the form in which the application shall be made and the particulars and information it shall contain under sub-section (8) of section 41;
- (f) the form in which the application referred to in sub-section (14) of section 41 shall be made, the particulars and information it shall contain and the fee to be charged;
- (g) the form in which and the period within which the application referred to in sub-section (1) of section 47 shall be made and the particulars it shall contain;
- (h) the form in which and the manner in which the application for "No Objection Certificate" shall be made under sub-section (1) of section 48 and the form of receipt to be issued under sub-section (2) of section 48;
- (i) the matters that are to be complied with by an applicant before no objection certificate may be issued under section 48;
- (j) the form in which the intimation of change of address shall be made under sub-section (1) of section 49 and the documents to be submitted along with the application;
- (k) the form in which and the manner in which the intimation of transfer of ownership shall be made under sub-section (1) of section 50 or under sub-section (2) of section 50 and the document to be submitted along with the application;
- (l) the form in which the application under sub-section (2) or sub-section (3) of section 51 shall be made;
- (m) the form in which the certificate of fitness shall be issued under sub-section (1) of section 56 and the particulars and information it shall contain;
- (n) the period for which the certificate of fitness granted or renewed under section 56 shall be effective;
- (o) the fees to be charged for the issue or renewal or alteration of certificates of registration, for making an entry regarding transfer of ownership on a certificate of registration, for making or cancelling an endorsement in respect of agreement of hire-purchase or lease or hypothecation on a certificate of registration, for certificates of fitness for registration marks, and for the examination or inspection of motor vehicles, and the refund of such fees.

(p) any other matter which is to be, or may be, prescribed by the Central Government.

Power of
State
Govern-
ment to
make
rules.

65. (1) A State Government may make rules for the purpose of carrying into effect the provisions of this Chapter other than the matters specified in section 64.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the conduct and hearing of appeals that may be preferred under this Chapter (the fees to be paid in respect of such appeals and the refund of such fees);

(b) the appointment, functions and jurisdiction of registering and other prescribed authorities;

(c) the exemption of road-rollers, graders and other vehicles designed and used solely for the construction, repair and cleaning of roads from all or any of the provisions of this Chapter and the rules made thereunder and the conditions governing such exemption;

(d) the issue or renewal of certificates of registration and fitness and duplicates of such certificates to replace the certificates lost, destroyed or mutilated;

(e) the production of certificates of registration before the registering authority for the revision of entries therein of particulars relating to the gross vehicle weight;

(f) the temporary registration of motor vehicles, and the issue of temporary certificate of registration and marks;

(g) the manner in which the particulars referred to in sub-section (2) of section 58 and other prescribed particulars shall be exhibited;

(h) the exemption of prescribed persons or prescribed classes of persons from payment of all or any portion of the fees payable under this Chapter;

(i) the forms, other than those prescribed by the Central Government, to be used for the purpose of this Chapter;

(j) the communication between registering authorities of particulars of certificates of registration and by owners of vehicles registered outside the State of particulars of such vehicles and of their registration;

(k) the amount or amounts under sub-section (13) of section 41 of sub-section (7) of section 47 or sub-section (4) of section 49 or sub-section (5) of section 50;

(l) the extension of the validity of certificates of fitness pending consideration of applications for their renewal;

(m) the exemption from the provisions of this Chapter, and the conditions and fees for exemption, of motor vehicles in the possession of dealers;

(n) the form in which and the period within which the return under section 62 shall be sent;

(o) the manner in which the State Register of Motor Vehicles shall be maintained under section 63;

(p) any other matter which is to be or may be prescribed.

CHAPTER V

CONTROL OF TRANSPORT VEHICLES

66. (1) No owner of a motor vehicle shall use or permit the use of the vehicle as a transport vehicle in any public place whether or not such vehicle is actually carrying any passengers or goods save in accordance with the conditions of a permit granted or countersigned by a Regional or State Transport Authority or any prescribed authority authorising him the use of the vehicle in that place in the manner in which the vehicle is being used:

Necessity
for
permits.

Provided that a stage carriage permit shall, subject to any conditions that may be specified in the permit, authorise the use of the vehicle as a contract carriage:

Provided further that a stage carriage permit may, subject to any conditions that may be specified in the permit, authorise the use of the vehicle as a goods carriage either when carrying passengers or not:

Provided also that a goods carriage permit shall, subject to any conditions that may be specified in the permit, authorise the use of the vehicle for the carriage of goods for or in connection with a trade or business carried on by him.

(2) The holder of a goods carriage permit may use the vehicle, for the drawing of any public or semi-trailer not owned by him, subject to such conditions as may be prescribed.

(3) The provisions of sub-section (1) shall not apply—

(a) to any transport vehicle owned by the Central Government or a State Government and used for Government purposes unconnected with any commercial enterprise;

(b) to any transport vehicle owned by a local authority or by a person acting under contract with a local authority and used solely for road cleansing, road watering or conservancy purposes;

(c) to any transport vehicle used solely for police, fire brigade or ambulance purposes;

(d) to any transport vehicle used solely for the conveyance of corpses and the mourners accompanying the corpses;

(e) to any transport vehicle used for towing a disabled vehicle or for removing goods from a disabled vehicle to a place of safety;

(f) to any transport vehicle used for any other public purpose as may be prescribed by the State Government in this behalf;

(g) to any transport vehicle used by a person who manufactures or deals in motor vehicles or builds bodies for attachment to chassis, solely for such purposes and in accordance with such conditions as

the Central Government may, by notification in the Official Gazette, specify in this behalf;

(h) to any transport vehicle owned by, and used solely for the purposes of, any educational institution which is recognised by the Central or State Government or whose managing committee is a society registered under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India;

21 of 1860.

(i) to any goods vehicle, the gross vehicle weight of which does not exceed 3,000 kilograms;

(j) subject to such conditions as the Central Government may, by notification in the Official Gazette, specify, to any transport vehicle purchased in one State and proceeding to a place, situated in that State or in any other State, without carrying any passenger or goods;

(k) to any transport vehicle which has been temporarily registered under section 43 while proceeding empty to any place for the purpose of registration of the vehicle;

(l) to any transport vehicle used for such purposes (other than plying for hire or reward) as the Central Government may, by notification in the Official Gazette, specify;

(m) to any transport vehicle which, owing to flood, earthquake or any other natural calamity, obstruction on road, or unforeseen circumstances is required to be diverted through any other route, whether within or outside the State, with a view to enabling it to reach its destination;

(n) to any transport vehicle used for such purposes as the Central or State Government may, by order, specify;

(o) to any transport vehicle which is subject to a hire-purchase, lease or hypothecation agreement and which owing to the default of the owner has been taken possession of by or on behalf of, the person with whom the owner has entered into such agreement, to enable such motor vehicle to reach its destination; or

(p) to any transport vehicle while proceeding empty to any place for purpose of repair.

(4) Subject to the provisions of sub-section (3), sub-section (1) shall, if the State Government by rule made under section 96 so prescribes, apply to any motor vehicle adapted to carry more than nine persons excluding the driver.

67. (1) A State Government, having regard to—

(a) the advantages offered to the public, trade and industry by the development of motor transport,

(b) the desirability of co-ordinating road and rail transport,

(c) the desirability of preventing the deterioration of the road system, and

(d) the desirability of preventing uneconomic competition among holders of permits,

Power to
State
Govern-
ment to
control
road
transport.

may, from time to time, by notification in the Official Gazette, issue directions both to the State Transport Authority and Regional Transport Authority—

(i) regarding the fixing of fares and freights (including the maximum and minimum in respect thereof) for stage carriages, contract carriages and goods carriages;

(ii) regarding the prohibition or restriction, subject to such conditions as may be specified in the directions, of the conveying of long distance goods traffic generally, or of specified classes of goods by goods carriages;

(iii) regarding any other matter which may appear to the State Government necessary or expedient for giving effect to any agreement entered into with the Central Government or any other State Government or the Government of any other country relating to the regulation of motor transport generally, and in particular to its co-ordination with other means of transport and the conveying of long distance goods traffic:

Provided that no such notification in respect of the matters referred to in clause (ii) or clause (iii) shall be issued unless a draft of the proposed directions is published in the Official Gazette specifying therein a date being not less than one month after such publication, on or after which the draft will be taken into consideration and any objection or suggestion which may be received has, in consultation with the State Transport Authority, been considered after giving the representatives of the interests affected an opportunity of being heard.

(2) Any direction under sub-section (1) regarding the fixing of fares and freights for stage carriages, contract carriages and goods carriages may provide that such fares or freights shall be inclusive of the tax payable by the passengers or the consignors of the goods, as the case may be, to the operators of the stage carriages, contract carriages or goods carriages under any law for the time being in force relating to tax on passengers and goods.

68. (1) The State Government shall, by notification in the Official Gazette, constitute for the State a State Transport Authority to exercise and discharge the powers and functions specified in sub-section (3), and shall in like manner constitute Regional Transport Authorities to exercise and discharge throughout such areas (in this Chapter referred to as regions) as may be specified in the notification, in respect of each Regional Transport Authority; the powers and functions conferred by or under this Chapter on such Authorities:

Transport
Authorities.

Provided that in the Union territories, the Administrator may abstain from constituting any Regional Transport Authority.

(2) A State Transport Authority or a Regional Transport Authority shall consist of a Chairman who has had judicial experience or experience as an appellate or a revisional authority or as an adjudicating authority competent to pass any order or take any decision under any law and in the case of a State Transport Authority, such other persons (whether officials or not), not being more than four and, in the case of

a Regional Transport Authority, such other persons (whether officials or not), not being more than two, as the State Government may think fit to appoint; but no person who has any financial interest whether as proprietor, employee or otherwise in any transport undertaking shall be appointed, or continue to be, a member of a State or Regional Transport Authority, and, if any person being a member of any such Authority acquires a financial interest in any transport undertaking, he shall within four weeks of so doing, give notice in writing to the State Government of the acquisition of such interest and shall vacate office:

Provided that nothing in this sub-section shall prevent any of the members of the State Transport Authority or a Regional Transport Authority, as the case may be, to preside over a meeting of such Authority during the absence of the Chairman, notwithstanding that such member does not possess judicial experience or experience as an appellate or a revisional authority or as an adjudicating authority competent to pass any order or take any decision under any law:

Provided further that the State Government may,—

(i) where it considers necessary or expedient so to do, constitute the State Transport Authority or a Regional Transport Authority for any region so as to consist of only one member who shall be an official with judicial experience or experience as an appellate or a revisional authority or as an adjudicating authority competent to pass any order or take any decision under any law;

(ii) by rules made in this behalf, provide for the transaction of business of such authorities in the absence of the Chairman or any other member and specify the circumstances under which, and the manner in which, such business could be so transacted:

Provided also that nothing in this sub-section shall be construed as debaring an official (other than an official connected directly with the management or operation of a transport undertaking) from being appointed or continuing as a member of any such authority merely by reason of the fact that the Government employing the official has, or acquires, any financial interest in a transport undertaking.

(3) The State Transport Authority and every Regional Transport Authority shall give effect to any directions issued under section 67 and the State Transport Authority shall, subject to such directions and save as otherwise provided by or under this Act, exercise and discharge throughout the State the following powers and functions, namely:—

(a) to co-ordinate and regulate the activities and policies of the Regional Transport Authorities, if any, of the State;

(b) to perform the duties of a Regional Transport Authority where there is no such Authority and, if it thinks fit or if so required by a Regional Transport Authority, to perform those duties in respect of any route common to two or more regions;

(c) to settle all disputes and decide all matters on which differences of opinion arise between Regional Transport Authorities; and

(d) to discharge such other functions as may be prescribed.

(4) For the purpose of exercising and discharging the powers and functions specified in sub-section (3), a State Transport Authority may, subject to such conditions as may be prescribed, issue directions to any Regional Transport Authority, and the Regional Transport Authority shall, in the discharge of its functions under this Act, give effect to and be guided by such directions.

(5) The State Transport Authority and any Regional Transport Authority, if authorised in this behalf by rules made under section 96, may delegate such of its powers and functions to such authority or person subject to such restrictions, limitations and conditions as may be prescribed by the said rules.

69. (1) Every application for a permit shall be made to the Regional Transport Authority of the region in which it is proposed to use the vehicle or vehicles:

General provision as to applications for permits.

Provided that if it is proposed to use the vehicle or vehicles in two or more regions lying within the same State, the application shall be made to the Regional Transport Authority of the region in which the major portion of the proposed route or area lies, and in case the portion of the proposed route or area in each of the regions is approximately equal, to the Regional Transport Authority of the region in which it is proposed to keep the vehicle or vehicles:

Provided further that if it is proposed to use the vehicle or vehicles in two or more regions lying in different States, the application shall be made to the Regional Transport Authority of the region in which the applicant resides or has his principal place of business.

(2) Notwithstanding anything contained in sub-section (1), the State Government may, by notification in the Official Gazette, direct that in the case of any vehicle or vehicles proposed to be used in two or more regions lying in different States, the application under that sub-section shall be made to the State Transport Authority of the region in which the applicant resides or has his principal place of business.

70. (1) An application for a permit in respect of a stage carriage (in this Chapter referred to as a stage carriage permit) or as a reserve stage carriage shall, as far as may be, contain the following particulars, namely:—

Application for stage carriage permit.

(a) the route or routes or the area or areas to which the application relates;

(b) the type and seating capacity of each such vehicle;

(c) the minimum and maximum number of daily trips proposed to be provided and the time-table of the normal trips.

Explanation.—For the purposes of this section, section 72, section 80 and section 102, “trip” means a single journey from one point to another, and every return journey shall be deemed to be a separate trip;

(d) the number of vehicles intended to be kept in reserve to maintain the service and to provide for special occasions;

(e) the arrangements intended to be made for the housing, maintenance and repair of the vehicles, for the comfort and convenience of passengers and for the storage and safe custody of luggage;

(f) such other matters as may be prescribed.

(2) An application referred to in sub-section (1) shall be accompanied by such documents as may be prescribed.

Procedure
of Regional
Transport Authority in
considering application for
stage carriage permit.

71. (1) A Regional Transport Authority shall, while considering an application for a stage carriage permit, have regard to the objects of this Act:

Provided that such permit for a route of fifty kilometres or less shall be granted only to an individual or a State transport undertaking.

(2) A Regional Transport Authority shall refuse to grant a stage carriage permit if it appears from any time-table furnished that the provisions of this Act relating to the speed at which vehicles may be driven are likely to be contravened:

Provided that before such refusal an opportunity shall be given to the applicant to amend the time-table so as to conform to the said provisions.

(3) (a) The State Government shall, if so directed by the Central Government having regard to the number of vehicles, road conditions and other relevant matters, by notification in the Official Gazette, direct a State Transport Authority and a Regional Transport Authority to limit the number of stage carriages generally or of any specified type, as may be fixed and specified in the notification, operating on city routes in towns with a population of not less than five lakhs.

(b) Where the number of stage carriages are fixed under clause (a), the Government of the State shall reserve in the State certain percentage of stage carriage permits for the scheduled castes and the scheduled tribes in the same ratio as in the case of appointments made by direct recruitment to public services in the State.

(c) Where the number of stage carriages are fixed under clause (a), the Regional Transport Authority shall reserve such number of permits for the scheduled castes and the scheduled tribes as may be fixed by the State Government under sub-clause (b).

(d) After reserving such number of permits as is referred to in clause (c), the Regional Transport Authority shall in considering an application have regard to the following matters, namely:—

(i) financial stability of the applicant;

(ii) satisfactory performance as a stage carriage operator including payment of tax if the applicant is or has been an operator of stage carriage service; and

(iii) such other matters as may be prescribed by the State Government:

Provided that, other conditions being equal, preference shall be given to applications for permits from—

(i) State transport undertakings;

(ii) co-operative societies registered or deemed to have been registered under any enactment for the time being in force; or

(iii) ex-servicemen.

(4) A Regional Transport Authority shall not grant more than five stage carriage permits to any individual or more than ten stage carriage permits to any company (not being a State transport undertaking).

(5) In computing the number of permits to be granted under subsection (4), the permits held by an applicant in the name of any other person and the permits held by any company of which such applicant is a director shall also be taken into account.

Explanation.—For the purposes of this section “company” means any body corporate, and includes a firm or other association of individuals; and “director”, in relation to a firm, means a partner in the firm.

72. (1) Subject to the provisions of section 71, a Regional Transport Authority may, on an application made to it under section 70, grant a stage carriage permit in accordance with the application or with such modifications as it deems fit or refuse to grant such a permit:

Grant of stage carriage permits.

Provided that no such permit shall be granted in respect of any route or area not specified in the application.

(2) The Regional Transport Authority, if it decides to grant a stage carriage permit, may grant the permit for a stage carriage of a specified description and may, subject to any rules that may be made under this Act, attach to the permit any one or more of the following conditions, namely:—

(i) that the vehicles shall be used only in a specified area, or on a specified route or routes;

(ii) that the operation of the stage carriage shall be commenced with effect from a specified date;

(iii) the minimum and maximum number of daily trips to be provided in relation to any route or area generally or on specified days and occasions;

(iv) that copies of the time-table of the stage carriage approved by the Regional Transport Authority shall be exhibited on the vehicles and at specified stands and halts on the route or within the area;

(v) that the stage carriage shall be operated within such margins of deviation from the approved time-table as the Regional Transport Authority may from time to time specify;

(vi) that within municipal limits and such other areas and places as may be prescribed, passengers or goods shall not be taken up or set down except at specified points;

(vii) the maximum number of passengers and the maximum weight of luggage that may be carried on the stage carriage, either generally or on specified occasions or at specified times and seasons;

(viii) the weight and nature of passengers' luggage that shall be carried free of charge, the total weight of luggage that may be carried in relation to each passenger, and the arrangements that shall be made for the carriage of luggage without causing inconvenience to passengers;

(ix) the rate of charge that may be levied for passengers' luggage in excess of the free allowance;

(x) that vehicles of a specified type fitted with body conforming to approved specifications shall be used:

Provided that the attachment of this condition to a permit shall not prevent the continued use, for a period of two years from the date of publication of the approved specifications, of any vehicle operating on that date;

(xi) that specified standards of comfort and cleanliness shall be maintained in the vehicles;

(xii) the conditions subject to which goods may be carried in the stage carriage in addition to or to the exclusion of passengers;

(xiii) that fares shall be charged in accordance with the approved fare table;

(xiv) that a copy of, or extract from, the fare table approved by the Regional Transport Authority and particulars of any special fares or rates of fares so approved for particular occasions shall be exhibited on the stage carriage and at specified stands and halts;

(xv) that tickets bearing specified particulars shall be issued to passengers and shall show the fares actually charged and that records of tickets issued shall be kept in a specified manner;

(xvi) that mails shall be carried on the vehicle subject to such conditions (including conditions as to the time in which mails are to be carried and the charges which may be levied) as may be specified;

(xvii) the vehicles to be kept as reserve by the holder of the permit to maintain the operation and to provide for special occasions;

(xviii) the conditions subject to which vehicle may be used as a contract carriage;

(xix) that specified arrangements shall be made for the housing, maintenance and repair of vehicle;

(xx) that any specified bus station or shelter maintained by Government or a local authority shall be used and that any specified rent or fee shall be paid for such use;

(xxi) that the conditions of the permit shall not be departed from, save with the approval of the Regional Transport Authority;

(xxii) that the Regional Transport Authority may, after giving notice of not less than one month,—

(a) vary the conditions of the permit;

(b) attach to the permit further conditions:

Provided that the conditions specified in pursuance of clause (i) shall not be varied so as to alter the distance covered by the original route by more than 24 kilometres, and any variation within such limits shall be made only after the Regional Transport

Authority is satisfied that such variation will serve the convenience of the public and that it is not expedient to grant a separate permit in respect of the original route as so varied or any part thereof;

(xxiii) that the holder of a permit shall furnish to the Regional Transport Authority such periodical returns, statistics and other information as the State Government may from time to time prescribe;

(xxiv) any other conditions which may be prescribed.

73. An application for a permit in respect of a contract carriage (in this Chapter referred to as a contract carriage permit) shall contain the following particulars, namely:—

Applica-
tion for
contract
carriage
permit.

(a) the type and seating capacity of the vehicle;

(b) the area for which the permit is required;

(c) any other particulars which may be prescribed.

74. (1) Subject to the provisions of sub-section (3), a Regional Transport Authority may, on an application made to it under section 73, grant a contract carriage permit in accordance with the application or with such modifications as it deems fit or refuse to grant such a permit:

Grant of
contract
carriage
permit.

Provided that no such permit shall be granted in respect of any area not specified in the application.

(2) The Regional Transport Authority, if it decides to grant a contract carriage permit, may, subject to any rules that may be made under this Act, attach to the permit any one or more of the following conditions, namely:—

(i) that the vehicles shall be used only in a specified area or on a specified route or routes;

(ii) that except in accordance with specified conditions, no contract of hiring, other than an extension or modification of a subsisting contract, may be entered into outside the specified area;

(iii) the maximum number of passengers and the maximum weight of luggage that may be carried on the vehicles, either generally or on specified occasions or at specified times and seasons;

(iv) the conditions subject to which goods may be carried in any contract carriage in addition to, or to the exclusion of, passengers;

(v) that, in the case of motor cabs, specified fares or rates of fares shall be charged and a copy of the fare table shall be exhibited on the vehicle;

(vi) that, in the case of vehicles other than motor cabs, specified rates of hiring not exceeding specified maximum shall be charged;

(vii) that, in the case of motor cabs, a special weight of passengers' luggage shall be carried free of charge, and that the charge, if any, for any luggage in excess thereof shall be at a specified rate;

(viii) that, in the case of motor cabs, a taximeter shall be fitted and maintained in proper working order, if prescribed;

(ix) that the Regional Transport Authority may, after giving notice of not less than one month,—

(a) vary the conditions of the permit;

(b) attach to the permit further conditions;

(x) that the conditions of permit shall not be departed from save with the approval of the Regional Transport Authority;

(xi) that specified standards of comfort and cleanliness shall be maintained in the vehicles;

(xii) that, except in the circumstances of exceptional nature, the plying of the vehicle or carrying of the passengers shall not be refused;

(xiii) any other conditions which may be prescribed.

(3) (a) The State Government shall, if so directed by the Central Government, having regard to the number of vehicles, road conditions and other relevant matters, by notification in the Official Gazette, direct a State Transport Authority and a Regional Transport Authority to limit the number of contract carriages generally or of any specified type, as may be fixed and specified in the notification, operating on city routes in towns with a population of not less than five lakhs.

(b) Where the number of contract carriages are fixed under clause (a), the Regional Transport Authority shall, in considering an application for the grant of permit in respect of any such contract carriage, have regard to the following matters, namely:—

(i) financial stability of the applicant;

(ii) satisfactory performance as a contract carriage operator including payment of tax if the applicant is or has been an operator of contract carriages; and

(iii) such other matters as may be prescribed by the State Government:

Provided that, other conditions being equal, preference shall be given to applications for permits from—

(i) the India Tourism Development Corporation;

(ii) State Tourism Development Corporations;

(iii) State Tourism Departments;

(iv) State transport undertakings;

(v) co-operative societies registered or deemed to have been registered under any enactment for the time being in force;

(vi) ex-servicemen.

Scheme
for
renting
of motor
cabs.

75. (1) The Central Government may, by notification in the Official Gazette, make a scheme for the purpose of regulating the business of renting of motor cabs to persons desiring to drive the cabs for their own use and for matters connected therewith.

(2) A scheme made under sub-section (1) may provide for all or any of the following matters, namely:—

- (a) licensing of operators under the scheme including grant, renewal and revocation of such licences;
- (b) form of application and form of licences and the particulars to be contained therein;
- (c) fee to be paid with the application for such licences;
- (d) the authorities to which the application shall be made;
- (e) condition subject to which such licences may be granted, renewed or revoked;
- (f) appeals against orders of refusal to grant or renew such licences and appeals against orders revoking such licences;
- (g) conditions subject to which motor cabs may be rented;
- (h) maintenance of records and inspection of such records;
- (i) such other matters as may be necessary to carry out the purposes of this section.

76. (1) A Regional Transport Authority may, on an application made to it, grant a private service vehicle permit in accordance with the application or with such modification as it deems fit or refuse to grant such permit:

Applica-
tion for
private
service
vehicle
permit.

Provided that no such permit shall be granted in respect of any area or route not specified in the application.

(2) An application for a permit to use a motor vehicle as a private service vehicle shall contain the following particulars, namely:—

- (a) type and seating capacity of the vehicle;
- (b) the area or the route or routes to which the application relates;
- (c) the manner in which it is claimed that the purpose of carrying persons otherwise than for hire or reward or in connection with the trade or business carried on by the applicant will be served by the vehicle; and
- (d) any other particulars which may be prescribed.

(3) The Regional Transport Authority if it decides to grant the permit may, subject to any rules that may be made under this Act, attach to the permit any one or more of the following conditions, namely:—

- (i) that the vehicle be used only in a specified area or on a specified route or routes;
- (ii) the maximum number of persons and the maximum weight of luggage that may be carried;
- (iii) that the Regional Transport Authority may, after giving notice of not less than one month—

- (a) vary the conditions of the permit;
- (b) attach to the permit further conditions;

(iv) that the conditions of permit shall not be departed from, save with the approval of the Regional Transport Authority;

(v) that specified standards of comforts and cleanliness shall be maintained in the vehicle;

(vi) that the holder of the permit shall furnish to the Regional Transport Authority such periodical returns, statistics and other information as the State Government may, from time to time, specify; and

(vii) such other conditions as may be prescribed.

Applica-
tion for
goods
carriage
permit.

77. An application for a permit to use a motor vehicle for the carriage of goods for hire or reward or for the carriage of goods for or in connection with a trade or business carried on by the applicant (in this Chapter referred to as a goods carriage permit) shall, as far as may be, contain the following particulars, namely:—

(a) the area or the route or routes to which the application relates;

(b) the type and capacity of the vehicle;

(c) the nature of the goods it is proposed to carry;

(d) the arrangements intended to be made for the housing, maintenance and repair of the vehicle and for the storage and safe custody of the goods;

(e) such particulars as the Regional Transport Authority may require with respect to any business as a carrier of goods for hire or reward carried on by the applicant at any time before the making of the application, and of the rates charged by the applicant;

(f) particulars of any agreement, or arrangement, affecting in any material respect the provision within the region of the Regional Transport Authority of facilities for the transport of goods for hire or reward, entered into by the applicant with any other person by whom such facilities are provided, whether within or without the region;

(g) any other particulars which may be prescribed.

Considera-
tion of
application
for goods
carriage
permit.

78. A Regional Transport Authority shall, in considering an application for a goods carriage permit, have regard to the following matters, namely:—

(a) the nature of the goods to be carried with special reference to their dangerous or hazardous nature to human life;

(b) the nature of the chemicals or explosives to be carried with special reference to the safety to human life.

Grant
of goods
carriage
permit.

79. (1) A Regional Transport Authority may, on an application made to it under section 77, grant a goods carriage permit to be valid throughout the State or in accordance with the application or with such modifications as it deems fit or refuse to grant such a permit:

Provided that no such permit shall be granted in respect of any area or route not specified in the application.

(2) The Regional Transport Authority, if it decides to grant a goods carriage permit, may grant the permit and may, subject to any rules that may be made under this Act, attach to the permit any one or more of the following conditions, namely:—

(i) that the vehicle shall be used only in a specified area or on a specified route or routes;

(ii) that the gross vehicle weight of any vehicle used shall not exceed a specified maximum;

(iii) that goods of a specified nature shall not be carried;

(iv) that goods shall be carried at specified rates;

(v) that specified arrangement shall be made for the housing, maintenance and repair of the vehicle and the storage and safe custody of the goods carried;

(vi) that the holder of the permit shall furnish to the Regional Transport Authority such periodical returns, statistics and other information as the State Government may, from time to time, prescribe;

(vii) that the Regional Transport Authority may, after giving notice of not less than one month,—

(a) vary the conditions of the permit;

(b) attach to the permit further conditions;

(viii) that the conditions of the permit shall not be departed from, save with the approval of the Regional Transport Authority;

(ix) any other conditions which may be prescribed.

(3) The conditions referred to in sub-section (2) may include conditions relating to the packaging and carriage of goods of dangerous or hazardous nature to human life.

80. (1) An application for a permit of any kind may be made at any time.

(2) A Regional Transport Authority shall not ordinarily refuse to grant an application for permit of any kind made at any time under this Act:

Provided that the Regional Transport Authority may summarily refuse the application if the grant of any permit in accordance with the application would have the effect of increasing the number of stage carriages as fixed and specified in a notification in the Official Gazette under clause (a) of sub-section (3) of section 71 or of contract carriages as fixed and specified in a notification in the Official Gazette under clause (a) of sub-section (3) of section 74:

Provided further that where a Regional Transport Authority refuses an application for the grant of a permit of any kind under this Act, it shall give to the applicant in writing its reasons for the refusal of the same and an opportunity of being heard in the matter.

(3) An application to vary the conditions of any permit, other than a temporary permit, by the inclusion of a new route or routes or a new

Pro-
cedure in
applying
for and
granting
permits.

area or by altering the route or routes or area covered by it, or in the case of a stage carriage permit by increasing the number of trips above the specified maximum or by the variation, extension or curtailment of the route or routes or the area specified in the permit shall be treated as an application for the grant of a new permit:

Provided that it shall not be necessary so to treat an application made by the holder of stage carriage permit who provides the only service on any route to increase the frequency of the service so provided without any increase in the number of vehicles:

Provided further that,—

(i) in the case of variation, the termini shall not be altered and the distance covered by the variation shall not exceed twenty-four kilometres;

(ii) in the case of extension, the distance covered by extension shall not exceed twenty-four kilometres from the termini,

and any such variation or extension within such limits shall be made only after the transport authority is satisfied that such variation will serve the convenience of the public and that it is not expedient to grant a separate permit in respect of the original route as so varied or extended or any part thereof.

(4) A Regional Transport Authority may, before such date as may be specified by it in this behalf, replace any permit granted by it before the said date by a fresh permit conforming to the provisions of section 72 or section 74 or section 76 or section 79, as the case may be, and the fresh permit shall be valid for the same route or routes or the same area for which the replaced permit was valid:

Provided that no condition other than a condition which was already attached to the replaced permit or which could have been attached thereto under the law in force when that permit was granted shall be attached to the fresh permit except with the consent in writing of the holder of the permit.

(5) Notwithstanding anything contained in section 81, a permit issued under the provisions of sub-section (4) shall be effective without renewal for the remainder of the period during which the replaced permit would have been so effective.

Duration
and rene-
wal of
permits.

81. (1) A permit other than a temporary permit issued under section 87 or a special permit issued under sub-section (8) of section 88 shall be effective without renewal for a period of five years:

Provided that where the permit is countersigned under sub-section (1) of section 88, such countersignature shall remain effective without renewal for such period so as to synchronise with the validity of the primary permit.

(2) A permit may be renewed on an application made not less than fifteen days before the date of its expiry.

(3) Notwithstanding anything contained in sub-section (2), the Regional Transport Authority or the State Transport Authority, as the case

may be, may entertain an application for the renewal of a permit after the last date specified in that sub-section if it is satisfied that the applicant was prevented by good and sufficient cause from making an application within the time specified.

(4) The Regional Transport Authority or the State Transport Authority, as the case may be, may reject an application for the renewal of a permit on one or more of the following grounds, namely:—

(a) the financial condition of the applicant as evidenced by insolvency, or decrees for payment of debts remaining unsatisfied for a period of thirty days, prior to the date of consideration of the application;

(b) the applicant had been punished twice or more for any of the following offences within twelve months reckoned from fifteen days prior to the date of consideration of the application committed as a result of the operation of a stage carriage service by the applicant, namely:—

(i) plying any vehicle—

(1) without payment of tax due on such vehicle;

(2) without payment of tax during the grace period allowed for payment of such tax and then stop the plying of such vehicle;

(3) on any unauthorised route;

(ii) making unauthorised trips:

Provided that in computing the number of punishments for the purpose of clause (b), any punishment stayed by the order of an appellate authority shall not be taken into account:

Provided further that no application under this sub-section shall be rejected unless an opportunity of being heard is given to the applicant.

(5) Where a permit has been renewed under this section after the expiry of the period thereof, such renewal shall have effect from the date of such expiry irrespective of whether or not a temporary permit has been granted under clause (d) of section 87, and where a temporary permit has been granted, the fee paid in respect of such temporary permit shall be refunded.

82. (1) Save as provided in sub-section (2), a permit shall not be transferable from one person to another except with the permission of the transport authority which granted the permit and shall not, without such permission, operate to confer on any person to whom a vehicle covered by the permit is transferred any right to use that vehicle in the manner authorised by the permit.

Transfer
of
permit.

(2) Where the holder of a permit dies, the person succeeding to the possession of the vehicle covered by the permit may, for a period of three months, use the permit as if it had been granted to himself:

Provided that such person has, within thirty days of the death of the holder, informed the transport authority which granted the permit of the death of the holder and of his own intention to use the permit:

Provided further that no permit shall be so used after the date on which it would have ceased to be effective without renewal in the hands of the deceased holder.

(3) The transport authority may, on application made to it within three months of the death of the holder of a permit, transfer the permit to the person succeeding to the possession of the vehicles covered by the permit:

Provided that the transport authority may entertain an application made after the expiry of the said period of three months if it is satisfied that the applicant was prevented by good and sufficient cause from making an application within the time specified.

Replace-
ment of
vehicles.

83. The holder of a permit may, with the permission of the authority by which the permit was granted, replace any vehicle covered by the permit by any other vehicle of the same nature.

General
con-
ditions
attach-
ing to
all
permits.

84. The following shall be conditions of every permit—

(a) that the vehicle to which the permit relates carries valid certificate of fitness issued under section 56 and is at all times so maintained as to comply with the requirements of this Act and the rules made thereunder;

(b) that the vehicle to which the permit relates is not driven at a speed exceeding the speed permitted under this Act;

(c) that any prohibition or restriction imposed and any fares or freight fixed by notification made under section 67 are observed in connection with the vehicle to which the permit relates;

(d) that the vehicle to which the permit relates is not driven in contravention of the provisions of section 5 or section 113;

(e) that the provisions of this Act limiting the hours of work of drivers are observed in connection with any vehicle or vehicles to which the permit relates;

(f) that the provisions of Chapters X, XI and XII so far as they apply to the holder of the permit are observed; and

(g) that the name and address of the operator shall be painted or otherwise firmly affixed to every vehicle to which the permit relates on the exterior of the body of that vehicle on both sides thereof in a colour or colours vividly contrasting to the colour of the vehicle centered as high as practicable below the window line in bold letters.

General
form of
permits.

85. Every permit issued under this Act shall be complete in itself and shall contain all the necessary particulars of the permit and the conditions attached thereto.

Cancel-
lation and
suspension
of
permits.

86. (1) The transport authority which granted a permit may cancel the permit or may suspend it for such period as it thinks fit—

(a) on the breach of any condition specified in section 84 or of any condition contained in the permit, or

(b) if the holder of the permit uses or causes or allows a vehicle to be used in any manner not authorised by the permit, or

(c) if the holder of the permit ceases to own the vehicle covered by the permit, or

(d) if the holder of the permit has obtained the permit by fraud or misrepresentation, or

(e) if the holder of the goods carriage permit, fails without reasonable cause, to use the vehicle for the purposes for which the permit was granted, or

(f) if the holder of the permit acquires the citizenship of any foreign country:

Provided that no permit shall be suspended or cancelled unless an opportunity has been given to the holder of the permit to furnish his explanation.

(2) The transport authority may exercise the powers conferred on it under sub-section (1) in relation to a permit granted by any authority or person to whom power in this behalf has been delegated under sub-section (5) of section 68 as if the said permit was a permit granted by the transport authority.

(3) Where a transport authority cancels or suspends a permit, it shall give to the holder in writing its reasons for the action taken.

(4) The powers exercisable under sub-section (1) (other than the power to cancel a permit) by the transport authority which granted the permit may be exercised by any authority or person to whom such powers have been delegated under sub-section (5) of section 68.

(5) Where a permit is liable to be cancelled or suspended under clause (a) or clause (b) or clause (e) of sub-section (1) and the transport authority is of opinion that having regard to the circumstances of the case, it would not be necessary or expedient so to cancel or suspend the permit if the holder of the permit agrees to pay a certain sum of money, then, notwithstanding anything contained in sub-section (1), the transport authority may, instead of cancelling or suspending the permit, as the case may be, recover from the holder of the permit the sum of money agreed upon.

(6) The powers exercisable by the transport authority under sub-section (5) may, where an appeal has been preferred under section 89, be exercised also by the appellate authority.

(7) In relation to a permit referred to in sub-section (9) of section 88, the powers exercisable under sub-section (1) (other than the power to cancel a permit) by the transport authority which granted the permit, may be exercised by any transport authority and any authority or persons to whom power in this behalf has been delegated under sub-section (5) of section 68, as if the said permit was a permit granted by any such authority or persons.

Temporary
permits.

87. (1) A Regional Transport Authority and the State Transport Authority may without following the procedure laid down in section 80, grant permits, to be effective for a limited period which shall, not in any case exceed four months, to authorise the use of a transport vehicle temporarily—

(a) for the conveyance of passengers on special occasions such as to and from fairs and religious gatherings, or

(b) for the purposes of a seasonal business, or

(c) to meet a particular temporary need, or

(d) pending decision on an application for the renewal of a permit,

and may attach to any such permit such condition as it may think fit:

Provided that a Regional Transport Authority or, as the case may be, State Transport Authority may, in the case of goods carriages, under the circumstances of an exceptional nature, and for reasons to be recorded in writing, grant a permit for a period exceeding four months, but not exceeding one year.

(2) Notwithstanding anything contained in sub-section (1), a temporary permit may be granted thereunder in respect of any route or area where—

(i) no permit could be issued under section 72 or section 74 or section 76 or section 79 in respect of that route or area by reason of an order of a court or other competent authority restraining the issue of the same, for a period not exceeding the period for which the issue of the permit has been so restrained; or

(ii) as a result of the suspension by a court or other competent authority of the permit of any vehicle in respect of that route or area, there is no transport vehicle of the same class with a valid permit in respect of that route or area, or there is no adequate number of such vehicles in respect of that route or area, for a period not exceeding the period of such suspension.

Provided that the number of transport vehicles in respect of which temporary permits are so granted shall not exceed the number of vehicles in respect of which the issue of the permits have been restrained or, as the case may be, the permit has been suspended.

Valida-
tion of
permits
for use
outside
region in
which
granted.

88. (1) Except as may be otherwise prescribed, a permit granted by the Regional Transport Authority of any one region shall not be valid in any other region, unless the permit has been countersigned by the Regional Transport Authority of that other region, and a permit granted in any one State shall not be valid in any other State unless countersigned by the State Transport Authority of that other State or by the Regional Transport Authority concerned:

Provided that a goods carriage permit, granted by the Regional Transport Authority of any one region, for any area in any other region or regions within the same State shall be valid in that area without the

countersignature of the Regional Transport Authority of the other region or of each of the other regions concerned:

Provided further that where both the starting point and the terminal point of a route are situate within the same State, but part of such route lies in any other State and the length of such part does not exceed sixteen kilometres, the permit shall be valid in the other State in respect of that part of the route which is in that other State notwithstanding that such permit has not been countersigned by the State Transport Authority or the Regional Transport Authority of that other State:

Provided also that—

(a) where a motor vehicle covered by a permit granted in one State is to be used for the purposes of defence in any other State, such vehicle shall display a certificate, in such form, and issued by such Authority, as the Central Government may, by notification in the Official Gazette, specify, to the effect that the vehicle shall be used for the period specified therein exclusively for the purposes of defence; and

(b) any such permit shall be valid in that other State notwithstanding that such permit has not been countersigned by the State Transport Authority or the Regional Transport Authority of that other State.

(2) Notwithstanding anything contained in sub-section (1), a permit granted or countersigned by a State Transport Authority shall be valid in the whole State or in such regions within the State as may be specified in the permit.

(3) A Regional Transport Authority when countersigning the permit may attach to the permit any condition which it might have imposed if it had granted the permit and may likewise vary any condition attached to the permit by the authority by which the permit was granted.

(4) The provisions of this Chapter relating to the grant, revocation and suspension of permits shall apply to the grant, revocation and suspension of countersignatures of permits:

Provided that it shall not be necessary to follow the procedure laid down in section 80 for the grant of countersignatures of permits, where the permits granted in any one State are required to be countersigned by the State Transport Authority of another State or by the Regional Transport Authority concerned as a result of any agreement arrived at between the States after complying with the requirements of sub-section (5).

(5) Every proposal to enter into an agreement between the States to fix the number of permits which is proposed to be granted or countersigned in respect of each route or area, shall be published by each of the State Governments concerned in the Official Gazette and in any one or more of the newspapers in regional language circulating in the area or route proposed to be covered by the agreement together with a notice of the date before which representations in connection therewith may be submitted, and the date not being less than thirty days from the date

of publication in the Official Gazette, on which, and the authority by which, and the time and place at which, the proposal and any representation received in connection therewith will be considered.

(6) Every agreement arrived at between the States shall, in so far as it relates to the grant of countersignature of permits, be published by each of the State Governments concerned in the Official Gazette and in any one or more of the newspapers in the regional language circulating in the area or route covered by the agreement and the State Transport Authority of the State and the Regional Transport Authority concerned shall give effect to it.

(7) Notwithstanding anything contained in sub-section (1), a Regional Transport Authority of one region may issue a temporary permit under section 87 to be valid in another region or State with the concurrence, given generally or for the particular occasion, of the Regional Transport Authority of that other region or of the State Transport Authority of that other State, as the case may be.

(8) Notwithstanding anything contained in sub-section (1), but subject to any rules that may be made under this Act by the Central Government, the Regional Transport Authority of any one region or, as the case may be, the State Transport Authority, may, for the convenience of the public, grant a special permit in relation to a vehicle covered by a permit issued under section 72 (including a reserve stage carriage) or under section 74 or under sub-section (9) of this section for carrying a passenger or passengers for hire or reward under a contract, express or implied, for the use of the vehicle as a whole without stopping to pick up or set down along the line of route passengers not included in the contract, and in every case where such special permit is granted, the Regional Transport Authority shall assign to the vehicle, for display thereon, a special distinguishing mark in the form and manner specified by the Central Government and such special permit shall be valid in any other region or State without the countersignature of the Regional Transport Authority of the other region or of the State Transport Authority of the other State, as the case may be.

(9) Notwithstanding anything contained in sub-section (1) but subject to any rules that may be made by the Central Government under sub-section (14), any State Transport Authority may, for the purpose of promoting tourism, grant permits in respect of tourist vehicles valid for the whole of India, or in such contiguous States not being less than three in number including the State in which the permit is issued as may be specified in such permit in accordance with the choice indicated in the application and the provisions of sections 73, 74, 80, 81, 82, 83, 84, 85, 86 and 89 shall, as far as may be, apply in relation to such permits.

(10) Without prejudice to the provisions of section 74, the State Transport Authority shall, in considering an application for a permit under sub-section (9) in respect of tourist vehicles other than motor cabs have regard to the following matters, namely:—

(a) no such permit shall be issued—

(i) to an individual owner so as to exceed ten such valid permits in his own name,

(ii) to a company so as to exceed twenty such valid permits in its own name;

(b) the restriction under clause (a) regarding the number of permits to be granted shall not apply to the India Tourism Development Corporation, State Tourism Development Corporations, State Tourism Departments or State transport undertakings;

(c) in computing the number of permits for the purposes of clause (a), the number of permits held by an applicant in the name of any other person and the permits held by any company of which such applicant is a director shall also be taken into account.

Explanation.—For the purposes of this sub-section and sub-section (13), “company” means a body corporate, and includes a firm or other association of individuals; and “director”, in relation to a firm, means a partner in the firm.

(11) The following shall be conditions of every permit granted under sub-section (9), namely:—

(i) every motor vehicle in respect of which such permit is granted shall conform to such description, requirement regarding the seating capacity, standards of comforts, amenities and other matters, as the Central Government may specify in this behalf;

(ii) every such motor vehicle shall be driven by a person having such qualifications and satisfying such conditions as may be specified by the Central Government; and

(iii) such other conditions as may be prescribed by the Central Government.

(12) Notwithstanding anything contained in sub-section (1), but, subject to the rules that may be made by the Central Government under sub-section (14), the appropriate authority may, for the purpose of encouraging long distance inter-State road transport, grant in a State, national permits in respect of goods carriages and the provisions of sections 69, 77, 79, 80, 81, 82, 83, 84, 85, 86 and 89 shall, as far as may be, apply to or in relation to the grant of national permits.

(13) The appropriate authority shall, in considering an application for a national permit, have regard to the following matters, namely:—

(a) no national permit shall be issued—

(i) to an individual owner so as to exceed five national permits in its own name;

(ii) to a company so as to exceed ten valid national permits in its own name;

(b) the restriction under clause (a) regarding the number of permits to be issued shall not apply to the State transport undertakings;

(c) in computing the number of permits for the purposes of clause (a), the number of permits held by an applicant in the name

of any other person and the permits held by any company of which such applicant is a director shall also be taken into account.

(14) (a) The Central Government may make rules for carrying out the provisions of this section.

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

(i) the authorisation fee payable for the issue of a permit referred to in sub-sections (9) and (12);

(ii) the fixation of the laden weight of the motor vehicle;

(iii) the distinguishing particulars or marks to be carried or exhibited in or on the motor vehicle;

(iv) the colour or colours in which the motor vehicle is to be painted;

(v) such other matters as the appropriate authority shall consider in granting a national permit.

Explanation.—In this section,—

(a) “appropriate authority”, in relation to a national permit, means the authority which is authorised under this Act to grant a goods carriage permit;

(b) “authorisation fee” means the annual fee, not exceeding one thousand rupees, which may be charged by the appropriate authority of a State to enable a motor vehicle, covered by the permit referred to in sub-sections (9) and (12) to be used in other States subject to the payment of taxes or fees, if any, levied by the States concerned;

(c) “national permit” means a permit granted by the appropriate authority to goods carriages to operate throughout the territory of India or in such contiguous States, not being less than four in number, including the State in which the permit is issued as may be specified in such permit in accordance with the choice indicated in the application.

Appeals.

89. (1) Any person—

(a) aggrieved by the refusal of the State or a Regional Transport Authority to grant a permit, or by any condition attached to a permit granted to him, or

(b) aggrieved by the revocation or suspension of the permit or by any variation of the conditions thereof, or

(c) aggrieved by the refusal to transfer the permit under section 82, or

(d) aggrieved by the refusal of the State or a Regional Transport Authority to countersign a permit, or by any condition attached to such countersignature, or

(e) aggrieved by the refusal of renewal of a permit, or

(f) aggrieved by the refusal to grant permission under section 83, or

(g) aggrieved by any other order which may be prescribed, may, within the prescribed time and in the prescribed manner, appeal to the State Transport Appellate Tribunal constituted under sub-section (2), who shall, after giving such person and the original authority an opportunity of being heard, give a decision thereon which shall be final.

(2) The State Government shall constitute for the State, a State Transport Appellate Tribunal which shall consist of a judicial officer who is not below the rank of a District Judge, or who is qualified to be a Judge of a High Court:

Provided that in relation to a Union territory, the Tribunal may consist of the Administrator of that territory or any officer who has judicial experience.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), every appeal pending at the commencement of this Act, shall continue to be proceeded with and disposed of as if this Act had not been passed.

Explanation.—For the removal of doubts, it is hereby declared that when any order is made by the State Transport Authority or the Regional Transport Authority in pursuance of a direction issued by the Inter-State Transport Commission under clause (c) of sub-section (2) of section 63A of the Motor Vehicles Act, 1939, as it stood immediately before the commencement of this Act, and any person feels aggrieved by such order on the ground that it is not in consonance with such direction, he may appeal under sub-section (1) to the State Transport Appellate Tribunal against such order but not against the direction so issued.

of 1989.

90. The State Transport Appellate Tribunal may, on an application made to it, call for the record of any case in which an order has been made by a State Transport Authority or Regional Transport Authority against which no appeal lies, and if it appears to the State Transport Appellate Tribunal that the order made by the State Transport Authority or Regional Transport Authority is improper or illegal, the State Transport Appellate Tribunal may pass such order in relation to the case as it deems fit and every such order shall be final:

Revision.

Provided that the State Transport Appellate Tribunal shall not entertain any application from a person aggrieved by an order of a State Transport Authority or Regional Transport Authority, unless the application is made within thirty days from the date of the order:

Provided further that the State Transport Appellate Tribunal may entertain the application after the expiry of the said period of thirty days, if it is satisfied that the applicant was prevented by good and sufficient cause from making the application in time:

Provided also that the State Transport Appellate Tribunal shall not pass an order under this section prejudicial to any person without giving him a reasonable opportunity of being heard.

Restriction of hours of work of drivers.

91. (1) No person shall cause or allow any person who is employed by him for the purpose of driving a transport vehicle or who is subject to his control for such purpose to work—

(a) for more than five hours before he has had an interval of rest of at least half an hour; or

(b) for more than eight hours in one day; or

(c) for more than forty-eight hours in any week.

(2) A State Government may, by notification in the Official Gazette, grant such exemptions from the provisions of sub-section (1) as it thinks fit, to meet cases of emergency or of delays by reason of circumstances which could not be foreseen.

(3) A State Government or, if authorised in this behalf by the State Government by rules made under section 96, the State or a Regional Transport Authority may require persons employing any person whose work is subject to any of the provisions of sub-section (1) to fix beforehand the hours of work of such persons so as to conform to those provisions, and may provide for the recording of the hours so fixed.

(4) No person shall work or shall cause or allow any other person to work outside the hours fixed or recorded for the work of such persons under sub-section (3).

(5) A State Government may prescribe the circumstances under which and the period during which the driver of a vehicle although not engaged in work is required to remain on or near the vehicle may be deemed to be an interval for rest within the meaning of sub-section (1).

Voidance of contracts restrictive of liability.

92. Any contract for the conveyance of a passenger in a stage carriage or contract carriage, in respect of which a permit has been issued under this Chapter, shall, so far as it purports to negative or restrict the liability of any person in respect of any claim made against that person in respect of the death of, or bodily injury to, the passenger while being carried in, entering or alighting from the vehicle, or purports to impose any conditions with respect to the enforcement of any such liability, be void.

Agent or canvasser to obtain licence.

93. (1) No person shall engage himself—

(i) as an agent or a canvasser, in the sale of tickets for travel by public service vehicles or in otherwise soliciting custom for such vehicles, or

(ii) as an agent in the business of collecting, forwarding or distributing goods carried by goods carriages,

unless he has obtained a licence from such authority and subject to such conditions as may be prescribed by the State Government.

(2) The conditions referred to in sub-section (1) may include all or any of the following matters, namely:—

(a) the period for which a licence may be granted or renewed;

- (b) the fee payable for the issue or renewal of the licence;
- (c) the deposit of security—
 - (i) of a sum not exceeding rupees fifty thousand in the case of an agent in the business of collecting, forwarding or distributing goods carried by goods carriages;
 - (ii) of a sum not exceeding rupees five thousand in the case of any other agent or canvasser,
- and the circumstances under which the security may be forfeited;
- (d) the provision by the agent of insurance of goods in transit;
- (e) the authority by which and the circumstances under which the licence may be suspended or revoked;
- (f) such other conditions as may be prescribed by the State Government.

(3) It shall be a condition of every licence that no agent or canvasser to whom the licence is granted shall advertise in any newspaper, book, list, classified directory or other publication unless there is contained in such advertisement appearing in such newspaper, book, list, classified directory or other publication the licence number, the date of expiry of licence and the particulars of the authority which granted the licence.

94. No Civil Court shall have jurisdiction to entertain any question relating to the grant of a permit under this Act, and no injunction in respect of any action taken or to be taken by the duly constituted authorities under this Act with regard to the grant of a permit, shall be entertained by any Civil Court.

Bar on jurisdiction of Civil Courts.

95. (1) A State Government may make rules to regulate, in respect of stage carriages and contract carriages and the conduct of passengers in such vehicles.

Power of State Government to make rules as to stage carriages and contract carriages.

(2) Without prejudice to the generality of the foregoing provision, such rules may—

- (a) authorise the removal from such vehicle of any person contravening the rules by the driver or conductor of the vehicle, or, on the request of the driver or conductor, or any passenger, by any police officer;
- (b) require a passenger who is reasonably suspected by the driver or conductor of contravening the rules to give his name and address to a police officer or to the driver or conductor on demand;
- (c) require a passenger to declare, if so demanded by the driver or conductor, the journey he intends to take or has taken in the vehicle and to pay the fare for the whole of such journey and to accept any ticket issued therefor;

(d) require, on demand being made for the purpose by the driver or conductor or other person authorised by the owners of the vehicle, production during the journey and surrender at the end of the journey by the holder thereof of any ticket issued to him;

(e) require a passenger, if so requested by the driver or conductor, to leave the vehicle on the completion of the journey the fare for which he has paid;

(f) require the surrender by the holder thereof on the expiry of the period for which it is issued of a ticket issued to him;

(g) require a passenger to abstain from doing anything which is likely to obstruct or interfere with the working of the vehicle or to cause damage to any part of the vehicle or its equipment or to cause injury or discomfort to any other passenger;

(h) require a passenger not to smoke in any vehicle on which a notice prohibiting smoking is exhibited;

(i) require the maintenance of complaint books in stage carriages and prescribe the conditions under which passengers can record any complaints in the same.

Power of State Government to make rules for the purposes of this Chapter.

96. (1) A State Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing power, rules under this section may be made with respect to all or any of the following matters, namely:—

(i) the period of appointment and the terms of appointment of and the conduct of business by Regional and State Transport Authorities and the reports to be furnished by them;

(ii) the conduct of business by any such authority in the absence of any member (including the Chairman) thereof and the nature of business which, the circumstances under which and the manner in which, business could be so conducted;

(iii) the conduct and hearing of appeals that may be preferred under this Chapter, the fees to be paid in respect of such appeals and the refund of such fees;

(iv) the forms to be used for the purposes of this Chapter, including the forms of permits;

(v) the issue of copies of permits in place of permits lost, destroyed or mutilated;

(vi) the documents, plates and marks to be carried by transport vehicles, the manner in which they are to be carried and the languages in which any such documents are to be expressed;

(vii) the fees to be paid in respect of applications for permits, duplicate permits and plates;

(viii) the exemption of prescribed persons or prescribed classes of persons from payment of all or any or any portion of the fees payable under this Chapter;

(ix) the custody, production and cancellation on revocation or expiration of permits, and the return of permits which have been cancelled;

(x) the conditions subject to which, and the extent to which, a permit granted in another State shall be valid in the State without countersignature;

(xi) the conditions subject to which, and the extent to which, a permit granted in one region shall be valid in another region within the State without countersignature;

(xii) the conditions to be attached to permits for the purpose of giving effect to any agreement such as is referred to in clause (iii) of sub-section (1) of section 67;

(xiii) the authorities to whom, the time within which and the manner in which appeals may be made;

(xiv) the construction and fittings of, and the equipment to be carried by, stage and contract carriages, whether generally or in specified areas;

(xv) the determination of the number of passengers a stage or contract carriage is adapted to carry and the number which may be carried;

(xvi) the conditions subject to which goods may be carried on stage and contract carriages partly or wholly in lieu of passengers;

(xvii) the safe custody and disposal of property left in a stage or contract carriage;

(xviii) regulating the painting or marking of transport vehicles and the display of advertising matter thereon, and in particular prohibiting the painting or marking of transport vehicles in such colour or manner as to induce any person to believe that the vehicle is used for the transport of mails;

(xix) the conveyance in stage or contract carriages of corpses or persons suffering from any infectious or contagious disease or goods likely to cause discomfort or injury to passengers and the inspection and disinfection of such carriages; if used for such purposes;

(xx) the provision of taxi meters on motor cabs requiring approval or standard types of taxi meters to be used and examining testing and sealing taxi meters;

(xxi) prohibiting the picking up or setting down of passengers by stage or contract carriages at specified places or in specified areas or at places other than duly notified stands or halting places and requiring the driver of a stage carriage to stop and remain stationary for a reasonable time when so required by a passenger

desiring to board or alight from the vehicle at a notified halting place;

(xxii) the requirements which shall be complied with in the construction or use of any duly notified stand or halting place, including the provision of adequate equipment and facilities for the convenience of all users thereof; the fees, if any, which may be charged for the use of such facilities, the records which shall be maintained at such stands or places, the staff to be employed thereat, and the duties and conduct of such staff, and generally for maintaining such stands and places in a serviceable and clean condition;

(xxiii) the regulation of motor cab ranks;

(xxiv) requiring the owners of transport vehicles to notify any change of address or to report the failure of or damage to any vehicle used for the conveyance of passengers for hire or reward;

(xxv) authorising specified persons to enter at all reasonable times and inspect all premises used by permit holders for the purposes of their business;

(xxvi) requiring the person in charge of a stage carriage to carry any person tendering the legal or customary fare;

(xxvii) the conditions under which and the types of containers or vehicles in which animals or birds may be carried and the seasons during which animals or birds may or may not be carried;

(xxviii) the licensing of and the regulation of the conduct of agents or canvassers who engage in the sale of tickets for travel by public service vehicles or otherwise solicit custom for such vehicles;

(xxix) the licensing of agents engaged in the business of collecting for forwarding and distributing goods carried by goods carriages;

(xxx) the inspection of transport vehicles and their contents and of the permits relating to them;

(xxxi) the carriage of persons other than the driver in goods carriages;

(xxxii) the records to be maintained and the returns to be furnished by the owners of transport vehicles; and

(xxxiii) any other matter which is to be or may be prescribed.

CHAPTER VI

SPECIAL PROVISIONS RELATING TO STATE TRANSPORT UNDERTAKINGS

97. In this Chapter, unless the context otherwise requires, "road transport service" means a service of motor vehicles carrying passengers or goods or both by road for hire or reward.

Defini-
tion.

98. The provisions of this Chapter and the rules and orders made thereunder shall have effect notwithstanding anything inconsistent therewith contained in Chapter V or in any other law for the time being in force or in any instrument having effect by virtue of any such law.

Chapter to override Chapter V and other laws.

99. Where any State Government is of opinion that for the purpose of providing an efficient, adequate, economical and properly co-ordinated road transport service, it is necessary in the public interest that road transport services in general or any particular class of such service in relation to any area or route or portion thereof should be run and operated by the State transport undertaking, whether to the exclusion, complete or partial, of other persons or otherwise, the State Government may formulate a proposal regarding a scheme giving particulars of the nature of the services proposed to be rendered, the area or route proposed to be covered and other relevant particulars respecting thereto and shall publish such proposal in the Official Gazette of the State formulating such proposal and in not less than one newspaper in the regional language circulating in the area or route proposed to be covered by such scheme and also in such other manner as the State Government formulating such proposal deem fit.

Preparation and publication of proposal regarding road transport service of a State transport undertaking.

100. (1) On the publication of any proposal regarding a scheme in the Official Gazette and in not less than one newspaper in the regional language circulating in the area or route which is to be covered by such proposal any person may, within thirty days from the date of its publication in the Official Gazette, file objections to it before the State Government.

Objection to the proposal.

(2) The State Government may, after considering the objections and after giving an opportunity to the objector or his representatives and the representatives of the State transport undertaking to be heard in the matter, if they so desire, approve or modify such proposal.

(3) The scheme relating to the proposal as approved or modified under sub-section (2) shall then be published in the Official Gazette by the State Government making such scheme and in not less than one newspaper in the regional language circulating in the area or route covered by such scheme and the same shall thereupon become final on the date of its publication in the Official Gazette and shall be called the approved scheme and the area or route to which it relates shall be called the notified area or notified route:

Provided that no such scheme which relates to any inter-State route shall be deemed to be an approved scheme unless it has the previous approval of the Central Government.

(4) Notwithstanding anything contained in this section, where a scheme is not published as an approved scheme under sub-section (3) in the Official Gazette within a period of one year from the date of publication of the proposal regarding the scheme in the Official Gazette under sub-section (1), the proposal shall be deemed to have lapsed.

Explanation.—In computing the period of one year referred to in this sub-section, any period or periods during which the publication of

the approved scheme under sub-section (3) was held up on account of any stay or injunction by the order of any court shall be excluded.

Operation of additional services by a State transport undertaking in certain circumstances.

101. Notwithstanding anything contained in section 37, a State transport undertaking may, in the public interest operate additional services for the conveyance of the passengers on special occasions such as to and from fairs and religious gatherings:

Provided that the State transport undertaking shall inform about the operation of such additional services to the concerned Transport Authority without delay.

Cancellation or modification of scheme.

102. (1) The State Government may, at any time, if it considers necessary, in the public interest so to do, modify any approved scheme after giving—

(i) the State transport undertaking; and

(ii) any other person who, in the opinion of the State Government, is likely to be affected by the proposed modification,

an opportunity of being heard in respect of the proposed modification.

(2) The State Government shall publish any modification proposed under sub-section (1) in the Official Gazette and in one of the newspapers in the regional languages circulating in the area in which it is proposed to be covered by such modification, together with the date, not being less than thirty days from such publication in the Official Gazette, and the time and place at which any representation received in this behalf will be heard by the State Government.

Issue of permits to State transport undertakings.

103. (1) Where, in pursuance of an approved scheme, any State transport undertaking applies in such manner as may be prescribed by the State Government in this behalf for a stage carriage permit or a goods carriage permit or a contract carriage permit in respect of a notified area or notified route, the State Transport Authority in any case where the said area or route lies in more than one region and the Regional Transport Authority in any other case shall issue such permit to the State transport undertaking, notwithstanding anything to the contrary contained in Chapter V.

(2) For the purpose of giving effect to the approved scheme in respect of a notified area or notified route, the State Transport Authority or, as the case may be, the Regional Transport Authority concerned may, by order,—

(a) refuse to entertain any application for the grant or renewal of any other permit or reject any such application as may be pending;

(b) cancel any existing permit;

(c) modify the terms of any existing permit so as to—

(i) render the permit ineffective beyond a specified date;

(ii) reduce the number of vehicles authorised to be used under the permit;

(iii) curtail the area or route covered by the permit in so far as such permit relates to the notified area or notified route.

(3) For the removal of doubts, it is hereby declared that no appeal shall lie against any action taken, or order passed, by the State Transport Authority or any Regional Transport Authority under sub-section (1) or sub-section (2).

104. Where a scheme has been published under sub-section (3) of section 100 in respect of any notified area or notified route, the State Transport Authority or the Regional Transport Authority, as the case may be, shall not grant any permit except in accordance with the provisions of the scheme:

Restriction on grant of permits in respect of a notified area or notified route.

Provided that where no application for a permit has been made by the State transport undertaking in respect of any notified area or notified route in pursuance of an approved scheme, the State Transport Authority or the Regional Transport Authority, as the case may be, may grant temporary permits to any person in respect of such notified area or notified route subject to the condition that such permit shall cease to be effective on the issue of a permit to the State transport undertaking in respect of that area or route.

105. (1) Where, in exercise of the powers conferred by clause (b) or clause (c) of sub-section (2) of section 103, any existing permit is cancelled or the terms thereof are modified, there shall be paid by the State transport undertaking to the holder of the permit, compensation, the amount of which shall be determined in accordance with the provisions of sub-section (4) or sub-section (5), as the case may be.

Principles and method of determining compensation and payment thereof.

(2) Notwithstanding anything contained in sub-section (1), no compensation shall be payable on account of the cancellation of any existing permit or any modification of the terms thereof, when a permit for an alternative route or area in lieu thereof has been offered by the State Transport Authority or the Regional Transport Authority, as the case may be and accepted by the holder of the permit.

(3) For the removal of doubts, it is hereby declared that no compensation shall be payable on account of the refusal to renew a permit under clause (a) of sub-section (2) of section 103.

(4) Where, in exercise of the powers conferred by clause (b) or sub-clause (i) or sub-clause (ii) of clause (c) of sub-section (2) of section 103, any existing permit is cancelled or the terms thereof are modified so as to prevent the holder of the permit from using any vehicle authorised to be used thereunder for the full period from which the permit, would otherwise have been effective, the compensation payable to the holder of the permit for each vehicle affected by such cancellation or modification shall be computed as follows:—

(a) for every complete month or part of a month exceeding fifteen days of the unexpired period of the permit

Two hundred rupees;

(b) for part of a month not exceeding fifteen days of the unexpired period of the permit

One hundred rupees:

Provided that the amount of compensation shall, in no case, be less than four hundred rupees.

(5) Where, in exercise of the powers conferred by sub-clause (iii) of clause (c) of sub-section (2) of section 103, the terms of an existing permit are modified so as to curtail the area or route of any vehicle authorised to be used thereunder, the compensation payable to the holder of the permit on account of such curtailment shall be an amount computed in accordance with the following formula, namely:—

$$\frac{Y \times A}{R}$$

Explanation.—In this formula,—

(i) "Y" means the length or area by which the route or area covered by the permit is curtailed;

(ii) "A" means the amount computed in accordance with sub-section (4);

(iii) "R" means the total length of the route or the total area covered by the permit.

(6) The amount of compensation payable under this section shall be paid by the State transport undertaking to the person or persons entitled thereto within one month from the date on which the cancellation or modification of the permit becomes effective:

Provided that where the State transport undertaking fails to make the payment within the said period of one month, it shall pay interest at the rate of seven per cent. per annum from the date on which it falls due.

106. Where any article found in any transport vehicle operated by the State transport undertaking is not claimed by its owner within the prescribed period, the State transport undertaking may sell the article in the prescribed manner and the sale proceeds thereof, after deducting the costs incidental to sale, shall be paid to the owner on demand.

107. (1) The State Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

(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 any proposal regarding a scheme may be published under section 99;

(b) the manner in which objections may be filed under sub-section (1) of section 100;

(c) the manner in which objections may be considered and disposed of under sub-section (2) of section 100;

(d) the form in which any approved scheme may be published under sub-section (3) of section 100;

Disposal
of article
found in
vehicles.

Power of
State
Govern-
ment to
make rules.

(e) the manner in which application under sub-section (1) of section 103 may be made;

(f) the period within which the owner may claim any article found left in any transport vehicle under section 106 and the manner of sale of such article;

(g) the manner of service of orders under this Chapter;

(h) any other matter which has to be, or may be, prescribed.

108. The powers conferred on the State Government under this Chapter shall, in relation to a corporation or company owned or controlled by the Central Government or by the Central Government and one or more State Governments, be exercisable only by the Central Government in relation to an inter-State route or area.

Certain powers of State Government exercisable by the Central Government.

CHAPTER VII

CONSTRUCTION, EQUIPMENT AND MAINTENANCE OF MOTOR VEHICLES

109. (1) Every motor vehicle shall be so constructed and so maintained as to be at all times under the effective control of the person driving the vehicle.

General provision regarding construction and maintenance of vehicles.

(2) Every motor vehicle shall be so constructed as to have right hand steering control unless it is equipped with a mechanical or electrical signalling device of a prescribed nature.

110. (1) The Central Government may make rules regulating the construction, equipment and maintenance of motor vehicles and trailers with respect to all or any of the following matters, namely:—

Power of Central Government to make rules.

(a) the width, height, length and overhang of vehicles and of the loads carried;

(b) the size, nature and condition of tyres;

(c) brakes and steering gear;

(d) the use of safety glasses including prohibition of the use of tinted safety glasses;

(e) signalling appliances, lamps and reflectors;

(f) speed governors;

(g) the emission of smoke, visible vapour, sparks, ashes, grit or oil;

(h) the reduction of noise emitted by or caused by vehicles;

(i) the embossment of chassis number and engine number and the date of manufacture;

(j) safety belts, handle bars of motor cycles, auto-dippers and other equipments essential for safety of drivers, passengers and other road users;

(k) standards of the components used in the vehicle as inbuilt safety devices;

(l) provision for transportation of goods of dangerous or hazardous nature to human life;

(m) standards for emission of air pollutants:

Provided that any rules relating to the matters dealing with the protection of environment, so far as may be, shall be made after consultation with the Ministry of the Government of India dealing with environment.

(2) Rules may be made under sub-section (1) governing the matters mentioned therein, including the manner of ensuring the compliance with such matters and the maintenance of motor vehicles in respect of such matters, either generally in respect of motor vehicles or trailers or in respect of motor vehicles or trailers of a particular class or in particular circumstances.

(3) Notwithstanding anything contained in this section,—

(a) the Central Government may exempt any class of motor vehicles from the provisions of this Chapter;

(b) a State Government may exempt any motor vehicle or any class or description of motor vehicles from the rules made under sub-section (1) subject to such conditions as may be prescribed by the Central Government.

Power of State Government to make rules.

111. (1) A State Government may make rules regulating the construction, equipment and maintenance of motor vehicles and trailers with respect to all matters other than the matters specified in sub-section (1) of section 110.

(2) Without prejudice to the generality of the foregoing power, rules may be made under this section governing all or any of the following matters either generally in respect of motor vehicles or trailers or in respect of motor vehicles or trailers of a particular class or description or in particular circumstances, namely:—

(a) seating arrangements in public service vehicles and the protection of passengers against the weather;

(b) prohibiting or restricting the use of audible signals at certain times or in certain places;

(c) prohibiting the carrying of appliances likely to cause annoyance or danger;

(d) the periodical testing and inspection of vehicles by prescribed authorities;

(e) the particulars other than registration marks to be exhibited by vehicles and the manner in which they shall be exhibited;

(f) the use of trailers with motor vehicles; and

(g) the placement of audio-visual or radio or taperecorder type of devices in the vehicle.

CHAPTER VIII

CONTROL OF TRAFFIC

112. (1) No person shall drive a motor vehicle or cause or allow a motor vehicle to be driven in any public place at a speed exceeding the maximum speed or below the minimum speed fixed for the vehicle under this Act or by or under any other law for the time being in force:

Limits of speed.

Provided that such maximum speed shall in no case exceed the maximum fixed for any motor vehicle or class or description of motor vehicles by the Central Government by notification in the Official Gazette.

(2) The State Government or any authority authorised in this behalf by the State Government may, if satisfied that it is necessary to restrict the speed of motor vehicles in the interest of public safety or convenience or because of the nature of any road or bridge, by notification in the Official Gazette, and by causing appropriate traffic signs to be placed or erected under section 116 at suitable places, fix such maximum speed limits or minimum speed limits as it thinks fit for motor vehicles or any specified class or description of motor vehicles or for motor vehicles to which a trailer is attached, either generally or in a particular area or on a particular road or roads:

Provided that no such notification is necessary if any restriction under this section is to remain in force for not more than one month.

(3) Nothing in this section shall apply to any vehicle registered under section 60 while it is being used in the execution of military manoeuvres within the area and during the period specified in the notification under sub-section (1) of section 2 of the Manoeuvres, Field Firing and Artillery Practice Act, 1938.

5 of 1938.

113. (1) The State Government may prescribe the conditions for the issue of permits for heavy goods vehicles or heavy passenger motor vehicles by the State or Regional Transport Authorities and may prohibit or restrict the use of such vehicles in any area or route.

Limits of weight and limitations of use.

(2) Except as may be otherwise prescribed, no person shall drive or cause or allow to be driven in any public place any motor vehicle which is not fitted with pneumatic tyres.

(3) No person shall drive or cause or allow to be driven in any public place any motor vehicle or trailer—

(a) the unladen weight of which exceeds the unladen weight specified in the certificate of registration of the vehicle, or

(b) the laden weight of which exceeds the gross vehicle weight specified in the certificate of registration.

(4) Where the driver or person in charge of a motor vehicle or trailer driven in contravention of sub-section (2) or clause (a) of sub-section (3) is not the owner, a Court may presume that the offence was committed with the knowledge of or under the orders of the owner of the motor vehicle or trailer.

Power to
have
vehicle
weighed.

114. (1) Any person authorised in this behalf by the State Government may, if he has reason to believe that a goods vehicle or trailer is being used in contravention of section 113, require the driver to convey the vehicle to a weighing device, if any, within a distance of ten kilometres from any point on the forward route or within a distance of twenty kilometres from the destination of the vehicle for weighing; and if on such weighing the vehicle is found to contravene in any respect the provisions of section 113 regarding weight, he may, by order in writing, direct the driver to off-load the excess weight at his own risk and not to remove the vehicle or trailer from that place until the laden weight has been reduced or the vehicle or trailer has otherwise been dealt with so that it complies with section 113 and on receipt of such notice, the driver shall comply with such directions.

(2) Where the person authorised under sub-section (1) makes the said order in writing, he shall also endorse the relevant details of the overloading on the goods carriage permit and also intimate the fact of such endorsement to the authority which issued that permit.

Power to
restrict
the use
of vehicles.

115. The State Government or any authority authorised in this behalf by the State Government, if satisfied that it is necessary in the interest of public safety or convenience, or because of the nature of any road or bridge, may by notification in the Official Gazette, prohibit or restrict, subject to such exceptions and conditions as may be specified in the notification, the driving of motor vehicles or of any specified class or description of motor vehicles or the use of trailers either generally in a specified area or on a specified road and when any such prohibition or restriction is imposed, shall cause appropriate traffic signs to be placed or erected under section 116 at suitable places:

Provided that where any prohibition or restriction under this section is to remain in force for not more than one month, notification thereof in the Official Gazette shall not be necessary, but such local publicity as the circumstances may permit, shall be given of such prohibition or restriction.

Power to
erect
traffic
signs.

116. (1) (a) The State Government or any authority authorised in this behalf by the State Government may cause or permit traffic signs to be placed or erected in any public place for the purpose of bringing to public notice any speed limits fixed under sub-section (2) of section 112 or any prohibitions or restrictions imposed under section 115 or generally for the purpose of regulating motor vehicle traffic.

(b) A State Government or any authority authorised in this behalf by the State Government may, by notification in the Official Gazette or by the erection at suitable places of the appropriate traffic sign referred to in Part A of the Schedule, designate certain roads as main roads for the purposes of the driving regulations made by the Central Government.

(2) Traffic signs placed or erected under sub-section (1) for any purpose for which provision is made in the Schedule shall be of the size, colour and type and shall have the meanings set forth in the Schedule, but the State Government or any authority empowered in this behalf by the State Government may make or authorise the addition to any sign set forth in the said Schedule, of transcriptions of the words, letters or figures thereon in such script as the State Government may think fit.

provided that the transcriptions shall be of similar size and colour to the words, letters or figures set forth in the Schedule.

(3) Except as provided by sub-section (1), no traffic sign shall, after the commencement of this Act, be placed or erected on or near any road; but all traffic signs placed or erected prior to the commencement of this Act by any competent authority shall for the purpose of this Act be deemed to be traffic signs placed or erected under the provisions of sub-section (1).

(4) A State Government may, by notification in the Official Gazette, empower any police officer not below the rank of a Superintendent of Police to remove or cause to be removed any sign or advertisement which is so placed in his opinion as to obscure any traffic sign from view or any sign or advertisement which is in his opinion so similar in appearance to a traffic sign as to be misleading or which in his opinion is likely to distract the attention or concentration of the driver.

(5) No person shall wilfully remove, alter, deface, or in any way tamper with, any traffic signs placed or erected under this section.

(6) If any person accidentally causes such damage to a traffic sign as renders it useless for the purpose for which it is placed or erected under this section, he shall report the circumstances of the occurrence to a police officer or at a police station as soon as possible, and in any case within twenty-four hours of the occurrence.

(7) For the purpose of bringing the signs set forth in the Schedule in conformity with any International Convention relating to motor traffic to which the Central Government is for the time being a party, the Central Government may, by notification in the Official Gazette, make any addition or alteration to any such sign and on the issue of any such notification, the Schedule shall be deemed to be amended accordingly.

117. The State Government or any authority authorised in this behalf by the State Government may, in consultation with the local authority having jurisdiction in the area concerned, determine places at which motor vehicles may stand either indefinitely or for a specified period of time, and may determine the places at which public service vehicles may stop for a longer time than is necessary for the taking up and setting down of passengers.

Parking places and halting stations.

118. The Central Government may, by notification in the Official Gazette, make regulations for the driving of motor vehicles.

Driving regulations.

119. (1) Every driver of a motor vehicle shall drive the vehicle in conformity with any indication given by mandatory traffic sign and in conformity with the driving regulations made by the Central Government, and shall comply with all directions given to him by any police officer for the time being engaged in the regulation of traffic in any public place.

Duty to obey traffic signs.

(2) In this section "mandatory traffic sign" means a traffic sign included in Part A of the Schedule, or any traffic sign of similar form (that is to say, consisting of or including a circular disc displaying a device, word or figure and having a red ground or border) placed or erected

for the purpose of regulating motor vehicle traffic under sub-section (1) of section 116.

Vehicles with left hand control.

120. No person shall drive or cause or allow to be driven in any public place any motor vehicle with a left-hand steering control unless it is equipped with a mechanical or electrical signalling device of a prescribed nature and in working order.

Signals and signalling devices.

121. The driver of a motor vehicle shall make such signals and on such occasions as may be prescribed by the Central Government:

Provided that the signal of an intention to turn to the right or left or to stop—

(a) in the case of a motor vehicle with a right-hand steering control, may be given by a mechanical or electrical device of a prescribed nature affixed to the vehicle; and

(b) in the case of a motor vehicle with a left hand steering control, shall be given by a mechanical or electrical device of a prescribed nature affixed to the vehicle:

Provided further that the State Government may, having regard to the width and condition of the roads in any area or route, by notification in the Official Gazette, exempt subject to such conditions as may be specified therein any motor vehicle or class or description of motor vehicles from the operation of this section for the purpose of plying in that area or route.

Leaving vehicle in dangerous position.

122. No person in charge of a motor vehicle shall cause or allow the vehicle or any trailer to be abandoned or to remain at rest on any public place in such a position or in such a condition or in such circumstances as to cause or likely to cause danger, obstruction or undue inconvenience to other users of the public place or to the passengers.

Riding on running board, etc.

123. (1) No person driving or in charge of a motor vehicle shall carry any person or permit any person to be carried on the running board or otherwise than within the body of the vehicle.

(2) No person shall travel on the running board or on the top or on the bonnet of a motor vehicle.

Prohibition against travelling without pass or ticket.

124. No person shall enter or remain in any stage carriage for the purposes of travelling therein unless he has with him a proper pass or ticket:

Provided that where arrangements for the supply of tickets are made in the stage carriage by which a person has to travel, a person may enter such stage carriage but as soon as may be after his entry therein, he shall make the payment of his fare to the conductor or the driver who performs the functions of a conductor and obtain from such conductor or driver, as the case may be, a ticket for his journey.

Explanation.—In this section,—

(a) "pass" means a duty, privilege or courtesy pass entitling the person to whom it is given to travel in a stage carriage gratuitously and includes a pass issued on payment for travel in a stage carriage for the period specified therein;

(b) "ticket" includes a single ticket, a return ticket or a season ticket.

125. No person driving a motor vehicle shall allow any person to stand or sit or to place anything in such a manner or position as to hamper the driver in his control of the vehicle.

Obstruction of driver.

126. No person driving or in charge of a motor vehicle shall cause or allow the vehicle to remain stationary in any public place, unless there is in the driver's seat a person duly licensed to drive the vehicle or unless the mechanism has been stopped and a brake or brakes applied or such other measures taken as to ensure that the vehicle cannot accidentally be put in motion in the absence of the driver.

Stationary vehicles.

127. (1) Where any motor vehicle is abandoned, or left unattended, on a public place for ten hours or more, its removal by a towing service may be authorised by a police officer having jurisdiction.

Removal of motor vehicles abandoned or left unattended on a public place.

(2) Where an abandoned, unattended, wrecked, burnt or partially dismantled vehicle is creating a traffic hazard because of its position in relation to the highway, or its physical appearance is causing the impediment to the traffic, its immediate removal from the highway by a towing service may be authorised by a police officer having jurisdiction.

(3) Where a vehicle is authorised to be removed under sub-section (1) or sub-section (2) by a police officer, the owner of the vehicle shall be responsible for all towing costs, besides any other penalty.

128. (1) No driver of a two-wheeled motor cycle shall carry more than one person in addition to himself on the motor cycle and no such person shall be carried otherwise than sitting on a proper seat securely fixed to the motor cycle behind the driver's seat with appropriate safety measures.

Safety measures for drivers and pillion riders.

(2) In addition to the safety measures mentioned in sub-section (1), the Central Government may, prescribe other safety measures for the drivers of two-wheeled motor cycles and pillion riders thereon.

129. Every person driving or riding (otherwise than in a side car, on a motor cycle of any class or description) shall, while in a public place, wear a protective headgear of such description as may be specified by the State Government by rules made by it in this behalf, and different descriptions of headgears may be specified in such rules in relation to different circumstances or different class or description of motor cycles:

Wearing of protective headgear.

Provided that the provisions of this section shall not apply to a person who is a Sikh, if he is, while driving or riding on the motor cycle, in a public place, wearing a turban:

Provided further that the State Government may, by such rules, provide for such exceptions as it may think fit.

Explanation.—"Protective headgear" means a helmet which,—

(a) by virtue of its shape, material and construction, could reasonably be expected to afford to the person driving or riding on a

motor cycle a degree of protection from injury in the event of an accident; and

(b) is securely fastened to the head of the wearer by means of straps or other fastenings provided on the headgear.

Duty to produce licence and certificate of registration.

130. (1) The driver of a motor vehicle in any public place shall, on demand by any police officer in uniform, produce his licence for examination:

Provided that the driver may, if his licence has been submitted to, or has been seized by, any officer or authority under this or any other Act, produce in lieu of the licence a receipt or other acknowledgment issued by such officer or authority in respect thereof and thereafter produce the licence within such period, in such manner as the Central Government may prescribe to the police officer making the demand.

(2) The conductor, if any, of a motor vehicle in any public place shall, on demand by any police officer in uniform, produce his licence for examination.

(3) The owner of a motor vehicle (other than a vehicle registered under section 60), or in his absence the driver or other person in charge of the vehicle, shall on demand by a registering authority or any person authorised, in this behalf by the State Government produce the certificate of registration and the certificate of insurance of the vehicle and, where the vehicle is a transport vehicle, also the certificate of fitness referred to in section 56 and the permit.

Explanation.—For the purposes of this sub-section, “certificate of insurance” means the certificate issued under sub-section (3) of section 147.

(4) If the licence referred to in sub-section (2) or the certificates or permit referred to in sub-section (3), as the case may be, are not at the time in the possession of the person to whom demand is made, it shall be a sufficient compliance with this section if such person produces the licence or certificates or permit within such period in such manner as the Central Government may prescribe, to the police officer or authority making the demand:

Provided that, except to such extent and with such modifications as may be prescribed, the provisions of this sub-section shall not apply to any person required to produce the certificate of registration or the certificate of fitness of a transport vehicle.

Duty of the driver to take certain precautions at unguarded railway level crossings.

131. Every driver of a motor vehicle at the approach of any unguarded railway level crossing shall cause the vehicle to stop and the driver of the vehicle shall cause the conductor or cleaner or attendant or any other person in the vehicle to walk up to the level crossing and ensure that no train or trolley is approaching from either side and then pilot the motor vehicle across such level crossing, and where no conductor or cleaner or attendant or any other person is available in the vehicle, the driver of the vehicle shall get down from the vehicle himself to ensure that no train or trolley is approaching from either side before the railway track is crossed.

132. (1) The driver of a motor vehicle shall cause the vehicle to stop and remain stationary so long as may reasonably be necessary—

Duty of driver to stop in certain cases.

(a) when required to do so by any police officer in uniform, or

(b) when required to do so by any person in charge of an animal if such person apprehends that the animal is, or being alarmed by the vehicle will become, unmanageable, or

(c) when the vehicle is involved in the occurrence of an accident to a person, animal or vehicle or of damage to any property, whether the driving or management of the vehicle was or was not the cause of the accident or damage,

and he shall give his name and address and the name and address of the owner of the vehicle to any person affected by any such accident or damage who demands it provided such person also furnishes his name and address.

(2) The driver of a motor vehicle shall, on demand by a person giving his own name and address and alleging that the driver has committed an offence punishable under section 184 give his name and address to that person.

(3) In this section the expression "animal" means any horse, cattle, elephant, camel, ass, mule, sheep or goat.

133. The owner of a motor vehicle, the driver or conductor of which is accused of any offence under this Act shall, on the demand of any police officer authorised in this behalf by the State Government, give all information regarding the name and address of, and the licence held by, the driver or conductor which is in his possession or could by reasonable diligence be ascertained by him.

Duty of owner of motor vehicle to give information.

134. When any person is injured or any property of a third party is damaged, as a result of an accident in which a motor vehicle is involved, the driver of the vehicle or other person in charge of the vehicle shall—

Duty of driver in case of accident and injury to a person.

(a) unless it is not practicable to do so on account of mob fury or any other reason beyond his control, take all reasonable steps to secure medical attention for the injured person, and, if necessary, convey him to the nearest hospital, unless the injured person or his guardian, in case he is a minor, desires otherwise;

(b) give on demand by a police officer any information required by him, or, if no police officer is present, report the circumstances of the occurrence, including the circumstances, if any, for not taking reasonable steps to secure medical attention as required under clause

(a), at the nearest police station as soon as possible, and in any case within twenty-four hours of the occurrence.

135. (1) The State Government may, by notification in the Official Gazette, make one or more schemes to provide for—

Schemes to be framed for the investigation of accident cases and wayside amenities, etc.

(a) an in depth study on causes and analysis of motor vehicle accidents;

(b) wayside amenities on highways;

(c) traffic aid posts on highways; and

(d) truck parking complexes along highways.

(2) Every scheme made under this section by any State Government shall be laid, as soon as may be after it is made, before the State Legislature.

Inspection of vehicle involved in accident.

136. When any accident occurs in which a motor vehicle is involved, any person authorised in this behalf by the State Government may, on production if so required of his authority, inspect the vehicle and for that purpose may enter at any reasonable time any premises where the vehicle may be, and may remove the vehicle for examination:

Provided that the place to which the vehicle is so removed shall be intimated to the owner of the vehicle and the vehicle shall be returned without unnecessary delay:

Power of Central Government to make rules.

137. The Central Government may make rules to provide for all or any of the following matters, namely:—

(a) the occasions on which signals shall be made by drivers of motor vehicles and such signals under section 121;

(b) the manner in which the licences and certificates may be produced to the police officer under section 130.

Power of State Government to make rules.

138. (1) The State Government may make rules for the purpose of carrying into effect the provisions of this Chapter other than the matters specified in section 137.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the removal and the safe custody of vehicles including their loads which have broken down or which have been left standing or have been abandoned on roads;

(b) the installation and use of weighing devices;

(c) the maintenance and management of wayside amenities complexes;

(d) the exemption from all or any of the provisions of this Chapter of fire brigade vehicles, ambulances and other special classes or descriptions of vehicle, subject to such conditions as may be prescribed;

(e) the maintenance and management of parking places and stands and the fees, if any, which may be charged for their use;

(f) prohibiting the driving downhill of a motor vehicle with the gear disengaged either generally or in a specified place;

(g) prohibiting the taking hold of or mounting of a motor vehicle in motion;

(h) prohibiting the use of foot-paths or pavements by motor vehicles;

(i) generally, the prevention of danger, injury or annoyance to the public or any person, or of danger or injury to property or of obstruction to traffic; and

(j) any other matter which is to be, or may be, prescribed.

CHAPTER IX

MOTOR VEHICLES TEMPORARILY LEAVING OR VISITING INDIA

139. (1) The Central Government may, by notification in the Official Gazette, make rules for all or any of the following purposes, namely:—

Power of Central Government to make rules.

(a) the grant and authentication of travelling passes, certificates or authorisations to persons temporarily taking motor vehicles out of India to any place outside India or to persons temporarily proceeding out of India to any place outside India and desiring to drive a motor vehicle during their absence from India;

(b) prescribing the conditions subject to which motor vehicles brought temporarily into India from outside India by persons intending to make a temporary stay in India may be possessed and used in India; and

(c) prescribing the conditions subject to which persons entering India from any place outside India for a temporary stay in India may drive motor vehicles in India;

(2) For the purpose of facilitating and regulating the services of motor vehicles operating between India and any other country under any reciprocal arrangement and carrying passengers or goods or both by road for hire or reward, the Central Government may, by notification in the Official Gazette, make rules with respect to all or any of the following matters, namely:—

(a) the conditions subject to which motor vehicles carrying on such services may be brought into India from outside India and possessed and used in India;

(b) the conditions subject to which motor vehicles may be taken from any place in India to any place outside India;

(c) the conditions subject to which persons employed as drivers and conductors of such motor vehicles may enter or leave India;

(d) the grant and authentication of travelling passes, certificates or authorisations to persons employed as drivers and conductors of such motor vehicles;

(e) the particulars (other than registration marks) to be exhibited by such motor vehicles and the manner in which such particulars are to be exhibited;

(f) the use of trailers with such motor vehicles;

(g) the exemption of such motor vehicles and their drivers and conductors from all or any of the provisions of this Act [other than those referred to in sub-section (4)] or the rules made thereunder;

(h) the identification of the drivers and conductors of such motor vehicles;

(i) the replacement of the travelling passes, certificates or authorisations, permits, licences or any other prescribed documents lost or defaced, on payment of such fee as may be prescribed;

(j) the exemption from the provisions of such laws as relate to customs, police or health with a view to facilitate such road transport services;

(k) any other matter which is to be, or may be, prescribed.

(3) No rule made under this section shall operate to confer on any person any immunity in any State from the payment of any tax levied in that State on motor vehicles or their users.

(4) Nothing in this Act or in any rule made thereunder by a State Government relating to:—

(a) the registration and identification of motor vehicles, or

(b) the requirements as to construction, maintenance and equipment of motor vehicles, or

(c) the licensing and the qualifications of drivers and conductors of motor vehicles,

shall apply—

(i) to any motor vehicle to which or to any driver of a motor vehicle to whom any rules made under clause (b) or clause (c) of sub-section (1) or under sub-section (2) apply; or

(ii) to any conductor of a motor vehicle to whom any rules made under sub-section (2) apply.

CHAPTER X

LIABILITY WITHOUT FAULT IN CERTAIN CASES

Liability to pay compensation in certain cases on the principle of no fault.

140. (1) Where death or permanent disablement of any person has resulted from an accident arising out of the use of a motor vehicle or motor vehicles, the owner of the vehicle shall, or, as the case may be, the owners of the vehicles shall, jointly and severally, be liable to pay compensation in respect of such death or disablement in accordance with the provisions of this section.

(2) The amount of compensation which shall be payable under sub-section (1) in respect of the death of any person shall be a fixed sum of twenty-five thousand rupees and the amount of compensation payable under that sub-section in respect of the permanent disablement of any person shall be a fixed sum of twelve thousand rupees.

(3) In any claim for compensation under sub-section (1), the claimant shall not be required to plead and establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act, neglect or default of the owner or owners of the vehicle or vehicles concerned or of any other person.

(4) A claim for compensation under sub-section (1) shall not be defeated by reason of any wrongful act, neglect or default of the person in respect of whose death or permanent disablement the claim has been made nor shall the quantum of compensation recoverable in respect of such death or permanent disablement be reduced on the basis of the share of such person in the responsibility for such death or permanent disablement.

141. (1) The right to claim compensation under section 140 in respect of death or permanent disablement of any person shall be in addition to any other right (hereafter in this section referred to as the right on the principle of fault) to claim compensation in respect thereof under any other provision of this Act or of any other law for the time being in force.

(2) A claim for compensation under section 140 in respect of death or permanent disablement of any person shall be disposed of as expeditiously as possible and where compensation is claimed in respect of such death or permanent disablement under section 140 and also in pursuance of any right on the principle of fault, the claim for compensation under section 140 shall be disposed of as aforesaid in the first place.

(3) Notwithstanding anything contained in sub-section (1), where in respect of the death or permanent disablement of any person, the person liable to pay compensation under section 140 is also liable to pay compensation in accordance with the right on the principle of fault, the person so liable shall pay the first-mentioned compensation and—

(a) if the amount of the first-mentioned compensation is less than the amount of the second-mentioned compensation, he shall be liable to pay (in addition to the first-mentioned compensation) only so much of the second-mentioned compensation as is equal to the amount by which it exceeds the first-mentioned compensation;

(b) if the amount of the first-mentioned compensation is equal to or more than the amount of the second-mentioned compensation, he shall not be liable to pay the second-mentioned compensation.

142. For the purposes of this Chapter, permanent disablement of a person shall be deemed to have resulted from an accident of the nature referred to in sub-section (1) of section 140 if such person has suffered by reason of the accident, any injury or injuries involving—

(a) permanent privation of the sight of either eye or the hearing of either ear, or privation of any member or joint; or

(b) destruction or permanent impairing of the powers of any member or joint; or

(c) permanent disfiguration of the head or face.

143. The provisions of this Chapter shall also apply in relation to any claim for compensation in respect of death or permanent disablement of any person under the Workmen's Compensation Act, 1923 resulting from an accident of the nature referred to in sub-section (1) of section 140 and for this purpose, the said provisions shall, with necessary modifications, be deemed to form part of that Act.

144. The provisions of this Chapter shall have effect notwithstanding anything contained in any other provision of this Act or of any other law for the time being in force.

CHAPTER XI

INSURANCE OF MOTOR VEHICLES AGAINST THIRD PARTY RISKS

145. In this Chapter,—

(a) "authorised insurer" means an insurer for the time being carrying on general insurance business in India under the General

Provisions as to other right to claim compensation for death or permanent disablement.

Permanent disablement.

Applicability of Chapter to certain claims under Act 8 of 1923.

Overriding effect.

Definitions.

Insurance Business (Nationalisation) Act, 1972, and any Government insurance fund authorised to do general insurance business under that Act;

(b) "certificate of insurance" means a certificate issued by an authorised insurer in pursuance of sub-section (3) of section 147 and includes a cover note complying with such requirements as may be prescribed, and where more than one certificate has been issued in connection with a policy, or where a copy of a certificate has been issued, all those certificates or that copy, as the case may be;

(c) "liability", wherever used in relation to the death of or bodily injury to any person, includes liability in respect thereof under section 140;

(d) "policy of insurance" includes "certificate of insurance";

(e) "property" includes goods carried in the motor vehicle, roads, bridges, culverts, causeways, trees, posts and mile-stones;

(f) "reciprocating country" means any such country as may on the basis of reciprocity be notified by the Central Government in the Official Gazette to be a reciprocating country for the purposes of this Chapter;

(g) "third party" includes the Government.

Necessity
for insu-
rance
against
third
party
risk.

146. (1) No person shall use, except as a passenger, or cause or allow any other person to use, a motor vehicle in a public place, unless there is in force in relation to the use of the vehicle by that person or that other person, as the case may be, a policy of insurance complying with the requirements of this Chapter.

Explanation.—A person driving a motor vehicle merely as a paid employee, while there is in force in relation to the use of the vehicle no such policy as is required by this sub-section, shall not be deemed to act in contravention of the sub-section unless he knows or has reason to believe that there is no such policy in force.

(2) Sub-section (1) shall not apply to any vehicle owned by the Central Government or a State Government and used for Government purposes unconnected with any commercial enterprise.

(3) The appropriate Government may, by order, exempt from the operation of sub-section (1) any vehicle owned by any of the following authorities, namely:—

(a) the Central Government or a State Government, if the vehicle is used for Government purposes connected with any commercial enterprise;

(b) any local authority;

(c) any State transport undertaking;

Provided that no such order shall be made in relation to any such authority unless a fund has been established and is maintained by that authority in accordance with the rules made in that behalf under this

Act for meeting any liability arising out of the use of any vehicle of that authority which that authority or any person in its employment may incur to third parties.

Explanation.—For the purposes of this sub-section, “appropriate Government” means the Central Government or a State Government, as the case may be, and—

(i) in relation to any corporation or company owned by the Central Government or any State Government, means the Central Government or that State Government;

(ii) in relation to any corporation or company owned by the Central Government and one or more State Governments, means the Central Government;

(iii) in relation to any other State transport undertaking or any local authority, means that Government which has control over that undertaking or authority.

147. (1) In order to comply with the requirements of this Chapter, a policy of insurance must be a policy which—

(a) is issued by a person who is an authorised insurer; and

(b) insures the person or classes of persons specified in the policy to the extent specified in sub-section (2)—

(i) against any liability which may be incurred by him in respect of the death of or bodily injury to any person or damage to any property of a third party caused by or arising out of the use of the vehicle in a public place;

(ii) against the death of or bodily injury to any passenger of a public service vehicle caused by or arising out of the use of the vehicle in a public place:

Provided that a policy shall not be required—

(i) to cover liability in respect of the death, arising out of and in the course of his employment, of the employee of a person insured by the policy or in respect of bodily injury sustained by such an employee arising out of and in the course of his employment other than a liability arising under the Workmen’s Compensation Act, 1923, in respect of the death of, or bodily injury to, any such employee—

(a) engaged in driving the vehicle, or

(b) if it is a public service vehicle engaged as a conductor of the vehicle or in examining tickets on the vehicle, or

(c) if it is a goods carriage, being carried in the vehicle, or

(ii) to cover any contractual liability.

Explanation.—For the removal of doubts, it is hereby declared that the death of or bodily injury to any person or damage to any

Requirements of policies and limits of liability.

8 of 1923.

property of a third party shall be deemed to have been caused by or to have arisen out of, the use of a vehicle in a public place notwithstanding that the person who is dead or injured or the property which is damaged was not in a public place at the time of the accident, if the act or omission which led to the accident occurred in a public place.

(2) Subject to the proviso to sub-section (1), a policy of insurance referred to in sub-section (1), shall cover any liability incurred in respect of any accident, up to the following limits, namely:—

(a) save as provided in clause (b), the amount of liability incurred;

(b) in respect of damage to any property of a third party, a limit of rupees six thousand:

Provided that any policy of insurance issued with any limited liability and in force, immediately before the commencement of this Act, shall continue to be effective for a period of four months after such commencement or till the date of expiry of such policy whichever is earlier.

(3) A policy shall be of no effect for the purposes of this Chapter unless and until there is issued by the insurer in favour of the person by whom the policy is effected a certificate of insurance in the prescribed form and containing the prescribed particulars of any condition subject to which the policy is issued and of any other prescribed matters; and different forms, particulars and matters may be prescribed in different cases.

(4) Where a cover note issued by the insurer under the provisions of this Chapter or the rules made thereunder is not followed by a policy of insurance within the prescribed time, the insurer shall, within seven days of the expiry of the period of the validity of the cover note, notify the fact to the registering authority in whose records the vehicle to which the cover note relates has been registered or to such other authority as the State Government may prescribe.

(5) Notwithstanding anything contained in any law for the time being in force, an insurer issuing a policy of insurance under this section shall be liable to indemnify the person or classes of persons specified in the policy, in respect of any liability which the policy purports to cover in the case of that person or those classes of persons.

Validity
of policies
of insu-
rance
issued in
recipro-
cating
countries.

148. Where, in pursuance of an arrangement between India and any reciprocating country, any motor vehicle registered in the reciprocating country operates on any route or within any area common to the two countries and there is in force in relation to the use of the vehicle in the reciprocating country, a policy of insurance complying with the requirements of the law of insurance in force in that country, then, notwithstanding anything contained in section 147 but subject to any rules which may be made under section 164, such policy of insurance shall be effective throughout the route or area in respect of which, the arrangement has been made, as if the policy of insurance had complied with the requirements of this Chapter.

149. (1) If, after a certificate of insurance has been issued under sub-section (3) of section 147 in favour of the person by whom a policy has been effected, judgment or award in respect of any such liability as is required to be covered by a policy under clause (b) of sub-section (1) of section 147 (being a liability covered by the terms of the policy) is obtained against any person insured by the policy, then, notwithstanding that the insurer may be entitled to avoid or cancel or may have avoided or cancelled the policy, the insurer shall, subject to the provisions of this section, pay to the person entitled to the benefit of the decree any sum not exceeding the sum assured payable thereunder, as if he were the judgment debtor, in respect of the liability, together with any amount payable in respect of costs and any sum payable in respect of interest on that sum by virtue of any enactment relating to interest on judgments.

Duty of insurers to satisfy judgments and awards against persons insured in respect of third party risks.

(2) No sum shall be payable by an insurer under sub-section (1) in respect of any judgment or award unless, before the commencement of the proceedings in which the judgment or award is given the insurer had notice through the Court or, as the case may be, the Claims Tribunal of the bringing of the proceedings, or in respect of such judgment or award so long as execution is stayed thereon pending an appeal; and an insurer to whom notice of the bringing of any such proceedings is so given shall be entitled to be made a party thereto and to defend the action on any of the following grounds, namely:—

(a) that there has been a breach of a specified condition of the policy, being one of the following conditions, namely:—

(i) a condition excluding the use of the vehicle—

(a) for hire or reward, where the vehicle is on the date of the contract of insurance a vehicle not covered by a permit to ply for hire or reward, or

(b) for organised racing and speed testing, or

(c) for a purpose not allowed by the permit under which the vehicle is used, where the vehicle is a transport vehicle, or

(d) without side-car being attached where the vehicle is a motor cycle; or

(ii) a condition excluding driving by a named person or persons or by any person who is not duly licensed, or by any person who has been disqualified for holding or obtaining a driving licence during the period of disqualification; or

(iii) a condition excluding liability for injury caused or contributed to by conditions of war, civil war, riot or civil commotion; or

(b) that the policy is void on the ground that it was obtained by the non-disclosure of a material fact or by a representation of fact which was false in some material particular.

(3) Where any such judgment as is referred to in sub-section (1) is obtained from a Court in a reciprocating country and in the case of

a foreign judgment is, by virtue of the provisions of section 13 of the Code of Civil Procedure, 1908 conclusive as to any matter adjudicated upon by it, the insurer (being an insurer registered under the Insurance Act, 1938 and whether or not he is registered under the corresponding law of the reciprocating country) shall be liable to the person entitled to the benefit of the decree in the manner and to the extent specified in sub-section (1), as if the judgment were given by a Court in India:

5 of 1908.

4 of 1938.

Provided that no sum shall be payable by the insurer in respect of any such judgment unless, before the commencement of the proceedings in which the judgment is given, the insurer had notice through the Court concerned of the bringing of the proceedings and the insurer to whom notice is so given is entitled under the corresponding law of the reciprocating country, to be made a party to the proceedings and to defend the action on grounds similar to those specified in sub-section (2).

(4) Where a certificate of insurance has been issued under sub-section (3) of section 147 to the person by whom a policy has been effected, so much of the policy as purports to restrict the insurance of the persons insured thereby by reference to any conditions other than those in clause (b) of sub-section (2) shall, as respects such liabilities as are required to be covered by a policy under clause (b) of sub-section (1) of section 147, be of no effect:

Provided that any sum paid by the insurer in or towards the discharge of any liability of any person which is covered by the policy by virtue only of this sub-section shall be recoverable by the insurer from that person.

(5) If the amount which an insurer becomes liable under this section to pay in respect of a liability incurred by a person insured by a policy exceeds the amount for which the insurer would apart from the provisions of this section be liable under the policy in respect of that liability, the insurer shall be entitled to recover the excess from that person.

(6) In this section the expressions "material fact" and "material particular" means, respectively a fact or particular of such a nature as to influence the judgment of a prudent insurer in determining whether he will take the risk and, if so, at what premium and on what conditions, and the expression "liability covered by the terms of the policy" means a liability which is covered by the policy or which would be so covered but for the fact that the insurer is entitled to avoid or cancel or has avoided or cancelled the policy.

(7) No insurer to whom the notice referred to in sub-section (2) or sub-section (3) has been given shall be entitled to avoid his liability to any person entitled to the benefit of any such judgment or award as is referred to in sub-section (1) or in such judgment as is referred to in sub-section (3) otherwise than in the manner provided for in sub-section (2) or in the corresponding law of the reciprocating country, as the case may be.

Explanation.—For the purposes of this section, "Claims Tribunal" means a Claims Tribunal constituted under section 165 and "award" means an award made by that Tribunal under section 168.

150. (1) Where under any contract of insurance effected in accordance with the provisions of this Chapter, a person is insured against liabilities which he may incur to third parties, then—

(a) in the event of the person becoming insolvent or making a composition or arrangement with his creditors, or

(b) where the insured person is a company, in the event of a winding up order being made or a resolution for a voluntary winding up being passed with respect to the company or of a receiver or manager of the company's business or undertaking being duly appointed, or of possession being taken by or on behalf of the holders of any debentures secured by a floating charge of any property comprised in or subject to the charge,

either before or after that event, any such liability is incurred by the insured person, his rights against the insurer under the contract in respect of the liability shall, notwithstanding anything to the contrary in any provision of law, be transferred to and vest in the third party to whom the liability was so incurred.

(2) Where an order for the administration of the estate of a deceased debtor is made according to the law of insolvency, then, if any debt provable in insolvency is owing by the deceased in respect of a liability to a third party against which he was insured under a contract of insurance in accordance with the provisions of this Chapter, the deceased debtor's rights against the insurer in respect of that liability shall, notwithstanding anything to the contrary in any provision of law, be transferred to and vest in the person to whom the debt is owing.

(3) Any condition in a policy issued for the purposes of this Chapter purporting either directly or indirectly to avoid the policy or to alter the rights of the parties thereunder upon the happening to the insured person of any of the events specified in clause (a) or clause (b) of sub-section (1) or upon the making of an order for the administration of the estate of a deceased debtor according to the law of insolvency shall be of no effect.

(4) Upon a transfer under sub-section (1) or sub-section (2), the insurer shall be under the same liability to the third party as he would have been to the insured person, but—

(a) if the liability of the insurer to the insured person exceeds the liability of the insured person to the third party, nothing in this Chapter shall affect the rights of the insured person against the insurer in respect of the excess, and

(b) if the liability of the insurer to the insured person is less than the liability of the insured person to the third party, nothing in this Chapter shall affect the rights of the third party against the insured person in respect of the balance.

Rights of third parties against insurers on insolvency of the insured.

Duty to give information as to insurance.

151. (1) No person against whom a claim is made in respect of any liability referred to in clause (b) of sub-section (1) of section 147 shall on demand by or on behalf of the person making the claim refuse to state whether or not he was insured in respect of that liability by any policy issued under the provisions of this Chapter, or would have been so insured if the insurer had not avoided or cancelled the policy, nor shall he refuse, if he was or would have been so insured, to give such particulars with respect to that policy as were specified in the certificate of insurance issued in respect thereof.

(2) In the event of any person becoming insolvent or making a composition or arrangement with his creditors or in the event of an order being made for the administration of the estate of a deceased person according to the law of insolvency, or in the event of a winding up order being made or a resolution for a voluntary winding up being passed with respect to any company or of a receiver or manager of the company's business or undertaking being duly appointed or of possession being taken by or on behalf of the holders of any debentures secured by a floating charge on any property comprised in or subject to the charge, it shall be the duty of the insolvent debtor, personal representative of the deceased debtor or company, as the case may be, or the official assignee or receiver in insolvency, trustee, liquidator, receiver or manager, or person in possession of the property to give at the request of any person claiming that the insolvent debtor, deceased debtor or company is under such liability to him as is covered by the provisions of this Chapter, such information as may reasonably be required by him for the purpose of ascertaining whether any rights have been transferred to and vested in him by section 150, and for the purpose of enforcing such rights, if any; and any such contract of insurance as purports whether directly or indirectly to avoid the contract or to alter the rights of the parties thereunder upon the giving of such information in the events aforesaid, or otherwise to prohibit or prevent the giving thereof in the said events, shall be of no effect.

(3) If, from the information given to any person in pursuance of sub-section (2) or otherwise, he has reasonable ground for supporting that there have or may have been transferred to him under this Chapter rights against any particular insurer, that insurer shall be subject to the same duty as is imposed by the said sub-section on the persons therein mentioned.

(4) The duty to give the information imposed by this section shall include a duty to allow all contracts of insurance, receipts for premiums, and other relevant documents in the possession or power of the person on whom the duty is so imposed to be inspected and copies thereof to be taken.

Settlement between insurers and insured persons.

152. (1) No settlement made by an insurer in respect of any claim which might be made by a third party in respect of any liability of the nature referred to in clause (b) of sub-section (1) of section 147 shall be valid unless such third party is a party to the settlement.

(2) Where a person who is insured under a policy issued for the purposes of this Chapter has become insolvent, or where, if such insured person is a company, a winding up order has been made or a resolution

for a voluntary winding up has been passed with respect to the company, no agreement made between the insurer and the insured person after the liability has been incurred to a third party and after the commencement of the insolvency or winding up, as the case may be, nor any waiver, assignment or other disposition made by or payment made to the insured person after the commencement aforesaid shall be effective to defeat the rights transferred to the third party under this Chapter, but those rights shall be the same as if no such agreement, waiver, assignment or disposition or payment has been made.

153. (1) For the purposes of sections 150, 151 and 152 a reference to "liabilities to third parties" in relation to a person insured under any policy of insurance shall not include a reference to any liability of that person in the capacity of insurer under some other policy of insurance.

Saving in respect of sections 150, 151 and 152.

(2) The provisions of sections 150, 151 and 152 shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of an amalgamation with another company.

154. Where a certificate of insurance has been issued to the person by whom a policy has been effected, the happening in relation to any person insured by the policy of any such event as is mentioned in sub-section (1) or sub-section (2) of section 150 shall, notwithstanding anything contained in this Chapter, not affect any liability of that person of the nature referred to in clause (b) of sub-section (1) of section 147; but nothing in this section shall affect any rights against the insurer conferred under the provisions of sections 150, 151 and 152 on the person to whom the liability was incurred.

Insolvency of insured persons not to affect liability of insured or claims by third parties.

39 of 1925.

155. Notwithstanding anything contained in section 306 of the Indian Succession Act, 1925, the death of a person in whose favour a certificate of insurance had been issued, if it occurs after the happening of an event which has given rise to a claim under the provisions of this Chapter, shall not be a bar to the survival of any cause of action arising out of the said event against his estate or against the insurer.

Effect of death on certain causes of action.

156. When an insurer has issued a certificate of insurance in respect of a contract of insurance between the insurer and the insured person, then—

Effect of certificate of insurance.

(a) if and so long as the policy described in the certificate has not been issued by the insurer to the insured, the insurer shall, as between himself and any other person except the insured, be deemed to have issued to the insured person a policy of insurance conforming in all respects with the description and particulars stated in such certificate; and

(b) if the insurer has issued to the insured the policy described in the certificate, but the actual terms of the policy are less favourable to persons claiming under or by virtue of the policy against the insurer either directly or through the insured than the particulars of the policy as stated in the certificate, the policy shall, as between the insurer and any other person except the insured, be deemed to be in terms conforming in all respects with the particulars stated in the said certificate.

Transfer of certificate of insurance.

157. (1) Where a person in whose favour the certificate of insurance has been issued in accordance with the provisions of this Chapter transfers to another person the ownership of the motor vehicle in respect of which such insurance was taken together with the policy of insurance relating thereto, the certificate of insurance and the policy described in the certificate shall be deemed to have been transferred in favour of the person to whom the motor vehicle is transferred with effect from the date of its transfer.

(2) The transferee shall apply within fourteen days from the date of transfer in the prescribed form to the insurer for making necessary changes in regard to the fact of transfer in the certificate of insurance and the policy described in the certificate in his favour and the insurer shall make the necessary changes in the certificate and the policy of insurance in regard to the transfer of insurance.

Production of certain certificates, licence and permit in certain cases.

158. (1) Any person driving a motor vehicle in any public place shall, on being so required by a police officer in uniform authorised in this behalf by the State Government, produce—

(a) the certificate of insurance;

(b) the certificate of registration;

(c) the driving licence; and

(d) in the case of a transport vehicle, also the certificate of fitness referred to in section 56 and the permit, relating to the use of the vehicle.

(2) If, where owing to the presence of a motor vehicle in a public place an accident occurs involving death or bodily injury to another person, the driver of the vehicle does not at the time produce the certificates, driving licence and permit referred to in sub-section (1) to a police officer, he shall produce the said certificates, licence and permit at the police station at which he makes the report required by section 134.

(3) No person shall be liable to conviction under sub-section (1) or sub-section (2) by reason only of the failure to produce the certificate of insurance if, within seven days from the date on which its production was required under sub-section (1), or as the case may be, from the date of occurrence of the accident, he produces the certificate at such police station as may have been specified by him to the police officer who required its production or, as the case may be, to the police officer at the site of the accident or to the officer in charge of the police station at which he reported the accident:

Provided that except to such extent and with such modifications as may be prescribed, the provisions of this sub-section shall not apply to the driver of a transport vehicle.

(4) The owner of a motor vehicle shall give such information as he may be required by or on behalf of a police officer empowered in this behalf by the State Government to give for the purpose of determining whether the vehicle was or was not being driven in contravention of

section 146 and on any occasion when the driver was required under this section to produce his certificate of insurance.

(5) In this section, the expression "produce his certificate of insurance" means produce for examination the relevant certificate of insurance or such other evidence as may be prescribed that the vehicle was not being driven in contravention of section 146.

(6) As soon as any information regarding any accident involving death or bodily injury to any person is recorded or a report under this section is completed by a police officer, the officer in charge of the police station shall forward a copy of the same also to the Claims Tribunal having jurisdiction and a copy thereof to the concerned insurer.

159. A State Government may make rules requiring the owner of any motor vehicle when applying whether by payment of a tax or otherwise for authority to use the vehicle in a public place to produce such evidence as may be prescribed by those rules to the effect that either—

Production of certificate of Insurance on application for authority to use vehicle.

(a) on the date when the authority to use the vehicle comes into operation there will be in force the necessary policy of insurance in relation to the use of the vehicle by the applicant or by other persons on his order or with his permission, or

(b) the vehicle is a vehicle to which section 146 does not apply.

160. A registering authority or the officer in charge of a police station shall, if so required by a person who alleges that he is entitled to claim compensation in respect of an accident arising out of the use of a motor vehicle, or if so required by an insurer against whom a claim has been made in respect of any motor vehicle, furnish to that person or to that insurer, as the case may be, on payment of the prescribed fee any information at the disposal of the said authority or the said police officer relating to the identification marks and other particulars of the vehicle and the name and address of the person who was using the vehicle at the time of the accident or was injured by it and the property, if any, damaged in such form and within such time as the Central Government may prescribe.

Duty to furnish particulars of vehicle involved in accident.

161. (1) For the purposes of this section, section 162 and section 163—

45 of 1860.

(a) "grievous hurt" shall have the same meaning as in the Indian Penal Code;

(b) "hit and run motor accident" means an accident arising out of the use of a motor vehicle or motor vehicles the identity whereof cannot be ascertained in spite of reasonable efforts for the purpose;

(c) "scheme" means the scheme framed under section 163.

Special provisions as to compensation in case of hit and run motor accident.

57 of 1972.

(2) Notwithstanding anything contained in the General Insurance Business (Nationalisation) Act, 1972 or any other law for the time being in force or any instrument having the force of law, the General Insurance Corporation of India formed under section 9 of the said Act and the insurance companies for the time being carrying on general insurance business in India shall provide for paying in accordance with

the provisions of this Act and the scheme, compensation in respect of the death of, or grievous hurt to, persons resulting from hit and run motor accidents.

(3) Subject to the provisions of this Act and the scheme, there shall be paid as compensation—

(a) in respect of the death of any person resulting from a hit and run motor accident, a fixed sum of eight thousand and five hundred rupees;

(b) in respect of grievous hurt to any person resulting from a hit and run motor accident, a fixed sum of two thousand rupees.

(4) The provisions of sub-section (1) of section 166 shall apply for the purpose of making applications for compensation under this section as they apply for the purpose of making applications for compensation referred to in that sub-section.

Refund
in
certain
cases of
compensation
paid
under
section
161.

162. (1) The payment of compensation in respect of the death of, or grievous hurt to, any person under section 161 shall be subject to the condition that if any compensation (hereafter in this sub-section referred to as the other compensation) or other amount in lieu of or by way of satisfaction of a claim for compensation is awarded or paid in respect of such death or grievous hurt under any other provision of this Act or any other law or otherwise so much of the other compensation or other amount aforesaid as is equal to the compensation paid under section 161 shall be refunded to the insurer.

(2) Before awarding compensation in respect of an accident involving the death of, or bodily injury to, any person arising out of the use of a motor vehicle or motor vehicles under any provision of this Act (other than section 161) or any other law, the tribunal, court or other authority awarding such compensation shall verify as to whether in respect of such death or bodily injury compensation has already been paid under section 161 or an application for payment of compensation is pending under that section, and such tribunal, court or other authority shall,—

(a) if compensation has already been paid under section 161, direct the person liable to pay the compensation awarded by it to refund to the insurer, so much thereof as is required to be refunded in accordance with the provisions of sub-section (1);

(b) if an application for payment of compensation is pending under section 161 forward the particulars as to the compensation awarded by it to the insurer.

Explanation.—For the purposes of this sub-section, an application for compensation under section 161 shall be deemed to be pending—

(i) if such application has been rejected, till the date of the rejection of the application, and

(ii) in any other case, till the date of payment of compensation in pursuance of the application.

163. (1) The Central Government may, by notification in the Official Gazette, make a scheme specifying, the manner in which the scheme shall be administered by the General Insurance Corporation, the form, manner and the time within which applications for compensation may be made, the officers or authorities to whom such applications may be made, the procedure to be followed by such officers or authorities for considering and passing orders on such applications, and all other matters connected with, or incidental to, the administration of the scheme and the payment of compensation.

Scheme for payment of compensation in case of hit and run motor accidents.

(2) A scheme made under sub-section (1) may provide that—

(a) a contravention of any provision thereof shall be punishable with imprisonment for such term as may be specified but in no case exceeding three months, or with fine which may extend to such amount as may be specified but in no case exceeding five hundred rupees or with both;

(b) the powers, functions or duties conferred or imposed on any officer or authority by such scheme may be delegated with the prior approval in writing of the Central Government, by such officer or authority to any other officer or authority;

(c) any provision of such scheme may operate with retrospective effect from a date not earlier than the date of establishment of the Solatium Fund under the Motor Vehicles Act, 1939, as it stood immediately before the commencement of this Act:

4 of 1939.

Provided that no such retrospective effect shall be given so as to prejudicially affect the interests of any person who may be governed by such provision.

164. (1) The Central Government may make rules for the purpose of carrying into effect the provisions of this Chapter, other than the matters specified in section 159.

Power of Central Government to make rules.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the forms to be used for the purposes of this Chapter;

(b) the making of applications for and the issue of certificates of insurance;

(c) the issue of duplicates to replace certificates of insurance lost, destroyed or mutilated;

(d) the custody, production, cancellation and surrender of certificates of insurance;

(e) the records to be maintained by insurers of policies of insurance issued under this Chapter;

(f) the identification by certificates or otherwise of persons or vehicles exempted from the provisions of this Chapter;

(g) the furnishing of information respecting policies of insurance by insurers;

(h) adopting the provisions of this Chapter to vehicles brought into India by persons making only a temporary stay therein or to vehicles registered in a reciprocating country and operating on any route or within any area in India by applying those provisions with prescribed modifications;

(i) the form in which and the time limit within which the particulars referred to in section 160 may be furnished; and

(j) any other matter which is to be, or may be, prescribed.

CHAPTER XII

CLAIMS TRIBUNALS

Claims
Tribunals.

165. (1) A State Government may, by notification in the Official Gazette, constitute one or more Motor Accidents Claims Tribunals (hereafter in this Chapter referred to as Claims Tribunal) for such area as may be specified in the notification for the purpose of adjudicating upon claims for compensation in respect of accidents involving the death of, or bodily injury to, persons arising out of the use of motor vehicles, or damages to any property of a third party so arising, or both.

Explanation.—For the removal of doubts, it is hereby declared that the expression “claims for compensation in respect of accidents involving the death of or bodily injury to persons arising out of the use of motor vehicles” includes claims for compensation under section 140.

(2) A Claims Tribunal shall consist of such number of members as the State Government may think fit to appoint and where it consists of two or more members, one of them shall be appointed as the Chairman thereof.

(3) A person shall not be qualified for appointment as a member of a Claims Tribunal unless he—

(a) is, or has been, a Judge of a High Court, or

(b) is, or has been, a District Judge, or

(c) is qualified for appointment as a Judge of a High Court.

(4) Where two or more Claims Tribunals are constituted for any area, the State Government, may by general or special order, regulate the distribution of business among them.

Applica-
tion for
compen-
sation.

166. (1) An application for compensation arising out of an accident of the nature specified in sub-section (1) of section 165 may be made—

(a) by the person who has sustained the injury; or

(b) by the owner of the property; or

(c) where death has resulted from the accident, by all or any of the legal representatives of the deceased; or

(d) by any agent duly authorised by the person injured or all or any of the legal representatives of the deceased, as the case may be:

Provided that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined, shall be impleaded as respondents to the application.

(2) Every application under sub-section (1) shall be made to the Claims Tribunal having jurisdiction over the area in which the accident occurred, and shall be in such form and shall contain such particulars as may be prescribed:

Provided that where any claim for compensation under section 140 is made in such application, the application shall contain a separate statement to that effect immediately before the signature of the applicant.

(3) No application for such compensation shall be entertained unless it is made within six months of the occurrence of the accident:

Provided that the Claims Tribunal may entertain the application after the expiry of the said period of six months but not later than twelve months, if it is satisfied that the applicant was prevented by sufficient cause from making the application in time.

(4) Where a police officer has filed a copy of the report regarding an accident to a Claims Tribunal under this Act, the Claims Tribunal may, if it thinks necessary so to do, treat the report as if it were an application for compensation under this Act.

8 of 1923.

167. Notwithstanding anything contained in the Workmen's Compensation Act, 1923, where the death of, or bodily injury to, any person gives rise to a claim for compensation under this Act and also under the Workmen's Compensation Act, 1923, the person entitled to compensation may without prejudice to the provisions of Chapter X claim such compensation under either of those Acts but not under both.

168. (1) On receipt of an application for compensation made under section 166, the Claims Tribunal shall, after giving notice of the application to the insurer and after giving the parties (including the insurer) an opportunity of being heard, hold an inquiry into the claim or, as the case may be, each of the claims and, subject to the provisions of section 162 may make an award determining the amount of compensation which appears to it to be just and specifying the person or persons to whom compensation shall be paid and in making the award the Claims Tribunal shall specify the amount which shall be paid by the insurer or owner or driver of the vehicle involved in the accident or by all or any of them, as the case may be:

Provided that where such application makes a claim for compensation under section 140 in respect of the death or permanent disablement of any person, such claim and any other claim (whether made in such application or otherwise) for compensation in respect of such death or permanent disablement shall be disposed of in accordance with the provisions of Chapter X.

(2) The Claims Tribunal shall arrange to deliver copies of the award to the parties concerned expeditiously and in any case within a period of fifteen days from the date of the award.

Option r
garding
claims f
compen
sation
in certai
cases.

Award
the Clai
Tribunal.

(3) When an award is made under this section, the person who is required to pay any amount in terms of such award shall, within thirty days of the date of announcing the award by the Claims Tribunal, deposit the entire amount awarded in such manner as the Claims Tribunal may direct.

Proce-
dure and
powers of
Claims
Tribunals.

169. (1) In holding any inquiry under section 168, the Claims Tribunal may, subject to any rules that may be made in this behalf, follow such summary procedure as it thinks fit.

(2) The Claims Tribunal shall have all the powers of a Civil Court for the purpose of taking evidence on oath and of enforcing the attendance of witnesses and of compelling the discovery and production of documents and material objects and for such other purposes as may be prescribed; and the Claims Tribunal shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

2 of 1974.

(3) Subject to any rules that may be made in this behalf, the Claims Tribunal may, for the purpose of adjudicating upon any claim for compensation, choose one or more persons possessing special knowledge of any matter relevant to the inquiry to assist it in holding the inquiry.

Implead-
ing
insurer in
certain
cases.

170. Where in the course of any inquiry, the Claims Tribunal is satisfied that—

(a) there is collusion between the person making the claim and the person against whom the claim is made, or

(b) the person against whom the claim is made has failed to contest the claim,

it may, for reasons to be recorded in writing, direct that the insurer who may be liable in respect of such claim, shall be impleaded as a party to the proceeding and the insurer so impleaded shall thereupon have, without prejudice to the provisions contained in subsection (2) of section 149, the right to contest the claim on all or any of the grounds that are available to the person against whom the claim has been made.

Award of
interest
where
any
claim is
allowed.

171. Where any Claims Tribunal allows a claim for compensation made under this Act, such Tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as it may specify in this behalf.

Award of
compensa-
tory costs
in certain
cases.

172. (1) Any Claims Tribunal adjudicating upon any claim for compensation under this Act, may in any case where it is satisfied for reasons to be recorded by it in writing that—

(a) the policy of insurance is void on the ground that it was obtained by representation of fact which was false in any material particular, or

(b) any party or insurer has put forward a false or vexatious claim or defence,

such Tribunal may make an order for the payment, by the party who is guilty of mis-representation or by whom such claim or defence has been put forward of special costs by way of compensation to the insurer or, as the case may be, to the party against whom such claim or defence has been put forward.

(2) No Claims Tribunal shall pass an order for special costs under sub-section (1) for any amount exceeding one thousand rupees.

(3) No person or insurer against whom an order has been made under this section shall, by reason thereof be exempted from any criminal liability in respect of such mis-representation, claim or defence as is referred to in sub-section (1).

(4) Any amount awarded by way of compensation under this section in respect of any mis-representation, claim or defence, shall be taken into account in any subsequent suit for damages for compensation in respect of such mis-representation, claim or defence.

173. (1) Subject to the provisions of sub-section (2), any person aggrieved by an award of a Claims Tribunal may, within ninety days from the date of the award, prefer an appeal to the High Court:

Provided that no appeal by the person who is required to pay any amount in terms of such award shall be entertained by the High Court unless he has deposited with it twenty-five thousand rupees or fifty per cent. of the amount so awarded, whichever is less, in the manner directed by the High Court:

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

(2) No appeal shall lie against any award of a Claims Tribunal if the amount in dispute in the appeal is less than ten thousand rupees.

174. Where any amount is due from any person under an award, the Claims Tribunal may, on an application made to it by the person entitled to the amount, issue a certificate for the amount to the Collector and the Collector shall proceed to recover the same in the same manner as an arrear of land revenue.

175. Where any Claims Tribunal has been constituted for any area, no Civil Court shall have jurisdiction to entertain any question relating to any claim for compensation which may be adjudicated upon by the Claims Tribunal for that area, and no injunction in respect of any action taken or to be taken by or before the Claims Tribunal in respect of the claim for compensation shall be granted by the Civil Court.

176. A State Government may make rules for the purpose of carrying into effect the provisions of sections 165 to 174, and in particular, such rules may provide for all or any of the following matters, namely:—

(a) the form of application for claims for compensation and the particulars it may contain, and the fees, if any, to be paid in respect of such applications;

Appeals.

Recover of mon from insurer arrear land revenue

Bar on jurisdiction of Civil Courts.

Power of State Government to make rules.

(b) the procedure to be followed by a Claims Tribunal in holding an inquiry under this Chapter;

(c) the powers vested in a Civil Court which may be exercised by a Claims Tribunal;

(d) the form and the manner in which and the fees (if any) on payment of which an appeal may be preferred against an award of a Claims Tribunal; and

(e) any other matter which is to be, or may be, prescribed.

CHAPTER XIII

OFFENCES, PENALTIES AND PROCEDURE

General provision for punishment of offences.

177. Whoever contravenes any provision of this Act or of any rule, regulation or notification made thereunder shall, if no penalty is provided for the offence be punishable for the first offence with fine which may extend to one hundred rupees, and for any second or subsequent offence with fine which may extend to three hundred rupees.

Penalty for travelling without pass or ticket and for dereliction of duty on the part of conductor and refusal to ply contract carriage, etc.

178. (1) Whoever travels in a stage carriage without having a proper pass or ticket with him or being in or having alighted from a stage carriage fails or refuses to present for examination or to deliver up his pass or ticket immediately on a requisition being made therefor, shall be punishable with fine which may extend to five hundred rupees.

Explanation.—In this section, “pass” and “ticket” have the meanings respectively assigned to them in section 124.

(2) If the conductor of a stage carriage, or the driver of a stage carriage performing the functions of a conductor in such stage carriage, whose duty is—

(a) to supply a ticket to a person travelling in a stage carriage on payment of fare by such person, either wilfully or negligently,—

(i) fails or refuses to accept the fare when tendered, or

(ii) fails or refuses to supply a ticket, or

(iii) supplies an invalid ticket, or

(iv) supplies a ticket of a lesser value, or

(b) to check any pass or ticket, either wilfully or negligently fails or refuses to do so,

he shall be punishable with fine which may extend to five hundred rupees.

(3) If the holder of a permit or the driver of a contract carriage refuses, in contravention of the provisions of this Act or rules made thereunder, to ply the contract carriage or to carry the passengers, he shall,—

(a) in the case of two-wheeled or three-wheeled motor vehicles, be punishable with fine which may extend to fifty rupees; and

(b) in any other case, be punishable with fine which may extend to two hundred rupees.

179. (1) Whoever wilfully disobeys any direction lawfully given by any person or authority empowered under this Act to give such direction, or obstructs any person or authority in the discharge of any functions which such person or authority is required or empowered under this Act to discharge, shall, if no other penalty is provided for the offence be punishable with fine which may extend to five hundred rupees.

Disobedience of orders, obstruction and refusal of information.

(2) Whoever, being required by or under this Act to supply any information, wilfully withholds such information or gives information which he knows to be false or which he does not believe to be true, shall, if no other penalty is provided for the offence, be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

180. Whenever, being the owner or person in charge of a motor vehicle, causes, or permits, any other person who does not satisfy the provisions of section 3 or section 4 to drive the vehicle 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.

Allowing unauthorised persons to drive vehicles.

181. Whoever, drives a motor vehicle in contravention of section 3 or section 4 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.

Driving vehicles in contravention of section 3 or section 4.

182. (1) Whoever, being disqualified under this Act for holding or obtaining a driving licence drives a motor vehicle in a public place or in any other place, or applies for or obtains a driving licence or, not being entitled to have a driving licence issued to him free of endorsement, applies for or obtains a driving licence without disclosing the endorsement made on a driving licence previously held by him 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, and any driving licence so obtained by him shall be of no effect.

Offences relating to licences.

(2) Whoever, being disqualified under this Act for holding or obtaining a conductor's licence, acts as a conductor of a stage carriage in a public place or applies for or obtains a conductor's licence or, not being entitled to have a conductor's licence issued to him free of endorsement, applies for or obtains a conductor's licence without disclosing the endorsements made on a conductor's licence previously held by him, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both, and any conductor's licence so obtained by him shall be of no effect.

Driving
at exces-
sive
speed,
etc.

183. (1) Whoever, drives a motor vehicle in contravention of the speed limits referred to in section 112 shall be punishable with fine which may extend to four hundred rupees, or, if having been previously convicted of an offence under this sub-section is again convicted of an offence under this sub-section, with fine which may extend to one thousand rupees.

(2) Whoever, causes any person who is employed by him or is subject to his control in driving to drive a motor vehicle in contravention of the speed limits referred to in section 112 shall be punishable with fine which may extend to three hundred rupees, or, if having been previously convicted of an offence under this sub-section, is again convicted of an offence under this sub-section, with fine which may extend to five hundred rupees.

(3) No person shall be convicted of an offence punishable under sub-section (1) solely on the evidence of one witness to the effect that in the opinion of the witness such person was driving at a speed which was unlawful, unless that opinion is shown to be based on an estimate obtained by the use of some mechanical device.

(4) The publication of a time table under which, or the giving of any direction that, any journey or part of a journey is to be completed within a specified time shall, if in the opinion of the Court it is not practicable in the circumstances of the case for that journey or part of a journey to be completed in the specified time without contravening the speed limits referred to in section 112, be *prima facie* evidence that the person who published the time table or gave the direction has committed an offence punishable under sub-section (2).

Driving
dan-
gerously.

184. Whoever, drives a motor vehicle at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case including the nature, condition and use of the place where the vehicle is driven and the amount of traffic which actually is at the time or which might reasonably be expected to be in the place, shall be punishable for the first offence with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, and for any second or subsequent offence if committed within three years of the commission of a previous similar offence with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both.

Driving by
a drunken
person or
by a
person
under the
influence
of drugs.

185. Whoever, while driving, or attempting to drive, a motor vehicle,—

(a) has, in his blood, alcohol in any quantity, howsoever small the quantity may be, or

(b) is under the influence of a drug to such an extent as to be incapable of exercising proper control over the vehicle.

shall be punishable for the first offence with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both; and for a second or subsequent offence, if committed within three years of the commission of the previous similar offence, with imprisonment for term which may

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

Explanation.—For the purposes of this section, the drug or drugs specified by the Central Government in this behalf, by notification in the Official Gazette, shall be deemed to render a person incapable of exercising proper control over a motor vehicle.

186. Whoever drives a motor vehicle in any public place when he is to his knowledge suffering from any disease or disability calculated to cause his driving of the vehicle to be a source of danger to the public, shall be punishable for the first offence with fine which may extend to two hundred rupees and for a second or subsequent offence with fine which may extend to five hundred rupees.

Driving when mentally or physically unfit to drive.

187. Whoever fails to comply with the provisions of clause (c) of subsection (1) of section 132 or of section 133 or section 134 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 or, if having been previously convicted of an offence under this section, he is again convicted of an offence under this section, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Punishment for offences relating to accident.

188. Whoever abets the commission of an offence under section 184, section 185 or section 186 shall be punishable with the punishment provided for the offence.

Punishment for abetment of certain offences.

189. Whoever without the written consent of the State Government permits or takes part in a race or trial of speed of any kind between motor vehicles in any public place shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Racing and trials of speed.

190. (1) Any person who drives or causes or allows to be driven in any public place a motor vehicle or trailer while the vehicle or trailer has any defect, which such person knows of or could have discovered by the exercise of ordinary care and which is calculated to render the driving of the vehicle a source of danger to persons and vehicles using such place, shall be punishable with fine which may extend to two hundred and fifty rupees or, if as a result of such defect an accident is caused causing bodily injury or damage to property, with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

Using vehicle in unsafe condition.

(2) Any person who drives or causes or allows to be driven, in any public place a motor vehicle, which violates the standards prescribed in relation to road safety, control of noise and air-pollution, shall be punishable for the first offence with a fine of one thousand rupees and for any second or subsequent offence with a fine of two thousand rupees.

(3) Any person who drives or causes or allows to be driven, in any public place a motor vehicle which violates the provisions of this Act or the rules made thereunder relating to the carriage of goods which are of dangerous or hazardous nature to human life, shall be punishable for the first offence which may extend to three thousand rupees, or with

imprisonment for a term which may extend to one year, or with both, and for any second or subsequent offence with fine which may extend to five thousand rupees, or with imprisonment for a term which may extend to three years, or with both.

Sale of vehicle in or alteration of vehicle to condition contravening this Act.

191. Whoever being an importer of or dealer in motor vehicles, sells or delivers or offers to sell or deliver a motor vehicle or trailer in such condition that the use thereof in a public place would be in contravention of Chapter VII or any rule made thereunder or alters the motor vehicle or trailer so as to render its condition such that its use in a public place would be in contravention of Chapter VII or any rule made thereunder shall be punishable with fine which may extend to five hundred rupees:

Provided that no person shall be convicted under this section if he proves that he had reasonable cause to believe that the vehicle would not be used in a public place until it had been put into a condition in which it might lawfully be so used.

Using vehicle without registration or permit.

192. (1) Whoever drives a motor vehicle or causes or allows a motor vehicle to be used in contravention of the provisions of section 39 or without the permit required by sub-section (1) of section 66 or in contravention of any condition of such permit relating to the route on which or the area in which or the purpose for which the vehicle may be used or to the maximum number of passengers and maximum weight of luggage that may be carried on the vehicle, shall be punishable for the first offence with fine which may extend to two thousand rupees and for any second or subsequent offence with imprisonment which may extend to six months or with fine which may extend to three thousand rupees, or with both.

(2) Nothing in this section shall apply to the use of a motor vehicle in an emergency for the conveyance of persons suffering from sickness or injury or for the transport of materials for repair or for the transport of food or materials to relieve distress or of medical supplies for a like purpose:

Provided that the person using the vehicle reports such use to the Regional Transport Authority within seven days from such use.

(3) Where a person is convicted of an offence under this section the Court by which such person is convicted may, in addition to any sentence which may be passed under sub-section (1) by order:—

(a) if the vehicle used in the commission of the offence is a motor car, suspend its certificate of registration for a period not exceeding four months;

(b) if the vehicle used in the commission of the offence is a transport vehicle, suspend its permit for a period not exceeding six months or cancel it.

(4) The Court to which an appeal lies from any conviction in respect of an offence of the nature specified in sub-section (1) may set aside or vary any order of suspension or cancellation made under sub-section (3) by the Court below and the Court, to which appeals ordinarily lie from the Court below, may set aside or vary any such order of

suspension or cancelation made by the Court below, notwithstanding that no appeal lies against the conviction in connection with which such order was made.

193. Whoever engages himself as an agent or canvasser in contravention of the provisions of section 93 or of any rules made thereunder shall be punishable for the first offence with fine which may extend to one thousand rupees and for any second or subsequent offence with imprisonment which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

Punishment of agents and canvassers without proper authority.

194. (1) Whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of the provisions of section 113 or of the conditions prescribed under that section or in contravention of any prohibition or restriction imposed under section 113 or section 115 shall be punishable for the first offence with fine which may extend to two thousand rupees, and for any second or subsequent offence with fine which may extend to five thousand rupees.

Driving vehicle exceeding permissible weight.

(2) Any driver of a vehicle who refuses to stop and submit his vehicle to weighing after being directed to do so by an officer authorised in this behalf under section 114 or removes or causes the removal of the load or part of it prior to weighing shall be punishable with fine which may extend to three thousand rupees.

195. (1) Whoever having been convicted of an offence under this Act or the rules made thereunder commits a similar offence on a second or subsequent occasion within three years of the commission of the previous offence, no court shall, except for reasons to be recorded by it in writing, impose on him a fine of less than one-fourth of the maximum amount of the fine impossible for such offence.

Imposition of minimum fine under certain circumstances.

(2) Nothing in sub-section (1) shall be construed as restricting the power of the court from awarding such imprisonment as it considers necessary in the circumstances of the case not exceeding the maximum specified in this Act in respect of that offence.

196. Whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of the provisions of section 146 shall be punishable with imprisonment which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

Driving uninsured vehicle.

197. (1) Whoever takes and drives away any motor vehicle without having either the consent of the owner thereof or other lawful authority shall be punishable with imprisonment which may extend to three months or with fine which may extend to five hundred rupees, or with both.

Taking vehicle without authority.

Provided that no person shall be convicted under this section if the Court is satisfied that such person acted in the reasonable belief that he had lawful authority or in the reasonable belief that the owner would in the circumstances of the case have given his consent if he had been asked therefor.

(2) Whoever, unlawfully by force or threat of force or by any other form of intimidation, seizes or exercises control of a motor vehicle, shall be punishable with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(3) Whoever attempts to commit any of the acts referred to in sub-section (1) or sub-section (2) in relation to any motor vehicle, or abets the commission of any such act, shall also be deemed to have committed an offence under sub-section (1) or, as the case may be, sub-section (2).

Unauthorised interference with vehicle.

198. Whoever otherwise than with lawful authority or reasonable excuse enters or mounts any stationary motor vehicle or tampers with the brake or any part of the mechanism of a motor vehicle shall be punishable with fine which may extend to one hundred rupees.

Offences by companies.

199. (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 contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing 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 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 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.

Compensation of certain offences.

200. (1) Any offence whether committed before or after the commencement of this Act punishable under section 177, section 178, section 179, section 180, section 181, section 182, sub-section (1) or sub-section (2) of section 183, section 184, section 186, section 189, section 191, section 192, section 194, section 196 or section 198 may either before or after the institution of the prosecution, be compounded by such officers or authorities and for such amount as the State Government may, by notification in the Official Gazette, specify in this behalf.

(2) Where an offence has been compounded under sub-section (1), the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of such offence.

201. (1) Whoever keeps a disabled vehicle on any public place, in such a manner, so as to cause impediment to the free flow of traffic, shall be liable for penalty up to fifty rupees per hour, so long as it remains in that position:

Penalty for causing obstruction to free flow of traffic.

Provided that the vehicle involved in accidents shall be liable for penalty only from the time of completion of inspection formalities under the law.

(2) The penalties under this section shall be recoverable by the prescribed officers or authorities.

202. (1) A police officer in uniform may arrest without warrant any person who in his presence commits an offence punishable under section 184 or section 185 or section 197:

Power to arrest without warrant.

Provided that any person so arrested in connection with an offence punishable under section 185 shall, within two hours of his arrest, be subjected to a medical examination referred to in sections 203 and 204 by a registered medical practitioner failing which he shall be released from custody.

(2) A police officer in uniform may arrest without warrant:—

(a) any person who being required under the provisions of this Act to give his name and address refuses to do so, or gives a name or address which the police officer has reason to believe to be false, or

(b) any person concerned in an offence under this Act or reasonably suspected in have been so concerned if the police officer has reason to believe that he will abscond or otherwise avoid the service of a summons.

(3) A police officer arresting without warrant the driver of a motor vehicle shall if the circumstances so require take or cause to be taken any steps he may consider proper for the temporary disposal of the vehicle.

203. (1) A police officer in uniform may require any person driving or attempting to drive a motor vehicle in a public place to provide one or more specimens of breath for breath test there or nearby, if the police officer has any reasonable cause to suspect him of having committed an offence punishable under section 185:

Breath tests.

Provided that no requirement for breath test shall be made unless it is made as soon as reasonably practicable after the commission of such offence.

(2) If a motor vehicle is involved in an accident in a public place and a police officer in uniform has any reasonable cause to suspect that the person who was driving the motor vehicle at the time of the accident, had alcohol in his blood or that he was driving under the influence of a

drug referred to in section 185 he may require the person so driving the motor vehicle, to provide a specimen of his breath for a breath test:—

(a) in the case of a person who is at a hospital as an indoor patient, at the hospital,

(b) in the case of any other person, either at or near the place where the requirement is made, or, if the police officer thinks fit, at a police station specified by the police officer:

Provided that a person shall not be required to provide such a specimen while at a hospital as an indoor patient if the registered medical practitioner in immediate charge of his case is not first notified of the proposal to make the requirement or objects to the provision of a specimen on the ground that its provision or the requirement to provide it would be prejudicial to the proper care or treatment of the patient.

(3) If it appears to a police officer in uniform, in consequence of a breath test carried out by him on any person under sub-section (1) or sub-section (2), that the device by means of which the test has been carried out indicates the presence of alcohol in the person's blood, the police officer may arrest that person without warrant except while that person is at a hospital as an indoor patient.

(4) If a person, required by a police officer under sub-section (1) or sub-section (2) to provide a specimen of breath for a breath test, refuses or fails to do so and the police officer has reasonable cause to suspect him of having alcohol in his blood, the police officer may arrest him without warrant except while he is at a hospital as an indoor patient.

(5) A person arrested under this section shall while at a police station, be given an opportunity to provide a specimen of breath for a breath test there.

(6) The results of a breath test made in pursuance of the provisions of this section shall be admissible in evidence.

Explanation.— For the purposes of this section, "breath test", means a test for the purpose of obtaining an indication of the presence of alcohol in a person's blood carried out, on one or more specimens of breath provided by that person, by means of a device of a type approved by the Central Government, by notification in the Official Gazette, for the purpose of such a test.

Laboratory
test.

204. (1) A person, who has been arrested under section 203 may, while at a police station, be required by a police officer to provide to such registered medical practitioner as may be produced by such police officer, a specimen of his blood for a laboratory test,—

(a) it appears to the police officer that the device, by means of which breath test was taken in relation to such person, indicates the presence of alcohol in the blood of such person, or

(b) such person, when given the opportunity to submit to a breath test, has refused, omitted or failed to do so:

Provided that where the person required to provide such specimen is a female and the registered medical practitioner produced by such police officer is a male medical practitioner, the specimen shall be taken only in the presence of a female, whether a medical practitioner or not.

(2) A person while at a hospital as an indoor patient may be required by a police officer to provide at the hospital a specimen of his blood for a laboratory test:—

(a) if it appears to the police officer that the device by means of which test is carried out in relation to the breath of such person indicates the presence of alcohol in the blood of such person, or

(b) if the person having been required, whether at the hospital or elsewhere, to provide a specimen of breath for a breath test, has refused, omitted or failed to do so and a police officer has reasonable cause to suspect him of having alcohol in his blood:

Provided that a person shall not be required to provide a specimen of his blood for a laboratory test under this sub-section if the registered medical practitioner in immediate charge of his case is not first notified of the proposal to make the requirement or objects to the provision of such specimen on the ground that its provision or the requirement to provide it would be prejudicial to the proper care or treatment of the patient.

(3) The results of a laboratory test made in pursuance of this section shall be admissible in evidence.

Explanation.—For the purposes of this section, “laboratory test” means the analysis of a specimen of blood made at a laboratory established, maintained or recognised by the Central Government or a State Government.

205. In any proceeding for an offence punishable under section 185 if it is proved that the accused, when requested by a police officer at any time so to do, had refused, omitted or failed to consent to the taking of or providing a specimen of his breath for a breath test or a specimen of his blood for a laboratory test, his refusal, omission or failure may, unless reasonable cause therefor is shown, be presumed to be a circumstance supporting any evidence given on behalf of the prosecution, or rebutting any evidence given on behalf of the defence, with respect to his condition at that time.

Presumption of unfitness to drive.

206. (1) Any police officer or other person authorised in this behalf by the State Government may, if he has reason to believe that any identification mark carried on a motor vehicle or any licence, permit, certificate of registration, certificate of insurance or other document produced to him by the driver or person in charge of a motor vehicle is a false document within the meaning of section 464 of the Indian Penal Code, seize the mark or document and call upon the driver or owner of the vehicle to account for his possession of or the presence in the vehicle of such mark or document.

Power of police officer to impound document

45 of 1860.

(2) Any police officer or other person authorised in this behalf by the State Government may, if he has reason to believe that the driver of a 46 Law—91.

motor vehicle who is charged with any offence under this Act may abscond or otherwise avoid the service of a summons, seize any licence held by such driver and forward it to the Court taking cognizance of the offence and the said Court shall on the first appearance of such driver before it, return the licence to him in exchange for the temporary acknowledgment given under sub-section (3).

(3) A police officer or other person seizing a licence under sub-section (2) shall give to the person surrendering the licence a temporary acknowledgment therefor and such acknowledgment shall authorise the holder to drive until the licence has been returned to him or until such date as may be specified by the police officer or other person in the acknowledgment, whichever is earlier:

Provided that if any magistrate, police officer or other person authorised by the State Government in this behalf is, on an application made to him, satisfied that the licence cannot be, or has not been, returned to the holder thereof before the date specified in the acknowledgment for any reason for which the holder is not responsible, the magistrate, police officer or other person, as the case may be, may extend the period of authorization to drive to such date as may be specified in the acknowledgment.

Power to detain vehicles used without certificate of registration permit, etc.

207. (1) Any police officer or other person authorised in this behalf by the State Government may, if he has reason to believe that a motor vehicle has been or is being used in contravention of the provisions of section 3 or section 4 or section 39 or without the permit required by sub-section (1) of section 66 or in contravention of any condition of such permit relating to the route on which or the area in which or the purpose for which the vehicle may be used, seize and detain the vehicle, in the prescribed manner and for this purpose take or cause to be taken any steps he may consider proper for the temporary safe custody of the vehicle:

Provided that where any such officer or person has reason to believe that a motor vehicle has been or is being used in contravention of section 3 or section 4 or without the permit required by sub-section (1) of section 66 he may, instead of seizing the vehicle, seize the certificate of registration of the vehicle and shall issue an acknowledgment in respect thereof.

(2) Where a motor vehicle has been seized and detained under sub-section (1), the owner or person in charge of the motor vehicle may apply to the transport authority or any officer authorised in this behalf by the State Government together with the relevant documents for the release of the vehicle and such authority or officer may, after verification of such documents, by order release the vehicle subject to such conditions as the authority or officer may deem fit to impose.

Summary disposal of cases.

208. (1) The Court taking cognizance of any offence (other than an offence which the Central Government may by rules specify in this behalf) under this Act,—

(i) may, if the offence is an offence punishable with imprisonment under this Act; and

(ii) shall, in any other case,

state upon the summons to be served on the accused person that he—

(a) may appear by pleader or in person; or

(b) may, by a specified date prior to the hearing of the charge, plead guilty to the charge and remit to the Court, by money order, such sum (not exceeding the maximum fine that may be imposed for the offence) as the Court may specify, and the plea of guilt indicated in the money order coupon itself:

Provided that the Court shall, in the case of any of the offences referred to in sub-section (2), state upon the summons that the accused person, if he pleads guilty, shall so plead in the manner specified in clause (b) and shall forward his driving licence to the Court with his letter containing such plea.

(2) Where the offence dealt with in accordance with sub-section (1) is an offence specified by the Central Government by rules for the purposes of this sub-section, the Court shall, if the accused person pleads guilty to the charge and forward his driving licence to the Court with the letter containing his plea, make an endorsement of such conviction on his driving licence.

(3) Where an accused person pleads guilty and remits the sum specified and has complied with the provisions of sub-section (1), or as the case may be, sub-sections (1) and (2), no further proceedings in respect of the offence shall be taken against him nor shall he be liable, notwithstanding anything to the contrary contained in this Act, to be disqualified for holding or obtaining a licence by reason of his having pleaded guilty.

209. No person prosecuted for an offence punishable under section 183 or section 184 shall be convicted unless—

(a) he was warned at the time the offence was committed that the question of prosecuting him would be taken into consideration, or

(b) within fourteen days from the commission of the offence, a notice specifying the nature of the offence and the time and place where it is alleged to have been committed was served on or sent by registered post to him or the person registered as the owner of the vehicle at the time of the commission of the offence, or

(c) within twenty-eight days of the commission of the offence, a summons for the offence was served on him:

Provided that nothing, in this section shall apply where the Court is satisfied that—

(a) the failure to serve the notice or summons referred to in this sub-section was due to the fact that neither the name and address of the accused nor the name and address of the registered owner of

Restriction on conviction.

the vehicle could with reasonable diligence have been ascertained in time, or

(b) such failure was brought about by the conduct of the accused.

Courts to send intimation about conviction.

210. Every Court by which any person holding a driving licence is convicted of an offence under this Act or of an offence in the commission of which a motor vehicle was used, shall send intimation to—

(a) the licensing authority which issued the driving licence, and

(b) the licensing authority by whom the licence was last renewed,

and every such intimation shall state the name and address of the holder of the licence, the licence number, the date of issue and renewal of the same, the nature of the offence, the punishment awarded for the same and such other particulars as may be prescribed.

CHAPTER XIV

MISCELLANEOUS

Power to levy fee.

211. Any rule which the Central Government or the State Government is empowered to make under this Act may, notwithstanding the absence of any express provision to that effect, provide for the levy of such fees in respect of applications, amendment of documents, issue of certificates, licences, permits, tests, endorsements, badges, plates, counter-signatures, authorisation, supply of statistics or copies of documents or orders and for any other purpose or matter involving the rendering of any service by the officers or authorities under this Act or any rule made thereunder as may be considered necessary:

Provided that the Government may, if it considers necessary so to do, in the public interest, by general or special order, exempt any class of persons from the payment of any such fee either in part or in full.

Publication, commencement and laying of rules and notifications.

212. (1) The power to make rules under this Act is subject to the condition of the rules being made after previous publication.

(2) All rules made under this Act shall be published in the Official Gazette, and shall unless some later date is appointed, come into force on the date of such publication.

(3) Every rule made by any State Government shall be laid, as soon as may be after it is made before the State Legislature.

(4) Every rule made by the Central Government under this Act, every scheme made by the Central Government under sub-section (1) of section 75 and sub-section (1) of section 163 and every notification issued by the Central Government under sub-section (4) of section 41, sub-section (1) of section 58, sub-section (1) of section 59, the proviso to

sub-section (1) of section 112 and sub-section (4) of section 213 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, scheme or notification or both Houses agree that the rule or scheme should not be made or the notification should not be issued, the rule, 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 rule, scheme or notification.

213. (1) The State Government may, for the purpose of carrying into effect the provisions of this Act, establish a Motor Vehicles Department and appoint as officers thereof such persons as it thinks fit.

Appoint-
ment of
motor
vehicles
officers.

45 of 1860.

(2) Every such officer shall be deemed to be a public servant within the meaning of the Indian Penal Code.

(3) The State Government may make rules to regulate the discharge by officers of the Motor Vehicles Department of their functions and in particular and without prejudice to the generality of the foregoing power to prescribe the uniform to be worn by them, the authorities to which they shall be subordinate, the duties to be performed by them, the powers (including the powers exercisable by police officers under this Act) to be exercised by them, and the conditions governing the exercise of such powers.

(4) The Central Government may, having regard to the objects of the Act, by notification in the Official Gazette, prescribe the minimum qualifications which the said officers or any class thereof shall possess for being appointed as such.

(5) In addition to the powers that may be conferred on any officer of the Motor Vehicles Department under sub-section (3), such officer as may be empowered by the State Government in this behalf shall also have the power to,—

(a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and the rules made thereunder are being observed;

(b) with such assistance, if any, as he thinks fit, enter, inspect and search any premises which is in the occupation of a person who, he has reason to believe, has committed an offence under this Act or in which a motor vehicle in respect of which such offence has been committed is kept:

Provided that,—

(i) any such search without a warrant shall be made only by an officer of the rank of a gazetted officer;

(ii) where the offence is punishable with fine only the search shall not be made after sunset and before sunrise;

(iii) where the search is made without a warrant, the gazetted officer concerned shall record in writing the grounds for not obtaining a warrant and report to his immediate superior that such search has been made;

(c) examine any person and require the production of any register or other document maintained in pursuance of this Act, and take on the spot or otherwise statements of any person which he may consider necessary for carrying out the purposes of this Act;

(d) seize or take copies of any registers or documents or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed;

(e) launch prosecutions in respect of any offence under this Act and to take a bond for ensuring the attendance of the offender before any court;

(f) exercise such other powers as may be prescribed:

Provided that no person shall be compelled under this sub-section to answer any question or make any statement tending to incriminate himself.

(6) The provisions of the Code of Criminal Procedure, 1973 shall, so far as may be apply to any search or seizure under this section as they apply to any search or seizure under the authority of any warrant issued under section 94 of that Code.

2 of 1974.

Effect of
appeal
and
revision
on orders
passed by
original
authority.

214. (1) Where an appeal has been preferred or an application for revision has been made against any order passed by an original authority under this Act, the appeal or the application for revision shall not operate as a stay of the order passed by the original authority and such order shall remain in force pending the disposal of the appeal or the application for revision, as the case may be, unless the prescribed appellate authority or revisional authority otherwise directs.

(2) Notwithstanding anything contained in sub-section (1), if an application made by a person for the renewal of permit has been rejected by the original authority and such person has preferred an appeal or made an application for revision under this Act against such rejection, the appellate authority or, as the case may be, the revisional authority may by order direct that the permit shall, notwithstanding the expiration of the term specified therein, continue to be valid until the appeal or application for revision is disposed of.

(3) No order made by a competent authority under this Act shall be reversed or altered on appeal or revision on account of any error, omission or irregularity in the proceedings, unless it appears to the prescribed appellate authority or revisional authority, as the case may be, that such error, omission or irregularity has, in fact, occasioned a failure of justice.

215. (1) The Central Government may, by notification in the Official Gazette, constitute for the country a National Road Safety Council consisting of a Chairman and such other members as that Government considers necessary and on such terms and conditions as that Government may determine.

Road
Safety
Councils
and
Com-
mittees.

(2) A State Government may, by notification in the Official Gazette, constitute for the State a State Road Safety Council consisting of a Chairman and such other members as that Government considers necessary and on such terms and conditions as that Government may determine.

(3) A State Government may, by notification in the Official Gazette, constitute District Road Safety Committee for each district in the State consisting of a Chairman and such other members as that Government considers necessary and on such terms and conditions as that Government may determine.

(4) The Councils and Committees referred to in this section shall discharge such functions relating to the road safety programmes as the Central Government or the State Government, as the case may be, may, having regard to the objects of the Act, specify.

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

Power to
remove
difficul-
ties.

Provided that no such order shall be made after the expiry of a period of three years from the date of commencement of this Act.

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

4 of 1939.

217. (1) The Motor Vehicles Act, 1939 and any law corresponding to that Act in force in any State immediately before the commencement of this Act in that State (hereafter in this section referred to as the repealed enactments) are hereby repealed.

Repeal
and
savings.

(2) Notwithstanding the repeal by sub-section (1) of the repealed enactments,—

(a) any notification, rule, regulation, order or notice issued, or any appointment or declaration made, or exemption granted, or any confiscation made, or any penalty or fine imposed, any forfeiture, cancellation or any other thing done, or any other action taken under the repealed enactments, and in force immediately before such commencement shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been issued, made, granted, done or taken under the corresponding provision of this Act;

(b) any certificate of fitness or registration or licence or permit issued or granted under the repealed enactments shall continue to have effect after such commencement under the same conditions and for the same period as if this Act had not been passed;

(c) any document referring to any of the repealed enactments or the provisions thereof, shall be construed as referring to this Act or to the corresponding provision of this Act;

(d) the assignment of distinguishing marks by the registering authority and the manner of display on motor vehicles in accordance with the provision of the repealed enactments shall, after the commencement of this Act, continue to remain in force until a notification under sub-section (6) of section 41 of this Act is issued;

(e) any scheme made under section 68C of the Motor Vehicles Act, 1939 or under the corresponding law, if any, in force in any State and pending immediately before the commencement of this Act shall be disposed of in accordance with the provisions of section 100 of this Act;

4 of 1939.

(f) the permits issued under sub-section (1A) of section 68F of the Motor Vehicles Act, 1939, or under the corresponding provision, if any, in force in any State immediately before the commencement of this Act shall continue to remain in force until the approved scheme under Chapter VI of this Act is published.

4 of 1939.

(3) Any penalty payable under any of the repealed enactments may be recovered in the manner provided by or under this Act, but without prejudice to any action already taken for the recovery of such penalty under the repealed enactments.

(4) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897, with regard to the effect of repeals.

10 of 1897.

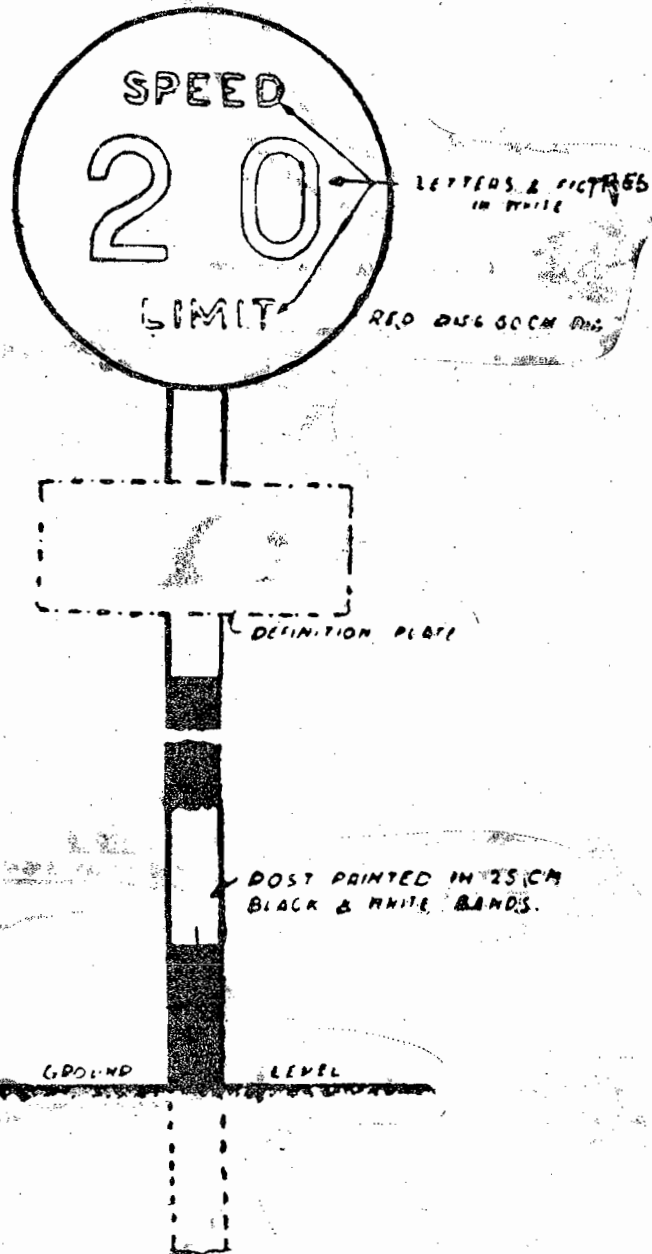
THE SCHEDULE

(See sections 116 and 119)

TRAFFIC SIGNS

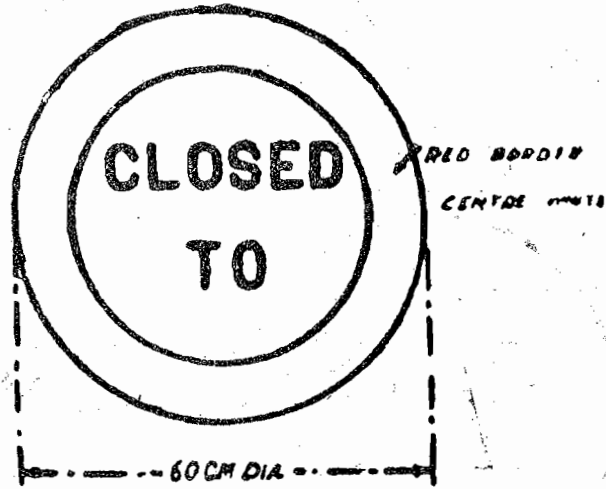
Part A.—Mandatory Signs

NO. 1
SPEED LIMIT

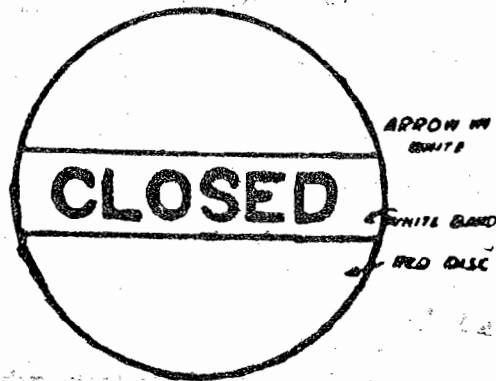


- Notes—(1) The figure 20 is given merely as an example. The actual figures will be as prescribed in each case where this sign is used.
- (2) The general design of the post is given for guidance.
- (3) Where the speed limit is, or is to be, imposed only on a certain class or classes of motor vehicle, the class or classes will be specified on the "definition plate". Where in addition to a general speed limit applicable to other motor vehicles a special speed limit is or is to be imposed on vehicles of a certain class or classes, the general speed limit will be specified on the disc and the special speed limit together with the class or classes of vehicle to which it applies, will be specified on the "definition plate".
- (4) The paints to be used on the traffic signs should be of reflecting kind.

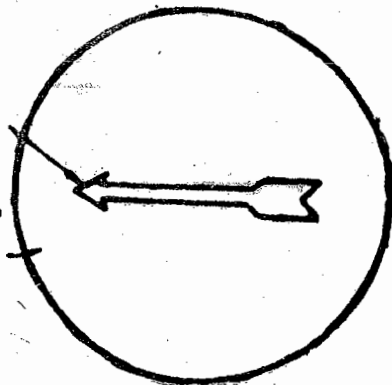
NO. 2
WEIGHT LIMIT



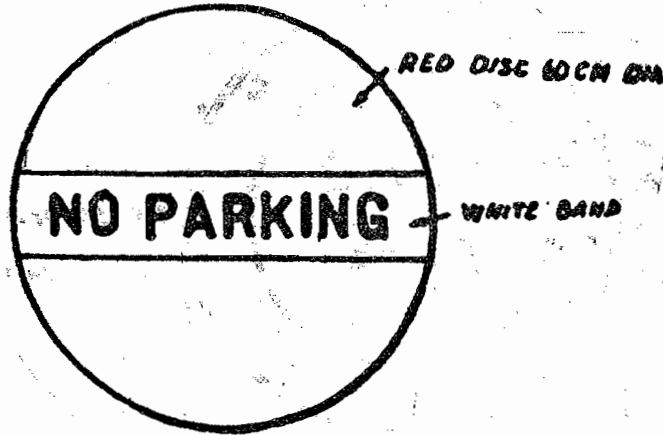
NO. 3
TOTAL PROHIBITION



NO. 4
DIRECTION SIGN

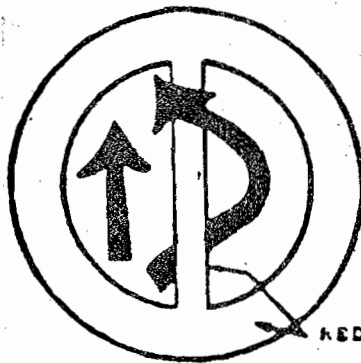


NO. 5¹
NO PARKING

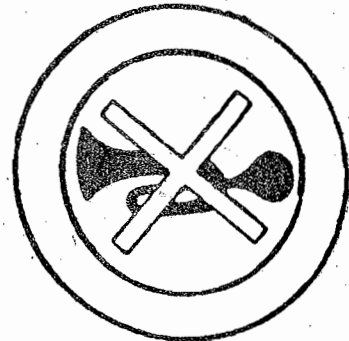


Note—Sign No. 5 as here set forth may be amplified by instructions inscribed upon a definition plate placed below it as in the general arrangement set forth in sign No. 1 of this Part. Upon the definition plate may be set forth the times during which parking is prohibited. In like manner an arrow-head inscribed on the definition plate will indicate that parking is prohibited on that part of the street or road lying to the side of the sign to which the arrow-head points.

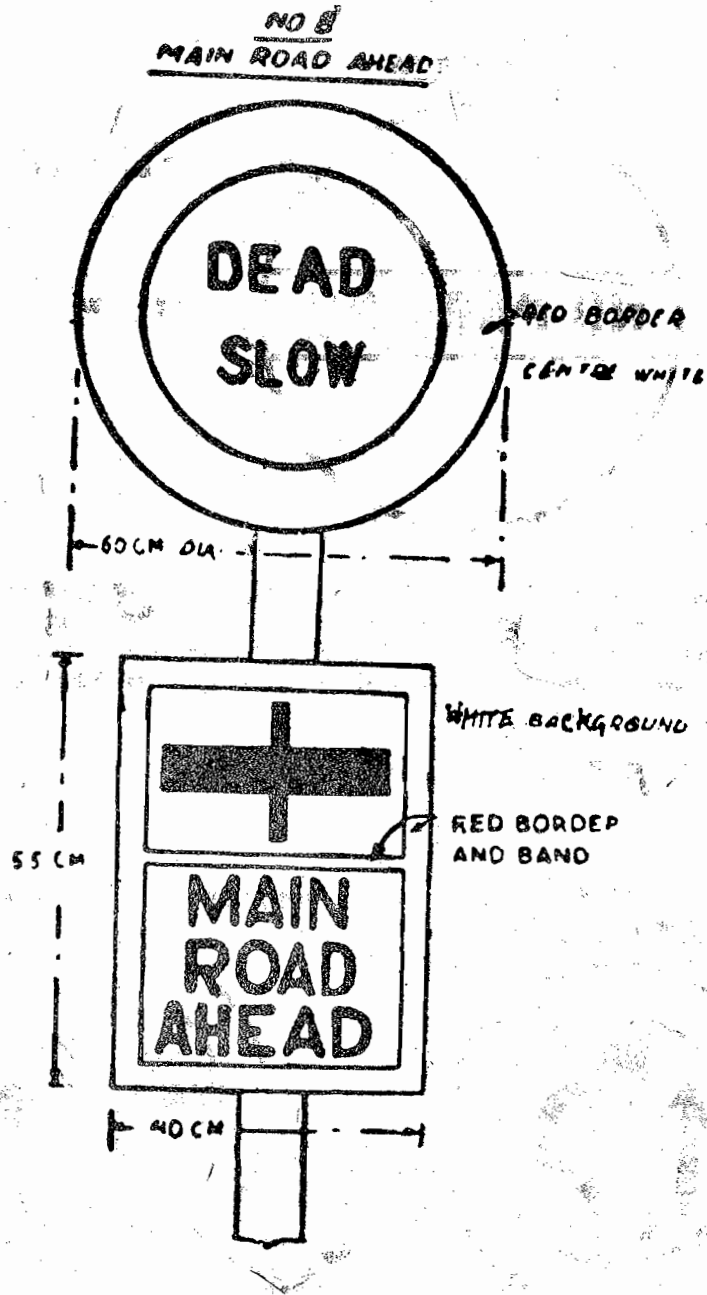
NO. 6
OVERTAKING PROHIBITED



2 (NO. 7)
USE OF SOUND SIGNALS PROHIBITED

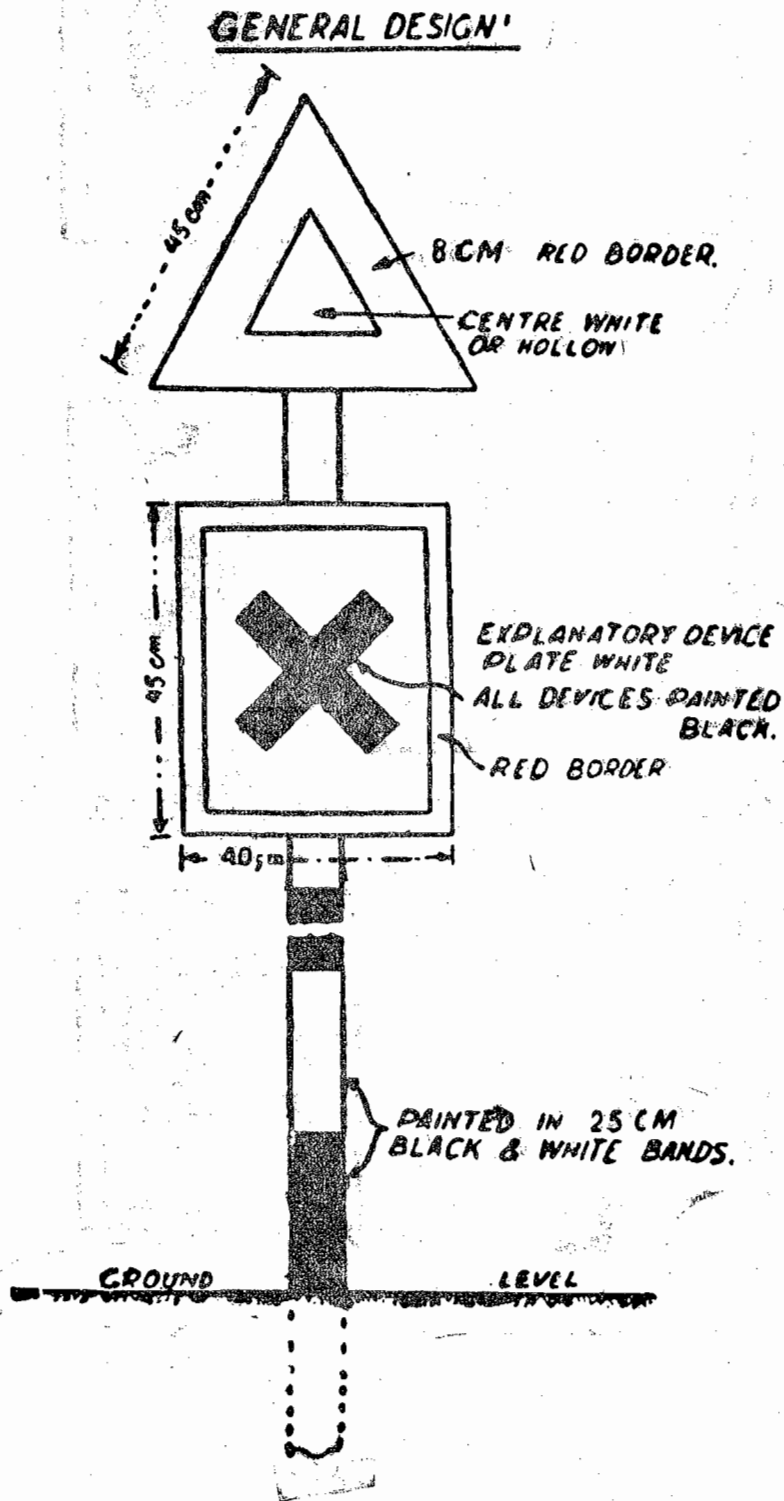


Cross and border—Red
Background—White
Device—Black.



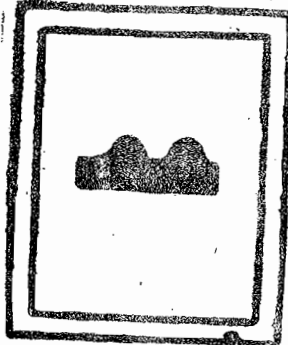
Part B.—Cautionary Signs

The signs of this Part shall be used in conjunction with a red triangular plate, the centre of which shall be either hollow or painted white, in the manner indicated in the general design reproduced below.

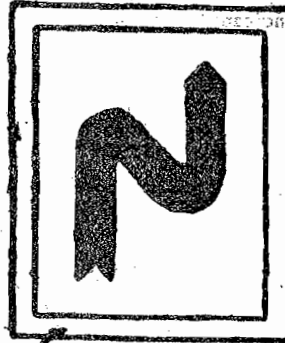


to include...

NO. 1
ROUGH ROAD

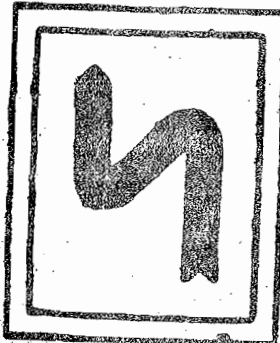


NO. 2
ZIG-ZAG (RIGHT)

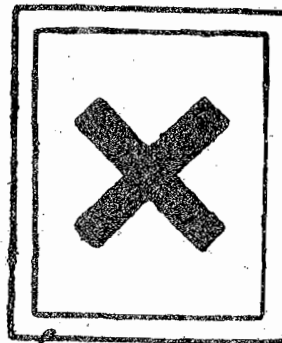


RED BORDER

NO. 2
ZIG-ZAG (LEFT)

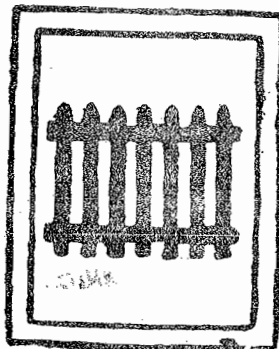


NO. 3
CROSS ROADS

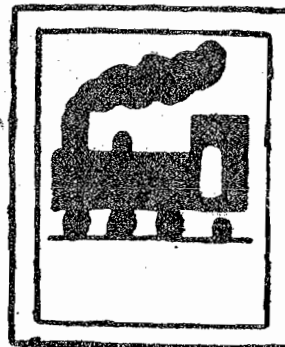


RED BORDER

NO. 4
LEVEL CROSSING
(GUARDED)



NO. 5
LEVEL CROSSING
(UNGUARDED)

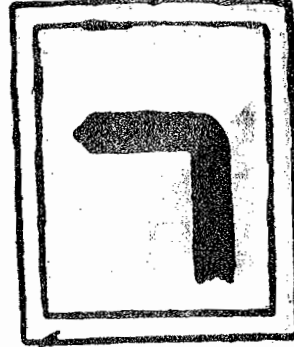


RED BORDER

NO. 5
RIGHT TURN



NO. 6
LEFT TURN

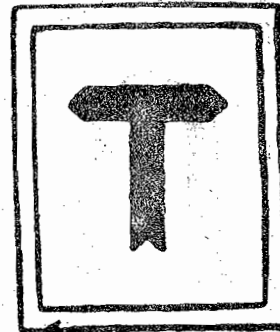


RED BORDER

NO. 7
SCHOOL

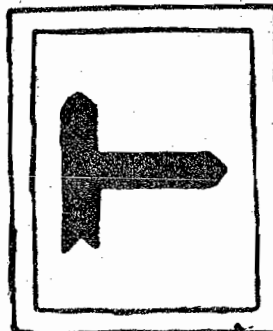


NO. 8
DEAD END CROSS ROAD

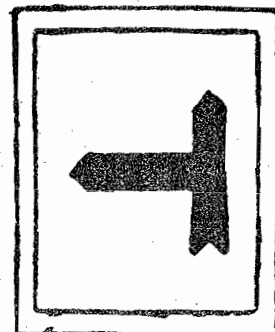


RED BORDER

NO. 9
SIDE ROAD (RIGHT)



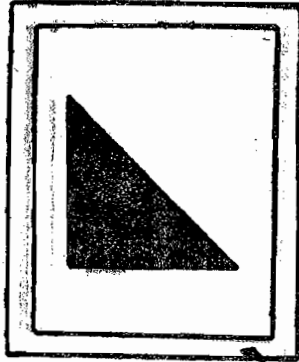
NO. 9
SIDE ROAD (LEFT)



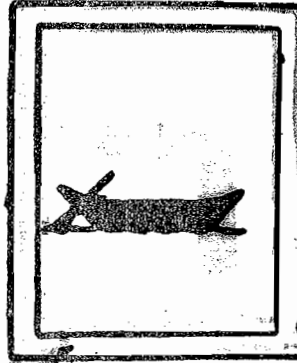
RED BORDER

Motor Vehicles

NO. 10
STEEP HILL



NO. 11
FERRY



RED BORDER

NO. 12
HAIR PIN BEND (RIGHT)

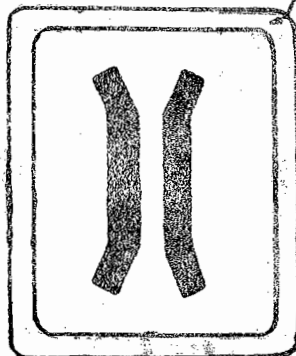


NO. 12
HAIR PIN BEND (LEFT)



RED BORDER

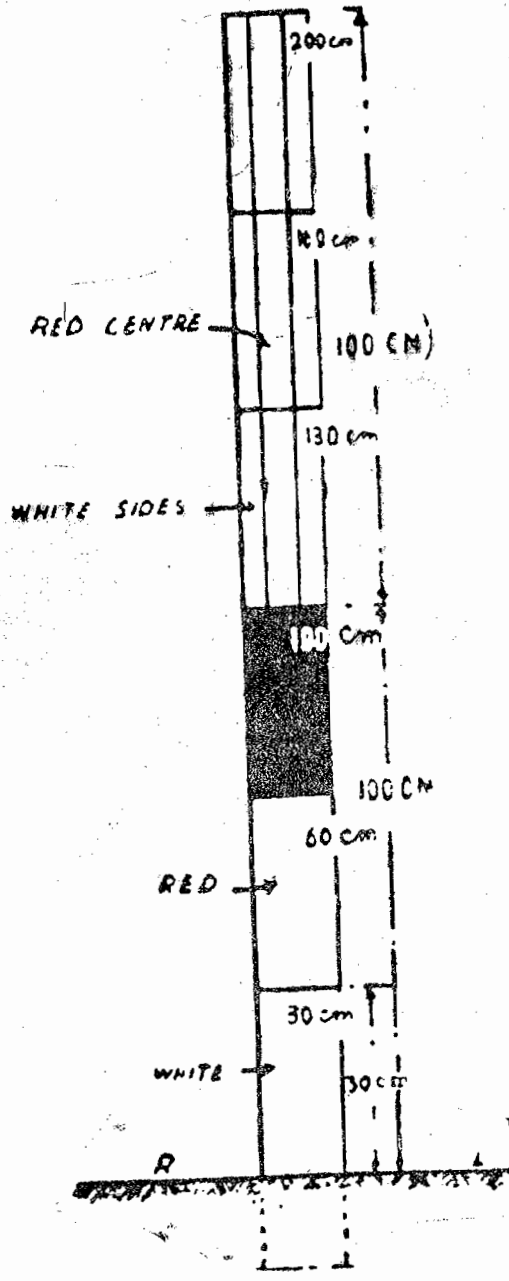
NO. 13
NARROW BRIDGE



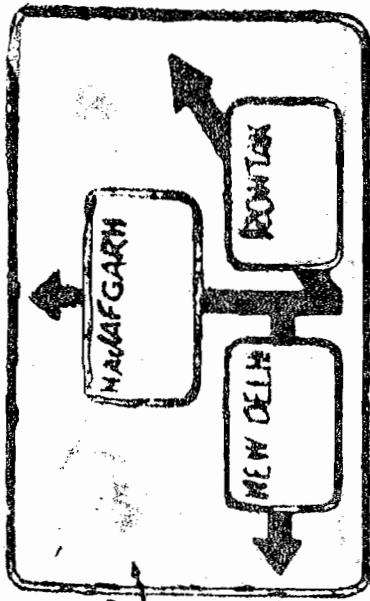
RED BORDER

Part C.—Informatory Signs

NO. 1
FLOOD GAUGE
SIDE ELEVATION

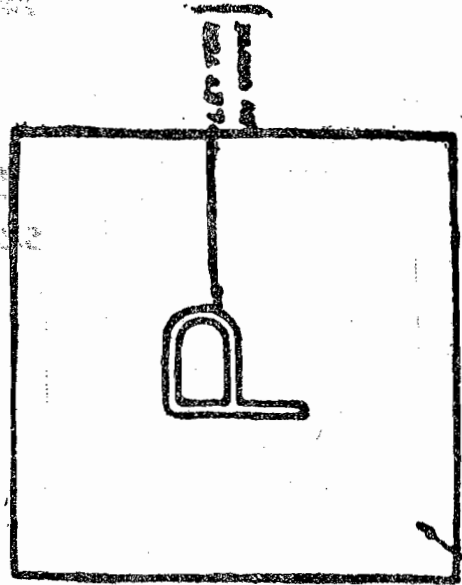


NO. 2
ROAD JUNCTION APPROACH



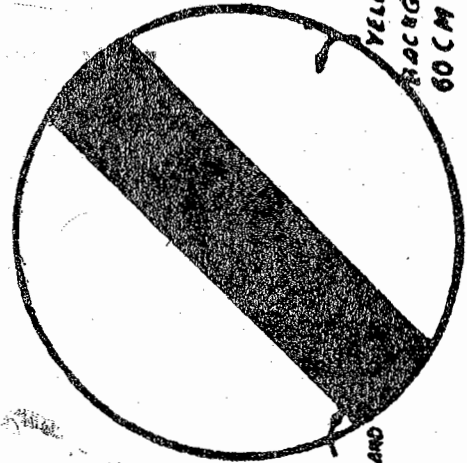
BLACK BOUNDARY
YELLOW

NO. 4
PARKING SIGN



BLUE BACKGROUND
60 CM SQUARE

NO. 3
END OF SPEED LIMIT



BROAD
BLACK BAND
YELLOW
BACKGROUND
60 CM DIA.

THE SALARY, ALLOWANCES AND PENSION OF MEMBERS OF PARLIAMENT (AMENDMENT) ACT, 1988

No. 60 OF 1988

[8th November, 1988.]

An Act further to amend the Salary, Allowances and Pension of Members of Parliament Act, 1954.

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

1. (1) This Act may be called the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1988.

Short title and commencement.

(2) It shall be deemed to have come into force on the 1st day of April, 1988.

30 of 1954.

2. In section 3 of the Salary, Allowances and Pension of Members of Parliament Act, 1954 (hereinafter referred to as the principal Act), for the words "one thousand rupees" and "seventy-five rupees", the words "one thousand and five hundred rupees" and "one hundred and fifty rupees" shall, respectively, be substituted.

Amendment of section 3.

3. In sub-section (1) of section 4 of the principal Act, in clause (c), after sub-clause (ii), the following proviso shall be inserted, namely:—

Amendment of section 4.

"Provided that where the spouse, if any, of a member performs such journey or part thereof by road unaccompanied by such member, the road mileage prescribed under this sub-clause shall be allowed to him for such journey or part thereof."

4. In section 6 of the principal Act, for the words "first class", wherever they occur, the words "air-conditioned two-tier" shall be substituted.

Amendment of section 6.

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

Amendment of section 6A.

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

"Without prejudice to the provisions of section 6, every member representing the Union territory of the Andaman and Nicobar Islands or the Union territory of Lakshadweep shall—

(a) be provided with one free non-transferable pass which shall entitle him to travel at any time by the highest

class by steamer to and from any part of his constituency and any other part of his constituency or the nearest part in the main land of India; and

(b) be entitled to an amount equal to the fare by air from his usual place of residence to the nearest airport in the main land of India.”;

(b) in sub-section (6),—

(i) in the opening portion, for the words “a free steamer pass issued to a member”, the words “the facilities provided to a member” shall be substituted;

(ii) in clause (i),—

(A) for the words “lowest class”, the words “highest class” shall be substituted;

(B) for the word “and”, occurring at the end, the word “or” shall be substituted;

(iii) in clause (ii), for the words “once during every session”, the words “at any time between the Island and the main land of India; and” shall be substituted;

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

“(iii) to an amount equal to the fare by air either for the spouse, if any, of the member or for one person to accompany the member from the usual place of residence in the Island to the nearest airport of the main land of India.”.

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

Insertion
of new
section
6AA.

Special
facility
to mem-
bers from
Ladakh.

“6AA. (1) Without prejudice to the provisions of section 6, every member who has his ordinary place of residence in the Ladakh area of the State of Jammu and Kashmir shall be entitled to an amount equal to the fare by air for each single journey by air performed by him from any airport in Ladakh to the airport in Delhi and back at any time.

(2) In addition to the air travel provided to a member under sub-section (1), he shall also be entitled to an amount equal to the fare by air for each single journey by air performed by the spouse, if any, of the member or one person to accompany such member, from any airport in Ladakh area to the airport in Delhi and back at any time.”.

7. In section 6B of the principal Act,—

Amend-
ment of
section
6B.

(a) in clause (i), for the words “and first class”, the words “and air-conditioned two-tier” shall be substituted;

(b) in clause (ii), for the words “first class”, the words “air-conditioned two-tier” shall be substituted;

(c) in clause (iii),—

(i) in the opening paragraph,—

(1) for the words “first class”, the words “air-conditioned two-tier” shall be substituted;

(2) for the portion beginning with the words “and if such journey” and ending with the words “or part thereof”, the following shall be substituted, namely:—

“and if such journey or any part thereof is performed by air from any place other than the usual place of residence of the member, to Delhi and back to an amount equal to the fare by air for such journey or part thereof:

Provided that where such journey or part thereof by such spouse is performed by air from any other place, the expenditure on such journey or part thereof shall not exceed the amount payable if the journey had been performed from the usual place of residence of the member to Delhi and back:”;

(ii) for the proviso, the following proviso shall be substituted, namely,—

“Provided further that where a member travels by rail in first class air-conditioned and no person accompanies that member in that journey in air-conditioned two-tier by virtue of the free air-conditioned two-tier railway pass referred to in clause (i), then in determining the amount payable by the member under clause (i), the amount of air-conditioned two-tier fare for such journey shall be adjusted against the difference referred to in that clause; so, however, that the member shall not be entitled to claim the balance of such air-conditioned two-tier fare left after such adjustment.”.

8. In section 8 of the principal Act, after the words “constituency allowance”, the words “, office expense allowance” shall be inserted.

Amendment of section 8

9. In section 8A of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

Amendment of section 8

“(1A) With effect from the commencement of the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1988, there shall be paid a pension of five hundred rupees per mensem to the spouse, if any, or dependant of any member who dies during his term of office as such member, for a period of five years from the date of his death.”.

10. In section 8B of the principal Act, for the words “twenty thousand rupees”, the words “fifty thousand rupees” shall be substituted.

Amendment of section 8B.

THE MATERNITY BENEFIT (AMENDMENT) ACT, 1988

No. 61 OF 1988

[30th November, 1988.]

An Act further to amend the Maternity Benefit Act, 1961.

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

Short
title
and
commen-
cement.

1. (1) This Act may be called the Maternity Benefit (Amendment) Act, 1988.

(2) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

Amend-
ment of
section
2.

2. In section 2 of the Maternity Benefit Act, 1961 (hereinafter referred to as the principal Act), in sub-section (1), for the opening paragraph, the following shall be substituted, namely:—

53 of 1961.

“(1) It applies, in the first instance,—

(a) to every establishment being a factory, mine or plantation including any such establishment belonging to Government and to every establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances;

(b) to every shop or establishment within the meaning of any law for the time being in force in relation to shops and establishments in a State, in which ten or more persons are employed, or were employed, on any day of the preceding twelve months:”.

Amend-
ment of
section
3.

3. In section 3 of the principal Act, in clause (e),—

(a) in sub-clause (iv), the word “or” at the end shall be omitted;

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

“(iva) a shop or establishment; or”.

Amend-
ment of
section
5.

4. In section 5 of the principal Act,—

(a) in sub-section (1),—

(i) for the opening paragraph, the following shall be substituted, namely:—

“(1) Subject to the provisions of this Act, every woman shall be entitled to, and her employer shall be liable for,

1. 10-1-1989; vide Notification No. S.O. 47(E), dated 6-1-1989, Gazette of India, Extraordinary, 1989, Pt. II; sec. 3(ii).

11 of 1948.

the payment of maternity benefit at the rate of the average daily wage for the period of her actual absence, that is to say, the period immediately preceding the day of her delivery, the actual day of her delivery and any period immediately following that day.”;

(ii) in the *Explanation*, for the words “or one rupee a day, whichever is higher.”, the words and figures “the minimum rate of wage fixed or revised under the Minimum Wages Act, 1948 or ten rupees, whichever is the highest.” shall be substituted;

(b) in sub-section (2),—

(i) for the words “one hundred and sixty days”, at both the places where they occur, the words “eighty days” shall be substituted;

(ii) in the *Explanation*, for the words “the days for which she has been laid off”, the words “the days for which she has been laid off or was on holidays declared under any law for the time being in force to be holidays with wages” shall be substituted;

(c) in sub-section (3),—

(i) for the opening paragraph, the following shall be substituted, namely:—

“(3) The maximum period for which any woman shall be entitled to maternity benefit shall be twelve weeks of which not more than six weeks shall precede the date of her expected delivery.”;

(ii) for the second proviso, the following proviso shall be substituted, namely:—

“Provided further that where a woman, having been delivered of a child, dies during her delivery or during the period immediately following the date of her delivery for which she is entitled for the maternity benefit, leaving behind in either case the child, the employer shall be liable for the maternity benefit for that entire period but if the child also dies during the said period, then, for the days up to and including the date of the death of the child.”.

5. In section 6 of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) On receipt of the notice, the employer shall permit such woman to absent herself from the establishment during the period for which she receives the maternity benefit.”.

Amend-
ment of
section
6.

6. In section 8 of the principal Act, for the words “twenty-five rupees”, the words “two hundred and fifty rupees” shall be substituted.

Amend-
ment of
section
8.

7. In section 12 of the principal Act, in sub-section (2), for clause (b), the following clause shall be substituted, namely:—

“(b) Any woman deprived of maternity benefit or medical bonus, or both, or discharged or dismissed during or on account of

Amend-
ment of
section
12.

her absence from work in accordance with the provisions of this Act, may, within sixty days from the date on which order of such deprivation or discharge or dismissal is communicated to her, appeal to such authority as may be prescribed, and the decision of that authority on such appeal, whether the woman should or should not be deprived of maternity benefit or medical bonus, or both, or discharged or dismissed shall be final.”

Amend-
ment of
section
17.

8. In section 17 of the principal Act,—

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

“(1) Any woman claiming that—

(a) maternity benefit or any other amount to which she is entitled under this Act and any person claiming that payment due under section 7 has been improperly withheld;

(b) her employer has discharged or dismissed her during or on account of her absence from work in accordance with the provisions of this Act,

may make a complaint to the Inspector.

(2) The Inspector may, of his own motion or on receipt of a complaint referred to in sub-section (1), make an inquiry or cause an inquiry to be made and if satisfied that—

(a) payment has been wrongfully withheld, may direct the payment to be made in accordance with his orders;

(b) she has been discharged or dismissed during or on account of her absence from work in accordance with the provisions of this Act, may pass such orders as are just and proper according to the circumstances of the case.”;

(b) for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) Any amount payable under this section shall be recoverable by the Collector on a certificate issued for that amount by the Inspector as an arrear of land revenue.”.

Substi-
tution of
new
section
for
section
21.

9. For section 21 of the principal Act, the following section shall be substituted, namely:—

Penalty
for con-
traven-
tion of
Act by
employer.

“21. (1) If any employer fails to pay any amount of maternity benefit to a women entitled under this Act or discharges or dismisses such woman during or on account of her absence from work in accordance with the provisions of this Act, he shall be punishable with imprisonment which shall not be less than three months but which may extend to one year and with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees:

Provided that the court may, for sufficient reasons to be recorded in writing, impose a sentence of imprisonment for a lesser term or fine only in lieu of imprisonment.

(2) If any employer contravenes the provisions of this Act or the rules made thereunder, he shall, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with imprisonment which may extend to one year, or with fine which may extend to five thousand rupees, or with both:

Provided that where the contravention is of any provision regarding maternity benefit or regarding payment of any other amount and such maternity benefit or amount has not already been recovered, the court shall, in addition, recover such maternity benefit or amount as if it were a fine and pay the same to the person entitled thereto."

10. In section 22 of the principal Act, for the words "which may extend to three months, or with fine which may extend to five hundred rupees", the words "which may extend to one year, or with fine which may extend to five thousand rupees" shall be substituted.

Amendment of section 22.

11. For section 23 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 23.

"23.(1) Any aggrieved woman, an office-bearer of a trade union registered under the Trade Unions Act, 1926 of which such woman is a member or a voluntary organisation registered under the Societies Registration Act, 1860 or an Inspector, may file a complaint regarding the commission of an offence under this Act in any court of competent jurisdiction and no such complaint shall be filed after the expiry of one year from the date on which the offence is alleged to have been committed.

Congnizance of offences.

(2) No court inferior to that of a Metropolitan Magistrate or a Magistrate of the first class shall try any offence under this Act."

16 of 1926

21 of 1860.

THE MONOPOLIES AND RESTRICTIVE TRADE PRACTICES
(AMENDMENT) ACT, 1988

No. 62 of 1988

[10th December, 1988.]

An Act further to amend the Monopolies and Restrictive Trade
Practices Act, 1969.

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

Short
title.

1. This Act may be called the Monopolies and Restrictive Trade
Practices (Amendment) Act, 1988.

Amend-
ment of
section
22A.

2. In section 22A of the Monopolies and Restrictive Trade Practices
Act, 1969 (hereinafter referred to as the principal Act), in sub-section
(1), after clause (a), the following clause shall be inserted, namely:—

54 of 1969...

“(aa) which is based totally on technology developed in India;”.

Amend-
ment of
section
67.

3. In section 67 of the principal Act, after sub-section (2), the follow-
ing sub-section shall be inserted, namely:—

“(2A) Any rule made under clause (c) of sub-section (2) in
relation to the conditions of service of the members of the Com-
mission may be made retrospectively from a date not earlier than
the 1st day of January, 1986, so, however, that such rule shall not
prejudicially affect the interests of any such member.”.

THE COMMISSIONS OF INQUIRY (AMENDMENT) ACT, 1988

No. 63 OF 1988

[10th December, 1988.]

An Act further to amend the Commissions of Inquiry Act, 1952.

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

1. This Act may be called the Commissions of Inquiry (Amendment) Act, 1988.

Short title.

60 of 1952.

2. After section 5A of the Commissions of Inquiry Act, 1952 (hereinafter referred to as the principal Act), the following section shall be inserted, namely:—

Insertion of new section 5B.

“5B. The Commission may, for the purpose of conducting any inquiry, appoint persons having special knowledge of any matter connected with the inquiry as assessors, to assist and advise the Commission in the inquiry and the assessors shall be entitled to such travelling and other expenses as may be prescribed.”

Power of Commission to appoint assessors.

3. In section 10A of the principal Act, for sub-section (2), the following sub-sections shall be substituted, namely:—

Amendment of section 10A.

2 of 1974.

“(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, when an offence under sub-section (1) is alleged to have been committed, the High Court may take cognizance of such offence, without the case being committed to it, upon a complaint in writing, made by a member of a Commission or an officer of the Commission authorised by it in this behalf.

(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 High Court shall take cognizance of an offence under sub-section (1) unless the complaint is made within six months from the date on which the offence is alleged to have been committed.

(5) A High Court taking cognizance of an offence under sub-section (1) 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 a Magistrate:

Provided that the personal attendance of a member of a Commission as a complainant or otherwise is not required in such trial.

(6) Notwithstanding anything contained in the Code of Criminal Procedure 1973, an appeal shall lie as a matter of right from any judgment of the High Court to the Supreme Court, both on facts and on law.

2 of 1974

(7) Every appeal to the Supreme Court under sub-section (6) shall be preferred within a period of thirty days from the date of the judgment appealed from:

Provided that the Supreme Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days."

Amend-
ment of
section
12.

4. In sub-section (2) of section 12 of the principal Act, after clause (c), the following clause shall be inserted, namely:—

"(cc) the travelling and other expenses payable to assessors appointed under section 5B, and to persons summoned by the Commission to give evidence or to Produce documents before it".

THE TAMIL NADU APPROPRIATION (No. 3) ACT, 1988

No. 64 OF 1988

[15th December, 1988.]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Tamil Nadu for the services of the financial year 1988-89.

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

1. This Act may be called the Tamil Nadu Appropriation (No. 3) Act, 1988.

Short title.

2. From and out of the Consolidated Fund of the State of Tamil Nadu there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of four hundred and nineteen crores, thirty-five lakhs and fifty-eight thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1988-89 in respect of the services specified in column 2 of the Schedule.

Issue of
Rs. 419, 35,
58,000
from and
out of
the Con-
solidated
Fund of
the State
of Tamil
Nadu for
the finan-
cial year
1988-89.

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

Appropriation.

THE SCHEDULE

(See sections 2 and 3)

1	2	3		
		Voted by Parliament	Charged on the Consolidated Fund	Total
No. of Vote/ Appropriation	Services and purposes			
		Rs.	Rs.	Rs.
4	General Sales Tax and other Taxes and Duties—Administration Revenue	23,74,000		23,74,000
9	Head of State, Ministers and Headquarters Staff Revenue	7,24,000		7,24,000
11	District Administration Revenue	10,91,000		10,91,000
13	Administration of Justice Revenue	2,92,000		2,92,000
15	Police Revenue	30,000		30,000
17	Education Revenue	26,54,46,000	..	26,54,46,000
18	Medical Revenue	47,74,000	..	47,74,000
19	Public Health Revenue	27,70,000	..	27,70,000
20	Agriculture Revenue	6,81,70,000	..	6,81,70,000
21	Fisheries Revenue	45,00,000	..	45,00,000
23	Co-operation Revenue	45,19,000	..	45,19,000
26	Handlooms and Textiles Revenue	1,66,92,000	..	1,66,92,000
28	Community Development Projects and Municipal Administration Revenue	27,17,37,000	..	27,17,37,000
29	Labour including Factories Revenue	5,80,000	..	5,80,000
30	Social Welfare Revenue	27,84,000	..	27,84,000
31	Welfare of the Scheduled Tribes and Scheduled Castes, etc. Revenue	2,08,59,000	..	2,08,59,000
35	Civil Supplies Revenue	10,00,00,000	..	10,00,00,000
36	Irrigation Revenue	1,44,00,000	..	1,44,00,000
37	Public Works—Buildings Revenue	7,06,000	..	7,06,000

1 No. of Vote/ Ap- pro- pria- tion	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
38	Public Works—Establishment and Tools and Plant . . . Revenue	1,85,000	42,000	2,27,000
39	Roads and Bridges . . . Revenue	75,58,000	..	75,58,000
41	Relief on account of Natural Calamities . . . Revenue	1,50,57,000	..	1,50,57,000
42	Pensions and other Retire- ment Benefits . . . Revenue	40,69,000	..	40,69,000
43	Miscellaneous . . . Revenue	45,99,97,000	..	45,99,97,000
47	Information, Tourism and Film Technology . . . Revenue	10,35,000	..	10,35,000
48	Rural Industries . . . Revenue	78,34,000	..	78,34,000
49	Water Supply . . . Revenue	6,21,76,000	..	6,21,76,000
51	Capital Outlay on Industrial Development . . . Capital	4,15,83,000	..	4,15,83,000
52	Capital Outlay on Irrigation . . Capital	3,83,00,000	68,000	3,83,68,000
53	Capital Outlay on Public Works—Buildings . . . Capital	31,95,000	..	31,95,000
55	Capital Outlay on Road Trans- port Services and Shipping . Capital	75,00,000	..	75,00,000
56	Capital Outlay on Forests . . Capital	11,00,000	..	11,00,000
58	Miscellaneous Capital Outlay . Capital	3,17,60,000	..	3,17,60,000
59	Loans and Advances by the State Government . . . Capital	10,25,07,000	..	10,25,07,000
	Public Debt—Repayment . . Capital	..	262,71,44,000	262,71,44,000
	TOTAL	156,63,04,000	262,72,54,000	419,35,58,000

THE PUNJAB APPROPRIATION (No. 3) ACT, 1988

No. 65 OF 1988

[15th December, 1988.]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Punjab for the services of the financial year 1988-89.

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

Short
title.

1. This Act may be called the Punjab Appropriation (No. 3) Act, 1988.

Issue of
Rs. 170,40,
48,000
from
and out
of the
Consoli-
dated fund
of the
State
of Punjab
for the
financial
year
1988-89.

2. From and out of the Consolidated Fund of the State of Punjab there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of one hundred and seventy crores, forty lakhs and forty-eight thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1988-89, in respect of the services specified in column 2 of the Schedule.

Appro-
priation.

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

THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote/ Appropriation	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
7	Excise and Taxation . . . Revenue	..	6,21,000	6,21,000
13	Industries Capital	..	29,27,000	29,27,000
15	Irrigation and Power . . . Revenue	..	1,83,000	1,83,000
17	Local Government, Housing and Urban Development . Revenue	70,00,00,000	1,71,000	70,01,71,000
22	Revenue and Rehabilitation . Revenue	100,00,00,000	..	100,00,00,000
23	Rural Development and Panchayats Revenue	..	1,46,000	1,46,000
	TOTAL	170,00,00,000	40,48,000	170,40,48,000

THE BANKING, PUBLIC FINANCIAL INSTITUTIONS AND
NEGOTIABLE INSTRUMENTS LAWS (AMENDMENT)
ACT, 1988

No. 66 of 1988

[16th December, 1988.]

An Act further to amend the Negotiable Instruments Act, 1881, the Reserve Bank of India Act, 1934, the Banking Regulation Act, 1949, the State Bank of India Act, 1955, the State Bank of India (Subsidiary Banks) Act, 1959, the Deposit Insurance and Credit Guarantee Corporation Act, 1961, the Industrial Development Bank of India Act, 1964, the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, the Regional Rural Banks Act, 1976, the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, the Export-Import Bank of India Act, 1981, the National Bank for Agriculture and Rural Development Act, 1981 and the Industrial Reconstruction Bank of India Act, 1984.

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

CHAPTER I

PRELIMINARY

Short
title and
commen-
cement.

1. (1) This Act may be called the Banking, Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act, 1988.

(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.

CHAPTER II

AMENDMENTS TO THE NEGOTIABLE INSTRUMENTS ACT, 1881

Amend-
ment of
section
80.

2. In section 80 of the Negotiable Instruments Act, 1881 (hereafter in this Chapter referred to as the Negotiable Instruments Act), for the words "six per centum", the words "eighteen per centum" shall be substituted.

26 of 1881.

Amend-
ment of
section
117.

3. In section 117 of the Negotiable Instruments Act, in clause (c), for the words "six per centum", the words "eighteen per centum" shall be substituted.

1. 30-12-1988; *vide* Notification No. S.O. 1210(E), dated 28-12-1988, (except sections 4, 12 and 13) Gazette of India, Extra ordinary, 1988, Pt. II, sec. 3(ii).

1. 1-4-1989; *vide* Notification No. S.O. 240(E), dated 29-3-1989 (in respect of s.4), Gazette of India 1989, Extra-ordinary 1989, Pt. II, sec. 3(ii).

4. In the Negotiable Instruments Act, after Chapter XVI, the following Chapter shall be inserted, namely:—

Insertion
of new
Chapter
XVII.

‘CHAPTER XVII

OF PENALTIES IN CASE OF DISHONOUR OF CERTAIN CHEQUES FOR INSUFFICIENCY OF FUNDS IN THE ACCOUNTS

138. Where any cheque drawn by a person on an account maintained by him with a banker for payment of any amount of money to another person from out of that account for the discharge, in whole or in part, of any debt or other liability, is returned by the bank unpaid, either because of the amount of money standing to the credit of that account is insufficient to honour the cheque or that it exceeds the amount arranged to be paid from that account by an agreement made with that bank, such person shall be deemed to have committed an offence and shall, without prejudice to any other provision of this Act, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to twice the amount of the cheque, or with both:

Dis-
honour
of cheque
for insuffi-
ciency, etc.,
of funds
in the
account.

Provided that nothing contained in this section shall apply unless—

(a) the cheque has been presented to the bank within a period of six months from the date on which it is drawn or within the period of its validity, whichever is earlier;

(b) the payee or the holder in due course of the cheque, as the case may be, makes a demand for the payment of the said amount of money by giving a notice, in writing, to the drawer of the cheque, within fifteen days of the receipt of information by him from the bank regarding the return of the cheque as unpaid; and

(c) the drawer of such cheque fails to make the payment of the said amount of money to the payee or, as the case may be, to the holder in due course of the cheque, within fifteen days of the receipt of the said notice.

Explanation.—For the purposes of this section, “debt or other liability” means a legally enforceable debt or other liability.

139. It shall be presumed, unless the contrary is proved, that the holder of a cheque received the cheque of the nature referred to in section 138 for the discharge, in whole or in part, of any debt or other liability.

Presump-
tion in
favour of
holder.

140. It shall not be a defence in a prosecution for an offence under section 138 that the drawer had no reason to believe when he issued the cheque that the cheque may be dishonoured on presentment for the reasons stated in that section.

Defence
which
may not
be allow-
ed in a
prosecu-
tion un-
der sec-
tion 138.

Offences
by com-
panies.

141. (1) If the person committing an offence under section 138 is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of 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 person liable to 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 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.

Cogni-
zance of
offences.

142. Notwithstanding anything contained in the Code of Criminal Procedure, 1973,—

2 of 1974.

(a) no court shall take cognizance of any offence punishable under section 138 except upon a complaint, in writing, made by the payee or, as the case may be, the holder in due course of the cheque;

(b) such complaint is made within one month of the date on which the cause of action arises under clause (c) of the proviso to section 138;

(c) no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under section 138.

CHAPTER III

AMENDMENTS TO THE RESERVE BANK OF INDIA ACT, 1934

Amend-
ment of
section 17.

5 In section 17 of the Reserve Bank of India Act, 1934 (hereafter in this Chapter referred to as the Reserve Bank Act), in clause (4B), the proviso shall be omitted.

2 of 1934.

Amend-
ment of
section 58.

6. In section 58 of the Reserve Bank Act,—

(a) in sub-section (1), after the words “the Central Government,” the words “by notification in the Official Gazette,” shall be inserted;

(b) in sub-section (2), in clause (p), for the words "the scheduled banks", the words and brackets "banks (including post office savings banks)" shall be substituted.

CHAPTER IV

AMENDMENTS TO THE BANKING REGULATION ACT, 1949

10 of 1949.

7. In section 11 of the Banking Regulation Act, 1949 (hereafter in this Chapter referred to as the Banking Regulation Act), in sub-section (2), in clause (b), in sub-clause (ii), the word "calendar" shall be omitted.

Amendment of section 11.

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

Amendment of section 29.

(a) in sub-section (1),—

(i) in the opening paragraph,—

(A) after the words "each calendar year", the words "or at the expiration of a period of twelve months ending with such date as the Central Government may, by notification in the Official Gazette, specify in this behalf," shall be inserted;

(B) for the words "that year", the words "that year or period, as the case may be," shall be substituted;

(C) for the words "the year", the words "the year or the period, as the case may be," shall be substituted;

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

"Provided that with a view to facilitating the transition from one period of accounting to another period of accounting under this sub-section, the Central Government may, by order published in the Official Gazette, make such provisions as it considers necessary or expedient for the preparation of, or for other matters relating to, the balance-sheet or profit and loss account in respect of the concerned year or period, as the case may be.";

(b) after sub-section (3A), the following *Explanation* shall be inserted, namely:—

Explanation.—In sub-section (3A), "year" means the year or, as the case may be, the period referred to in sub-section (1).'

9. In section 30 of the Banking Regulation Act,—

Amendment of section 30.

(a) in sub-section (1B), for the portion beginning with the words "it may direct" and ending with the words "specified in the order", the following shall be substituted, namely:—

"it may at any time by order direct that a special audit of the banking company's accounts, for any such transaction or class of transactions or for such period or periods as may be specified in the order, shall be conducted and may by the same or a different order either appoint a person duly qualified under any law for the time being in force to be an auditor of companies

or direct the auditor of the banking company himself to conduct such special audit”;

(b) in sub-section (1C), for the words “the audit of the transaction or class of transactions”, the words “the special audit” shall be substituted;

(c) in sub-section (2), the words “, and auditors, if any, appointed by the law establishing, constituting or forming the banking company concerned” shall be inserted at the end.

Amendment of section 51.

10. In section 51 of the Banking Regulation Act, for the figures “31”, the words, brackets, figures and letters “sub-sections (1B), (1C) and (2) of section 30, 31” shall be substituted.

Amendment of Third Schedule.

11. In the Third Schedule to the Banking Regulation Act, in Form B, in the portion appearing after the heading “FORM OF PROFIT AND LOSS ACCOUNT”, the word “December” shall be omitted.

CHAPTER V

AMENDMENTS TO THE STATE BANK OF INDIA ACT, 1955

Amendment of section 20.

12. In section 20 of the State Bank of India Act, 1955 (hereafter in this Chapter referred to as the State Bank Act),—

23 of 1955.

(a) in sub-section (3),—

(i) the words, brackets and figure “and in sub-section (5)” shall be omitted;

(ii) for the words, figures, brackets and letter “section 19 or nominated under clause (d) of that sub-section” and “four years”, the words “that section” and “three years” shall, respectively, be substituted;

(iii) the words “or nominated” and “or renomination” shall be omitted;

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

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

(b) in sub-section (3A),—

(i) for the words “A director”, the words, brackets and figure “Subject to the provisions contained in sub-section (4), a director” shall be substituted;

(ii) after the word and figures “section 19”, the words, brackets and letter “or nominated under clause (d) of that sub-section” shall be inserted;

(iii) for the words “duly appointed” and “for re-appointment”, the words “duly appointed or nominated” and “for re-appointment or re-nomination, as the case may be” shall, respectively, be substituted;

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

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

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

“(4) A director appointed under clause (ca) or clause (cb) of sub-section (1) of section 19 or nominated under clause (d) or clause (e) or clause (f) of that sub-section shall hold office during the pleasure of the authority appointing or nominating him, as the case may be.”;

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

13. In section 21A of the State Bank Act,—

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

“(1) Subject to the provisions contained in this section and in sub-section (2) of section 21, a member of a Local Board—

(a) nominated under clause (c) of sub-section (1) of section 21 shall hold office for such term, not exceeding three years, as the Central Government may specify in this behalf and thereafter until his successor has been duly nominated:

(b) elected under clause (d) of sub-section (1) of section 21 shall hold office for three years and thereafter until his successor has been duly elected,

and shall be eligible for re-nomination or re-election, as the case may be:

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

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

“(5) A member of a Local Board nominated under clause (c) of sub-section (1) of section 21 shall hold office during the pleasure of the Central Government.”.

14. In section 39 of the State Bank Act,—

(a) for the words “in each year”, the words “or such other date in each year as the Central Government may, by notification in the Official Gazette, specify” shall be substituted;

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

“Provided that with a view to facilitating the transition from one period of accounting to another period of accounting under this section, the Central Government may, by order published in the Official Gazette, make such provisions as it considers necessary or expedient for the closing and balancing of, or for other matters relating to, the books in respect of the concerned years.”.

Amendment of section 21A.

Amendment of section 39.

Amendment of section 40.

15. In section 40 of the State Bank Act, in sub-section (1), after the words, figures and letters "the 31st day of December", the words and figures "or the date specified under section 39, as the case may be" shall be inserted.

Amendment of section 42.

16. In section 42 of the State Bank Act, in sub-section (2), after the words, figures and letters "the previous 31st day of December", the words and figures "or the date specified under section 39, as the case may be" shall be inserted.

Amendment of section 50.

17. In section 50 of the State Bank Act, in sub-section (1), after the words "the Central Government", the words ", by notification in the Official Gazette," shall be inserted.

CHAPTER VI

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

Amendment of section 25.

18. In section 25 of the State Bank of India (Subsidiary Banks) Act, 1959 (hereafter in this Chapter referred to as the Subsidiary Banks Act), in sub-section (1),—

38 of 1959.

(a) in clause (c), the following proviso shall be inserted at the end, namely:—

"Provided that any nomination of a director made by the State Bank under this clause shall, except in so far as it relates to an officer of that bank, be in consultation with the Central Government;"

(b) in clause (e), the words "in consultation with the State Bank" shall be omitted.

Amendment of section 26.

19. In section 26 of the Subsidiary Banks Act,—

(a) in sub-section (1),—

(i) for the portion beginning with the words "if nominated" and ending with the words "that sub-section," the following shall be substituted, namely:—

"nominated under clause (b) or clause (c) or clause (e) of sub-section (1) of section 25 or appointed under clause (ca) or clause (cb) of that sub-section";

(ii) for the word "nominating", the words "nominating or appointing" shall be substituted;

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

"(2) Subject to the provisions contained in section 25, a director elected under clause (d) of sub-section (1) of that section shall hold office for three years and thereafter until his successor is duly elected, and shall be eligible for re-election:

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

(2A) Subject to the provisions contained in section 25 and in sub-section (1), a director nominated under clause (c) and not

being an officer of the State Bank or a director appointed under clause (ca) or clause (cb) or a director, not being an officer of the Central Government, nominated under clause (e) of sub-section (1) of section 25, shall hold office for such term not exceeding three years, as the Central Government may specify and thereafter until his successor shall have been duly nominated or appointed, and shall be eligible for re-nomination or re-appointment, as the case may be:

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

(c) sub-section (3) shall be omitted.

20. In section 39 of the Subsidiary Banks Act,—

(a) for the words “in each year”, the words “or such other date in each year as the Central Government may, by notification in the Official Gazette, specify” shall be substituted;

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

“Provided that with a view to facilitating the transition from one period of accounting to another period of accounting under this section, the Central Government may, by order published in the Official Gazette, make such provisions as it considers necessary or expedient for the closing and balancing of, or for other matters relating to, the books in respect of the concerned years.”.

21. In section 43 of the Subsidiary Banks Act, in sub-section (1), in clause (a), after the words, figures and letters “the 31st day of December”, the words and figures “or the date notified under section 39, as the case may be,” shall be inserted.

22. In section 44 of the Subsidiary Banks Act, in sub-sections (2) and (3), after the words, figures and letters “the previous 31st day of December”, the words and figures “or the date notified under section 39, as the case may be” shall be inserted.

23. In section 63 of the Subsidiary Banks Act, in sub-section (1), after the words “the Reserve Bank,”, the words “by notification in the Official Gazette.” shall be inserted.

CHAPTER VII

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

47 of 1961. 29. In section 6 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (hereafter in this Chapter referred to as the Deposit Insurance Corporation Act), in sub-section (2),—

(a) in clause (i), after the word, brackets and letter “clause (c)”, the words, brackets and letters “or clause (d) or clause (e)” shall be inserted;

Amendment of section 39.

Amendment of section 43.

Amendment of section 44.

Amendment of section 63.

Amendment of section 6.

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

“(ii) subject to the provisions contained in clause (i), a director nominated under clause (d) or clause (e) of sub-section (1), shall hold office for such period, not exceeding three years, as may be specified by the Central Government in this behalf and thereafter until his successor assumes office, and shall be eligible for re-nomination:

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

Amend-
ment of
section 28.

25. In section 28 of the Deposit Insurance Corporation Act, in sub-section (2),—

(a) for the words “, each year”, the words “or such other date in each year as the Central Government may, by notification in the Official Gazette, specify” shall be substituted;

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

“Provided that with a view to facilitating the transition from one period of accounting to another period of accounting under this sub-section, the Central Government may, by order published in the Official Gazette, make such provisions as it considers necessary or expedient for the balancing and closing of, or for other matters relating to, the books or accounts in respect of the concerned years.”

Amend-
ment of
section 50.

26. In section 50 of the Deposit Insurance Corporation Act, in sub-section (1), after the words “the Reserve Bank,” the words “by notification in the Official Gazette,” shall be inserted.

CHAPTER VIII

AMENDMENTS TO THE INDUSTRIAL DEVELOPMENT BANK OF INDIA ACT, 1964

Amend-
ment of
section 6.

27. In section 6 of the Industrial Development Bank of India Act, 1964 (hereafter in this Chapter referred to as the Development Bank Act), for sub-section (4A), the following sub-section shall be substituted, namely:—

“(4A) Subject to the provisions of sub-section (4),—

(a) every director nominated under sub-clause (ii) or sub-clause (iv) of clause (c) of sub-section (1) and not being an official of Government or not being an official or whole-time director of the Reserve Bank or a financial institution or the State Bank or a nationalised bank or a State Financial Corporation; and

(b) every director nominated under sub-clause (iii) or sub-clause (v) of clause (c) of sub-section (1),

shall hold office for such term, not exceeding three years, as the Central Government may specify in this behalf and thereafter until his successor assumes office, and shall be eligible for re-nomination:

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

28. In section 18 of the Development Bank Act, in sub-section (2), the following proviso shall be inserted at the end, namely:—

Amend-
ment of
section 18

“Provided that with a view to facilitating the transition from one period of accounting to another period of accounting under this sub-section, the Central Government may, by order published in the Official Gazette, make such provisions as it considers necessary or expedient for the closing and balancing of, or for other matters relating to, the books or accounts in respect of the concerned years.”

29. In section 21 of the Development Bank Act, in sub-section (2), the following proviso shall be inserted at the end, namely:—

Amend-
ment of
section 21.

“Provided that with a view to facilitating the transition from one period of accounting to another period of accounting under this sub-section, the Central Government may, by order published in the Official Gazette, make such provisions as it considers necessary or expedient for the closing and balancing of, or for other matters relating to, the books or accounts in respect of the concerned years.”

CHAPTER IX

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

5 of 1970. 30. In section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (hereafter in this Chapter referred to as the Bank Nationalisation Act), in sub-section (2A), in the proviso, for the words “rupees one hundred crores”, the words “rupees five hundred crores” shall be substituted.

Amend-
ment of
section 3.

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

(a) in sub-section (2),—

(i) in clause (a), for the words “rupees one hundred crores”, the words “rupees five hundred crores” shall be substituted;

(ii) in clause (c), for the words “corresponding new bank to any other banking institution”, the words “corresponding new bank to any other corresponding new bank or banking institution” shall be substituted;

(b) in sub-section (5), the *Explanation* shall be numbered as *Explanation I*, and after *Explanation I* as so numbered, the following *Explanation* shall be inserted, namely:—

Amend-
ment of
section 9.

Explanation II.—For the purposes of this section, the expression “corresponding new bank” shall include a corresponding new bank within the meaning of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.

40 of 1980.

32. In section 10 of the Bank Nationalisation Act, in sub-section (1),—

Amend-
ment of
section 10.

(a) for the words “of each year”, the words “or such other date in each year as the Central Government may, by notification in the Official Gazette, specify” shall be substituted;

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

“Provided that with a view to facilitating the transition from one period of accounting to another period of accounting under this sub-section, the Central Government may, by order published in the Official Gazette, make such provisions as it considers necessary or expedient for the closing and balancing of, or for other matters relating to, the books in respect of the concerned years.”.

CHAPTER X

AMENDMENTS TO THE REGIONAL RURAL BANKS ACT, 1976

Amendment of section 19.

33. In section 19 of the Regional Rural Banks Act, 1976 (hereafter in this Chapter referred to as the Rural Banks Act), in sub-section (1),—

21 of 1976.

(i) for the words “of each year”, the words “or such other date in each year as the Central Government may, by notification in the Official Gazette, specify” shall be substituted;

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

“Provided that with a view to facilitating the transition from one period of accounting to another period of accounting under this sub-section, the Central Government may, by order published in the Official Gazette, make such provisions as it considers necessary or expedient for the closing and balancing of, or for other matters relating to, the books in respect of the concerned years.”.

Amendment of section 30.

34. In section 30 of the Rural Banks Act, in sub-section (1), after the words “the Central Government,”, the words “by notification in the Official Gazette,” shall be inserted.

CHAPTER XI

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

Amendment of section 3.

35. In section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (hereafter in this Chapter referred to as the Bank Nationalisation Act), in sub-section (2A), in the proviso, for the words “rupees one hundred crores”, the words “rupees five hundred crores” shall be substituted.

40 of 1980.

Amendment of section 9.

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

(a) in sub-section (2),—

(i) in clause (a), for the words “rupees one hundred crores” the words “rupees five hundred crores” shall be substituted;

(ii) in clause (c), for the words “corresponding new bank to any other banking institution”, the words “corresponding new bank to any other corresponding new bank or banking institution” shall be substituted;

(b) in sub-section (5), the *Explanation* shall be numbered as *Explanation I*, and after *Explanation I* as so numbered, the following *Explanation* shall be inserted, namely:—

5 of 1970.

Explanation II.—For the purposes of this section, the expression “corresponding new bank” shall include a corresponding new bank within the meaning of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970.’

37. In section 10 of the Bank Nationalisation Act, in sub-section (1),—

Amendment of section 10.

(a) for the words “of each year”, the words “or such other date in each year as the Central Government may, by notification in the Official Gazette, specify” shall be substituted;

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

“Provided that with a view to facilitating the transition from one period of accounting to another period of accounting under this sub-section, the Central Government may, by order published in the Official Gazette, make such provisions as it considers necessary or expedient for the closing and balancing of, or for other matters relating to, the books in respect of the concerned years.”.

38. In section 19 of the Bank Nationalisation Act, in sub-section (1), after the words “the Central Government,” the words “by notification in the Official Gazette,” shall be inserted.

Amendment of section 19.

CHAPTER XII

AMENDMENTS TO THE EXPORT-IMPORT BANK OF INDIA ACT, 1981

28 of 1981.

39. In section 6 of the Export-Import Bank of India Act, 1981 (hereafter in this chapter referred to as the Exim Bank Act),—

Amendment of section 6.

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

“(6) Subject to the provisions contained in sub-section (7), any director nominated under clause (b) or clause (c) or clause (d) or clause (e) of sub-section (1) and not being an official of Government or not being a whole-time director or official of the Reserve Bank or the Development Bank or the said Export Credit and Guarantee Corporation Limited or a scheduled bank, shall hold office for such term, not exceeding three years, as the Central Government or, as the case may be, the authority nominating him, may specify in this behalf and thereafter until his successor enters upon his office, and shall be eligible for re-nomination:

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

(b) in sub-section (7), the word “other” shall be omitted.

Amendment of section 19.

40. In section 19 of the Exim Bank Act, in sub-section (2),—

(a) for the words “each year”, the words “or such other date in each year as the Central Government may, by notification in the Official Gazette, specify” shall be substituted;

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

“Provided that with a view to facilitating the transition from one period of accounting to another period of accounting under this sub-section, the Central Government may, by order published in the Official Gazette, make such provisions as it considers necessary or expedient for the closing and balancing of, or for other matters relating to, the books or accounts in respect of the concerned years.”.

Amendment of section 22.

41. In section 22 of the Exim Bank Act, in sub-section (2),—

(a) for the words “each year”, the words “or such other date in each year as the Central Government may, by notification in the Official Gazette, specify” shall be substituted;

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

“Provided that with a view to facilitating the transition from one period of accounting to another period of accounting under this sub-section, the Central Government may, by order published in the Official Gazette, make such provisions as it considers necessary or expedient for the closing and balancing of, or for other matters relating to, the books or accounts in respect of the concerned years.”.

Amendment of section 39.

42. In section 39 of the Exim Bank Act, in sub-section (1), after the words “the Central Government,”, the words “by notification in the Official Gazette,” shall be inserted.

CHAPTER XIII

AMENDMENTS TO THE NATIONAL BANK FOR AGRICULTURE AND RURAL DEVELOPMENT ACT, 1981

Amendment of section 5.

43. In section 5 of the National Bank for Agriculture and Rural Development Act, 1981 (hereafter in this Chapter referred to as the National Bank Act), in sub-section (3), the following proviso shall be inserted at the end, namely:—

“Provided that during the period of any casual vacancy of the nature referred to in section 11 in the office of the Managing Director, the Chairman may also exercise the powers and discharge the functions of the Managing Director until the person appointed by the Central Government under section 11 to act as Managing Director enters upon his office.”.

Amendment of section 6.

44. In section 6 of the National Bank Act, in sub-section (2), the following proviso shall be inserted at the end, namely:—

“Provided that no such consultation shall be necessary in the case of directors appointed under clause (e) of sub-section (1).”.

45. In section 7 of the National Bank Act,—

Amend-
ment of
section 7.

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

“(2) Subject to the provisions contained in sub-section (5), a director appointed under clause (b) or clause (c) of sub-section (1) of section 6, shall hold office for such term, not exceeding three years, as the Central Government may specify in this behalf and thereafter until his successor enters upon his office, and shall be eligible for reappointment:

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

(b) in sub-section (3), the words, brackets and figure “or any other director referred to in sub-section (2)” shall be omitted;

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

“(5) The directors appointed under clauses (b) to (f) of sub-section (1) of section 6 shall hold office during the pleasure of the Central Government.”.

46. In section 46 of the National Bank Act, in sub-section (2),—

Amend-
ment of
section 46.

(a) for the words “, each year”, the words “or such other date in each year as the Central Government may, by notification in the Official Gazette, specify” shall be substituted;

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

“Provided that with a view to facilitating the transition from one period of accounting to another period of accounting under this sub-section, the Central Government may, by order published in the Official Gazette, make such provisions as it considers necessary or expedient for the balancing and closing of, or for other matters relating to, the books or accounts in respect of the concerned years.”.

CHAPTER XIV

AMENDMENTS TO THE INDUSTRIAL RECONSTRUCTION BANK OF INDIA ACT, 1984

62 of 1984. 47. In section 10 of the Industrial Reconstruction Bank of India Act, 1984 (hereafter in this Chapter referred to as the Industrial Reconstruction Bank Act), after sub-section (2), the following sub-section shall be inserted, namely:—

Amend-
ment of
section 10.

“(3) Subject to the provisions of sub-section (2), a director nominated under clause (c) or clause (d) of sub-section (1) and not being an official of Government or not being an official or whole-time director of the Development Bank or a public financial institution or the State Bank or a nationalised bank or a State Financial Corporation, shall hold office for such term, not exceeding three years, as the authority nominating him may specify in this behalf

to insert
the following

and thereafter until his successor enters upon his office, and shall be eligible for re-nomination:

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

Amendment of section 29.

48. In section 29 of the Industrial Reconstruction Bank Act, in sub-section (2),—

(a) for the words "each year", the words "or such other date in each year as the Central Government may, by notification in the Official Gazette, specify" shall be substituted;

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

"Provided that with a view to facilitating the transition from one period of accounting to another period of accounting under this sub-section, the Central Government may, by order published in the Official Gazette, make such provisions as it considers necessary or expedient for the closing and balancing of, or for other matters relating to, the books or accounts in respect of the concerned years."

Amendment of section 32.

49. In section 32 of the Industrial Reconstruction Bank Act, in sub-section (2),—

(a) for the words "each year", the words "or such other date in each year as the Central Government may, by notification in the Official Gazette, specify" shall be substituted;

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

"Provided that with a view to facilitating the transition from one period of accounting to another period of accounting under this sub-section, the Central Government may, by order published in the Official Gazette, make such provisions as it considers necessary or expedient for the closing and balancing of, or for other matters relating to, the books or accounts in respect of the concerned years."

Amendment of section 69.

50. In section 69 of the Industrial Reconstruction Bank Act, in sub-section (1), after the words "the Central Government," the words "by notification in the Official Gazette," shall be inserted.

to insert
the following

to insert the following

to insert the following

807

**THE SIXTH SCHEDULE TO THE CONSTITUTION
(AMENDMENT) ACT, 1988**

No. 67 OF 1988

[16th December, 1988.]

An Act further to amend the Sixth Schedule to the Constitution of India in its application to the States of Tripura and Mizoram.

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

1. This Act may be called the Sixth Schedule to the Constitution (Amendment) Act, 1988.

2. The Sixth Schedule to the Constitution shall, in its application to the States of Tripura and Mizoram, have effect subject to the following modifications, namely:—

(1) In paragraph 9, after sub-paragraph (2), the following sub-paragraph shall be inserted, namely:—

“(3) The Governor may, by order, direct that the share of royalties to be made over to a District Council under this paragraph shall be made over to that Council within a period of one year from the date of any agreement under sub-paragraph (1) or, as the case may be, of any determination under sub-paragraph (2).”.

(2) In paragraph 10,—

(a) in the heading, the words “by non-tribals” shall be omitted;

(b) in sub-paragraph (1), the words “other than Scheduled Tribes” shall be omitted;

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

“(d) prescribe that no person resident in the district shall carry on any trade, whether wholesale or retail, except under a licence issued in that behalf by the District Council.”.

(3) For paragraphs 12AA and 12B, the following paragraphs shall be substituted, namely:—

“12AA. Application of Acts of Parliament and of the Legislature of the State of Tripura to the autonomous district and

Short title.

Application of Sixth Schedule to the States of Tripura and Mizoram.

autonomous regions in the State of Tripura.—Notwithstanding anything in this Constitution,—

(a) no Act of the Legislature of the State of Tripura in respect of any of the matters specified in paragraph 3 of this Schedule as matters with respect to which a District Council or a Regional Council may make laws, and no Act of the Legislature of the State of Tripura prohibiting or restricting the consumption of any non-distilled alcoholic liquor shall apply to the autonomous district or an autonomous region in that State unless, in either case, the District Council for that district or having jurisdiction over such region by public notification so directs, and the District Council in giving such direction with respect to any Act may direct that the Act shall, in its application to that district or such region or any part thereof, have effect subject to such exceptions or modifications as it thinks fit;

(b) the Governor may, by public notification, direct that any Act of the Legislature of the State of Tripura to which the provisions of clause (a) of this sub-paragraph do not apply, shall not apply to an autonomous district or an autonomous region in that State, or shall apply to that district or such region, or any part thereof, subject to such exceptions or modifications, as he may specify in the notification;

(c) the President may, with respect to any Act of Parliament, by notification, direct that it shall not apply to the autonomous district or an autonomous region in the State of Tripura or shall apply to such district or region or any part thereof, subject to such exceptions or modifications as he may specify in the notification and any such direction may be given so as to have retrospective effect.”

12B. Application of Acts of Parliament and of the Legislature of the State of Mizoram to autonomous districts and autonomous regions in the State of Mizoram.—Notwithstanding anything in this Constitution,—

(a) no Act of the Legislature of the State of Mizoram in respect of any of the matters specified in paragraph 3 of this Schedule as matters with respect to which a District Council or a Regional Council may make laws, and no Act of the Legislature of the State of Mizoram prohibiting or restricting the consumption of any non-distilled alcoholic liquor shall apply to any autonomous district or autonomous region in that State unless, in either case, the District Council for such district or having jurisdiction over such region, by public notification, so directs, and the District Council, in giving such direction with respect to any Act, may direct that the Act shall, in its application to such district or region or any part thereof, have effect subject to such exceptions or modifications as it thinks fit;

(b) the Governor may, by public notification, direct that any Act of the Legislature of the State of Mizoram to

which the provisions of clause (a) of this sub-paragraph do not apply, shall not apply to an autonomous district or an autonomous region in that State, or shall apply to such district or region, or any part thereof, subject to such exceptions or modifications, as he may specify in the notification;

(c) the President may, with respect to any Act of Parliament, by notification, direct that it shall not apply to an autonomous district or an autonomous region in the State of Mizoram, or shall apply to such district or region or any part thereof, subject to such exceptions or modifications as he may specify in the notification and any such direction may be given so as to have retrospective effect."

(4) In paragraph 15, in sub-paragraph (2),—

(a) in the opening paragraph, for the words "by the Legislature of the State", the words "by him" shall be substituted;

(b) the proviso shall be omitted.

(5) In paragraph 16,—

(a) in sub-paragraph (1), the words "subject to the previous approval of the Legislature of the State" occurring in clause (b), and the second proviso shall be omitted;

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

"(3) Every order made under sub-paragraph (1) or sub-paragraph (2) of this paragraph, along with the reasons therefor shall be laid before the Legislature of the State."

(6) In paragraph 20, in the table, in Part III, for serial numbers 2 and 3 and the entries relating thereto, the following shall be substituted, namely:—

"2. The Mara District.

3. The Lai District."

(7) After paragraph 20B, the following paragraph shall be inserted, namely:—

"20BB. Exercise of discretionary powers by the Governor in the discharge of his functions.—The Governor, in the discharge of his functions under sub-paragraphs (2) and (3) of paragraph 1, sub-paragraphs (1) and (7) of paragraph 2, sub-paragraph (3) of paragraph 3, sub-paragraph (4) of paragraph 4, paragraph 5, sub-paragraph (1) of paragraph 6, sub-paragraph (2) of paragraph 7, sub-paragraph (3) of paragraph 9, sub-paragraph (1) of paragraph 14, sub-paragraph (1) of paragraph 15 and sub-paragraphs (1) and (2) of paragraph 16 of this Schedule, shall, after consulting the Council of Ministers, and if he thinks it necessary, the District Council or the Regional Council concerned, take such action as he considers necessary in his discretion."

**THE NATIONAL HIGHWAYS AUTHORITY OF INDIA
ACT, 1988**

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THE NATIONAL HIGHWAYS AUTHORITY OF INDIA
ACT, 1988

No. 68 OF 1988

[16th December, 1988.]

An Act to provide for the constitution of an Authority for the development, maintenance and management of national highways and for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the National Highways Authority of India Act, 1988.

(2) It extends to the whole of India.

(3) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

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

(a) "Authority" means the National Highways Authority of India constituted under section 3;

(b) "Chairman" means the Chairman of the Authority;

(c) "employee" means a person in the full-time service of the Authority;

(d) "member" means a member of the Authority appointed under section 3 and includes the Chairman;

(e) "national highway" means any highway for the time being declared as a national highway under section 2 of the National Highways Act, 1956;

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

(g) "regulations" means regulations made by the Authority under this Act;

(h) words and expressions used herein and not defined but defined in the National Highways Act, 1956 shall have the meanings assigned to them in that Act.

Short title, extent and commencement.

Definitions.

48 of 1956.

48 of 1956

1. 15-6-1989; vide Notifications No. S.O. 451(E), dated 15-6-1989, Gazette of India, 1989, Extraordinary, 1989, Pt. II, sec. 3(ii).

CHAPTER II

THE NATIONAL HIGHWAYS AUTHORITY OF INDIA

3. (1) With effect from such date¹ as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be constituted for the purposes of this Act an Authority to be called the National Highways Authority of India.

Constitution of the Authority.

(2) The Authority shall be a body corporate by 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, both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) The Authority shall consist of—

(i) a Chairman;

(ii) not more than five full-time members; and

(iii) not more than four part-time members,

to be appointed by the Central Government by notification in the Official Gazette.

4. The term of office and other conditions of service of the members shall be such as may be prescribed.

Term of office and conditions of service of members. Disqualifications for appointment as member.

5. A person shall be disqualified for being appointed as a member if he—

(a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude; or

(b) is an undischarged insolvent; or

(c) is of unsound mind and stands so declared by a competent Court; or

(d) has been removed or dismissed from the service of the Government or a Corporation owned or controlled by the Government; or

(e) has, in the opinion of the Central Government, such financial or other interest in the Authority as is likely to affect prejudicially the discharge by him of his functions as a member.

6. Subject to the other terms and conditions of service as may be prescribed, any person ceasing to be a member shall be eligible for reappointment as such member.

Eligibility of member for reappointment. Meetings.

7. (1) The Authority shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings, including the quorum thereat, as may be provided by regulations.

1. 15-6-1989 vide Notification No. S.O. 450(E) dated 15-6-1989, Gazette of India, 1989, Extraordinary, 1989, Pt. II, Sec. 3(ii).

(2) If for any reason the Chairman is unable to attend any meeting of the Authority any other member chosen by the members present at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority of votes of the members present and voting, and in the event of an equality of votes, the Chairman, or in his absence the person presiding, shall have and exercise a second or casting vote.

Vacancy in the Authority not to invalidate proceedings.

8. No act or proceeding of the Authority shall be invalidated merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Authority; or

(b) any defect in the appointment of a person acting as a member of the Authority; or

(c) any irregularity in the procedure adopted by the Authority not affecting the merits of the case.

Appointment of officers, consultants and other employees of the Authority.

9. (1) For the purpose of discharging its functions, the Authority shall appoint such number of officers and other employees as it may consider necessary on such terms and conditions as may be laid down by the regulations.

(2) The Authority may appoint, from time to time, any person as adviser or consultant as it may consider necessary, on such terms and conditions as may be laid down by the regulations.

Authority to act on business principles.

10. In the discharge of its functions under this Act, the Authority shall act, so far as may be, on business principles.

CHAPTER III

PROPERTY AND CONTRACTS

Power of the Central Government to vest or entrust any national highway in the Authority.

11. The Central Government may, from time to time, by notification in the Official Gazette, vest in, or entrust to, the Authority, such national highway or any stretch thereof as may be specified in such notification.

Transfer of assets and liabilities of the Central Government to the Authority.

12. (1) On and from the date of publication of the notification under section 11,—

(a) all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with, or for, the Central Government, immediately before such date for or in connection with the purposes of any national highway or any stretch thereof vested in, or entrusted to, the Authority under that section, shall be deemed to have been incurred, entered into and engaged to be done by, with, or for, the Authority;

(b) all non-recurring expenditure incurred by or for the Central Government for or in connection with the purposes of any national highway or any stretch thereof, so vested in, or entrusted to, the Authority, up to such date and declared to be capital expenditure by the Central Government shall, subject to such terms and conditions as may be prescribed, be treated as capital provided by the Central Government to the Authority;

(c) all sums of money due to the Central Government in relation to any national highway or any stretch thereof, so vested in, or entrusted to, the Authority immediately before such date shall be deemed to be due to the Authority;

(d) all suits and other legal proceedings instituted or which could have been instituted by or against the Central Government immediately before such date for any matter in relation to such national highway or any stretch thereof may be continued or instituted by or against the Authority.

(2) If any dispute arises as to which of the assets, rights or liabilities of the Central Government have been transferred to the Authority, such dispute shall be decided by the Central Government.

13. Any land required by the Authority for discharging its functions under this Act shall be deemed to be land needed for a public purpose and such land may be acquired for the Authority under the provisions of the Land Acquisition Act, 1894 or of any other corresponding law for the time being in force.

1 of 1894.

14. Subject to the provisions of section 15, the Authority shall be competent to enter into and perform any contract necessary for the discharge of its functions under this Act.

15. (1) Every contract shall, on behalf of the Authority, be made by the Chairman or such other member or such officer of the Authority as may be generally or specially empowered in this behalf by the Authority and such contracts or classes of contracts as may be specified in the regulations shall be sealed with the common seal of the Authority:

Provided that no contract exceeding such value or amount as the Central Government may prescribe in this behalf shall be made unless it has been previously approved by that Government:

Provided further that no contract for the acquisition or sale of immovable property or for the lease of any such property for a term exceeding thirty years and no other contract exceeding such value or amount as the Central Government may prescribe in this behalf shall be made unless it has been previously approved by that Government.

(2) Subject to the provisions of sub-section (1), the form and manner in which any contract shall be made under this Act shall be such as may be provided by regulations.

(3) No contract which is not in accordance with the provisions of this Act and the regulations shall be binding on the Authority.

Compulsory acquisition of land for the Authority.

Contracts by the Authority.

Mode of executing contracts on behalf of the Authority.

CHAPTER IV

FUNCTIONS OF THE AUTHORITY

Functions
of the
Authority.

16. (1) Subject to the rules made by the Central Government in this behalf, it shall be the function of the Authority to develop, maintain and manage the national highways and any other highways vested in, or entrusted to, it by the Government.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the Authority may, for the discharge of its functions—

(a) survey, develop, maintain and manage highways vested in, or entrusted to, it;

(b) construct offices or workshops and establish and maintain hotels, motels, restaurants and rest-rooms at or near the highways vested in, or entrusted to, it;

(c) construct residential buildings and townships for its employees;

(d) regulate and control the plying of vehicles on the highways vested in, or entrusted to, it for the proper management thereof;

(e) develop and provide consultancy and construction services in India and abroad and carry on research activities in relation to the development, maintenance and management of highways or any facilities thereat;

(f) provide such facilities and amenities for the users of the highways vested in, or entrusted to, it as are, in the opinion of the Authority, necessary for the smooth flow of traffic on such highways;

(g) form one or more companies under the Companies Act, 1956 to further the efficient discharge of the functions imposed on it by this Act;

1 of 1956.

(h) engage, or entrust any of its functions to, any corporation or body corporate owned or controlled by the Government;

(i) advise the Central Government on matters relating to highways;

(j) assist, on such terms and conditions as may be mutually agreed upon, any State Government in the formulation and implementation of schemes for highway development;

(k) collect fees on behalf of the Central Government for services or benefits rendered under section 7 of the National Highways Act, 1956, as amended from time to time, and such other fees on behalf of the State Governments on such terms and conditions as may be specified by such State Governments; and

48 of 1956.

(l) take all such steps as may be necessary or convenient for, or may be incidental to, the exercise of any power or the discharge of any function conferred or imposed on it by this Act.

(3) Nothing contained in this section shall be construed as—

(a) authorising the disregard by the Authority of any law for the time being in force; or

(b) authorising any person to institute any proceeding in respect of a duty or liability to which the Authority or its officers or other employees would not otherwise be subject under this Act.

CHAPTER V

FINANCE, ACCOUNTS AND AUDIT

17. The Central Government may, after due appropriation made by Parliament by law in this behalf, provide to the Authority grants and loans of such sums of money as that Government may consider necessary.

Grants and loans by the Central Government.

18. (1) There shall be constituted a Fund to be called the National Highways Authority of India Fund and there shall be credited thereto—

Fund of the Authority.

(a) any grant or aid received by the Authority;

(b) any loan taken by the Authority or any borrowings made by it;

(c) any other sums received by the Authority.

(2) The Fund shall be utilised for meeting—

(a) expenses of the Authority in the discharge of its functions having regard to the purposes for which such grants, loans or borrowings are received and for matters connected therewith or incidental thereto;

(b) salary, allowances, other remuneration and facilities provided to the members, officers and other employees of the Authority;

(c) expenses on objects and for purposes authorised by this Act.

19. The Authority shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Authority and forward the same to the Central Government.

Budget.

20. The Authority may invest its funds (including any reserve fund) in the securities of the Central Government or in such other manner as may be prescribed.

Investment of funds.

21. (1) The Authority may, with the consent of the Central Government or in accordance with the terms of any general or special authority given to it by the Central Government, borrow money from any source by the issue of bonds, debentures or such other instruments as it may deem fit for discharging all or any of its functions under this Act.

Borrowing powers of the Authority.

(2) Subject to such limits as the Central Government may, from time to time, lay down, the Authority may borrow temporarily by way of overdraft or otherwise, such amounts as it may require for discharging its functions under this Act.

(3) The Central Government may guarantee in such manner as it thinks fit the repayment of the principal and the payment of interest

thereon with respect to the borrowings made by the Authority under sub-section (1).

Annual report.

22. The Authority shall prepare, in such form and at such time in each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the Central Government.

Accounts and audit.

23. The accounts of the Authority shall be maintained and audited in such manner as may, in consultation with the Comptroller and Auditor-General of India, be prescribed and the Authority shall furnish, to the Central Government, before such date as may be prescribed, its audited copy of accounts together with the auditor's report thereon.

Annual report and auditor's report to be laid before Parliament.

24. The Central Government shall cause the annual report and auditor's report to be laid, as soon as may be after they are received, before each House of Parliament.

CHAPTER VI

MISCELLANEOUS

Delegation of powers.

25. The Authority may, by general or special order in writing, delegate to the Chairman or any other member or to any officer of the Authority, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act (except its powers under section 35) as it may deem necessary.

Authentication of orders and other instruments of the Authority.

26. All orders, decisions and other instruments of the Authority shall be authenticated by the signature of the Chairman or any other member or any officer of the Authority authorised by it in this behalf.

Employees of the Authority to be public servants.

27. All members, officers and employees of the Authority shall, when acting or purporting to act in pursuance of the provisions of this Act or of any rule or regulation made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1990.

Protection of action taken in good faith.

28. (1) No suit, prosecution or other legal proceeding shall lie against the Authority or any member or officer or employee of the Authority for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

(2) No suit, prosecution or other legal proceeding shall lie against the Authority or any member or officer or employee of the Authority 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 the rules or regulations made thereunder.

29. The Authority may undertake to carry out on behalf of the Government or any local authority any works or services or any class of works or services on such terms and conditions as may be agreed upon between the Authority and the Government or local authority concerned.

Power of the Authority to undertake certain works.

30. Subject to any regulations made in this behalf any person, generally or specially authorised by the Authority in this behalf, may, whenever it is necessary so to do for any of the purposes of this Act, at all reasonable times, enter upon any land or premises, and—

Power to enter.

(a) make any inspection, survey, measurement, valuation or enquiry;

(b) take levels;

(c) dig or bore into sub-soil;

(d) set out boundaries and intended lines of work;

(e) mark such levels, boundaries and lines by placing marks and cutting trenches; or

(f) do such other acts or things as may be prescribed:

Provided that no such person shall enter any boundary or any enclosed court or garden attached to a dwelling-house (except with the consent of the occupier thereof) without previously giving such occupier at least twenty-four hours' notice in writing of his intention to do so.

31. (1) If, at any time, the Central Government is of opinion that in the public interest it is necessary or expedient so to do, it may, by order, direct the Authority to entrust the development, maintenance or management of any national highway or a part thereof with effect from such date and for such period and to such person as may be specified in the order and the Authority shall be bound to comply with such direction.

Power of the Central Government to temporarily divest the Authority of the management of any national highway.

(2) Where development, maintenance or management of any national highway or part thereof is entrusted to any person specified under sub-section (1) (hereafter in this section referred to as the authorised person), the Authority shall cease to exercise and discharge all its powers and functions under this Act in relation to such national highway or part thereof and such powers and functions shall be exercised and discharged by the authorised person in accordance with the instructions, if any, which the Central Government may give to the authorised person from time to time:

Provided that no such power or function as may be specified by the Central Government by a general or special order shall be exercised or discharged by the authorised person except with the previous sanction of the Central Government.

(3) The Central Government may reduce or extend the period mentioned in sub-section (1) as it considers necessary.

(4) During the operation of an order made under sub-section (1), it shall be competent for the Central Government to issue, from time to

time, such directions to the Authority as are necessary to enable the authorised person to exercise the powers and discharge the functions of the Authority under this Act in relation to the national highway or part thereof, the management of which has been entrusted to him and in particular, to transfer any sum of money from the Fund of the Authority to the authorised person for the management of the national highway or part thereof and every such direction shall be complied with by the Authority.

(5) On the cesser of operation of any order made under sub-section (1) in relation to any national highway or part thereof, the authorised person shall cease to exercise and perform the powers and functions of the Authority under this Act in relation to such national highway or part thereof and the Authority shall continue to exercise and perform such powers and functions in accordance with the provisions of this Act.

(6) On the cesser of operation of any order made under sub-section (1) in relation to any national highway or part thereof, the authorised person shall hand over to the Authority any property (including any sum of money or other asset) remaining with him in connection with the management of such national highway or part thereof.

Power
of the
Central
Govern-
ment to
super-
sede the
Autho-
rity.

32. (1) If, at any time, the Central Government is of opinion—

(a) that on account of a grave emergency the Authority is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(b) that the Authority has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act; or

(c) 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 Authority 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 (b), the Central Government shall give a reasonable opportunity to the Authority to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority,—

(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, or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority, shall, until the Authority is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct;

(c) all property owned or controlled by the Authority shall, until the Authority 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 one year, as it may consider necessary; or

(b) reconstitute the Authority by fresh appointment and in such a case, any person who vacated office under clause (a) of sub-section (2) shall not be deemed disqualified for appointment:

Provided that the Central Government may, at any time before the expiration of the period of supersession whether as originally specified under sub-section (1) or as extended under this sub-section, take action under clause (b) of this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) or sub-section (3) and a full report of any action taken under this section and the circumstances leading to such action to be laid before both Houses of Parliament as soon as may be.

33. (1) Without prejudice to the other provisions of this Act, the Authority shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the Central Government may give to it in writing from time to time.

Power of the Central Government to issue directions.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

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

Power of the Central Government to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the term of office and other conditions of service of the members;

(b) the powers and duties of the Chairman and of the members;

(c) the terms and conditions subject to which the non-recurring expenditure incurred by or for the Central Government for or in connection with the purposes of any national highway shall be treated as capital provided by the Central Government to the Authority under clause (b) of sub-section (1) of section 12;

(d) the value or amount required to be prescribed under sub-section (1) of section 15;

(e) the form in which and the time within which the Authority shall prepare its budget under section 19 and its annual report under section 22;

(f) the manner in which the Authority may invest its funds under section 20;

(g) the manner in which the accounts of the Authority shall be maintained and audited and the date before which the audited copy of the accounts together with the auditor's report thereon shall be furnished to the Central Government under section 23;

(h) the conditions and restrictions with respect to the exercise of the power to enter under section 30 and the matters referred to in clause (f) of that section; and

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

Power
of the
Authority
to make
regulations.

35. (1) The Authority may, by notification in the Official Gazette, make regulations not inconsistent with this Act and the rules made thereunder to carry out the provisions of this Act.

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

(a) the times and places of the meetings of the Authority and the procedure to be followed for the transaction of business at such meetings;

(b) the terms and conditions of service, method of recruitment and the remuneration of officers and other employees appointed by the Authority;

(c) the form and manner in which a contract or class of contracts may be made by the Authority and the contracts or classes of contracts which are to be sealed with the common seal of the Authority;

(d) the manner of preventing obstructions on the national highways for their normal functioning;

(e) the manner of prohibiting the parking or waiting of any vehicle or carriage on the national highway except at places specified by the Authority;

(f) the manner of prohibiting or restricting access to any part of the national highway;

(g) the manner of regulating or restricting advertisements on and around national highways; and

(h) generally for the efficient and proper maintenance and management of the national highways.

Power to
remove
difficulties.

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

Provided that no such order shall be made after the expiration of two years from the commencement of this Act.

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

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

Rules
and regu-
lations to
be laid
before
Parlia-
ment.:

THE FOREST (CONSERVATION) AMENDMENT ACT, 1988

No. 69 OF 1988

[17th December, 1988.]

An Act to amend the Forest (Conservation) Act, 1980.

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

Short
title
and com-
mence-
ment.

1. (1) This Act may be called the Forest (Conservation) Amendment Act, 1988.

(2) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

Amend-
ment of
section 2.

2. In section 2 of the Forest (Conservation) Act, 1980 (hereinafter referred to as the principal Act),—

69 of 1980.

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

“(iii) that any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organisation not owned, managed or controlled by Government;

(iv) that any forest land or any portion thereof may be cleared of trees which have grown naturally in that land or portion, for the purpose of using it for reafforestation.”;

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

Explanation.—For the purpose of this section “non-forest purpose” means the breaking up or clearing of any forest land or portion thereof for—

(a) the cultivation of tea, coffee, spices, rubber, palms, oil-bearing plants, horticultural crops or medicinal plants;

(b) any purpose other than reafforestation,

but does not include any work relating or ancillary to conservation, development and management of forests and wild life, namely, the establishment of check-posts, fire lines, wireless communications and construction of fencing, bridges and

¹ 15-3-1989; vide Notification No. S.O. 451(E), dated 15-3-1989, Gazette of India, 1989, Extra-ordinary, 1989, Pt. II sec. 3(ii).

culverts, dams, waterholes, trench marks, boundary marks, pipelines or other like purposes.’

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

“3A. Whoever contravenes or abets the contravention of any of the provisions of section 2, shall be punishable with simple imprisonment for a period which may extend to fifteen days.

3B. (1) Where any offence under this Act has been committed—

(a) by any department of Government, the head of the department; or

(b) by any authority, every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the authority for the conduct of the business of the authority as well as the authority,

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 the head of the department or any person referred to in clause (b), 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 punishable under the Act has been committed by a department of Government or any authority referred to in clause (b) of sub-section (1) 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 officer, other than the head of the department, or in the case of an authority, any person other than the persons referred to in clause (b) of sub-section (1), such officer or persons shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.”

Insertion
of new
sections
3A and
3B.

Penalty
for contra-
vention of
the provi-
sions of
the Act.

Offences
by autho-
rities and
Govern-
ment de-
partments.

THE APPROPRIATION (No. 5) ACT, 1988

No. 70 OF 1988

[29th December, 1988.]

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 1988-89.

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

Short
title.

Issue of
Rs. 845,
22,00,000
out of
the Con-
solidated
Fund of
India for
the
financial
year
1988-89.

Appro-
priation.

1. This Act may be called the Appropriation (No. 5) Act, 1988.

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 forty-five crores and twenty-two lakh rupees towards defraying the several charges which will come in course of payment during the financial year 1988-89, 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.
1	Agriculture . . . Revenue	100,00,00,000	..	100,00,00,000
2	Other Services of Department of Agriculture and Co-operation . . . Capital	1,00,000	..	1,00,000
5	Department of Fertilizers . . . Revenue	250,01,00,000	..	250,01,00,000
7	Department of Commerce . . . Revenue Capital	200,00,00,000 1,00,000	.. ..	200,00,00,000 1,00,000
11	Telecommunication Services . . . Capital	1,00,000	..	1,00,000
24	Department of Economic Affairs . . . Capital	80,53,00,000	..	80,53,00,000
25	Currency, Coinage and Stamps . . . Revenue	..	57,00,000	57,00,000
29	Transfers to State Governments . . . Revenue	100,00,00,000	..	100,00,00,000
35	Direct Taxes . . . Revenue	..	12,00,000	12,00,000
46	Department of Education . . . Revenue	1,00,000	..	1,00,000
48	Art and Culture . . . Revenue	1,00,000	..	1,00,000
52	Department of Chemicals and Petrochemicals . . . Revenue	5,15,00,000	..	5,15,00,000
60	Ministry of Petroleum and Natural Gas . . . Capital	91,00,000	..	91,00,000
64	Department of Science and Technology . . . Revenue Capital	1,00,000 18,48,00,000	1,41,00,000 ..	1,42,00,000 18,48,00,000
68	Department of Mines . . . Capital	85,20,00,000	..	85,20,00,000
69	Surface Transport . . . Revenue Capital	1,00,000 1,00,000	.. ..	1,00,000 1,00,000
71	Ports, Lighthouses and Shipping . . . Capital	1,00,000	..	1,00,000
72	Ministry of Textiles . . . Revenue	1,63,00,000	..	1,63,00,000
83	Department of Space . . . Revenue Capital	1,11,00,000 1,00,000	.. ..	1,11,00,000 1,00,000
	TOTAL	843,12,00,000	2,10,00,000	845,22,00,000

THE CONSTITUTION (FIFTY-NINTH AMENDMENT)
ACT, 1988

[30th March, 1988]

An Act further to amend the Constitution of India.

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

Short title.

1. This Act may be called the Constitution (Fifty-ninth Amendment) Act, 1988.

Amendment of article 356.

2. In article 356 of the Constitution, in clause (5), for the proviso, the following proviso shall be substituted, namely:—

“Provided that nothing in this clause shall apply to the Proclamation issued under clause (1) on the 11th day of May, 1987 with respect to the State of Punjab.”

Insertion of new article 359A.

3. (1) After article 359 of the Constitution, the following article shall be inserted, namely:—

“359A. Notwithstanding anything in this Constitution, this Part shall, in relation to the State of Punjab, be subject to the following modifications, namely:—

(a) in article 352,—

(i) in clause (1),—

(A) for the opening portion, the following shall be substituted, namely:—

“If the President is satisfied that a grave emergency exists whereby—

(a) the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or armed rebellion; or

(b) the integrity of India is threatened by internal disturbance in the whole or any part of the territory of Punjab;

he may, by Proclamation, make a declaration to that effect in respect of the whole of Punjab or

of such part of the territory thereof as may be specified in the Proclamation”;

(B) in the *Explanation*,—

(1) after the words “armed rebellion”, the words “, or that the integrity of India is threatened by internal disturbance in the whole or any part of the territory of Punjab,” shall be inserted;

(2) after the words “or rebellion”, the words “or disturbance”, shall be inserted;

(ii) in clause (9), after the words “armed rebellion”, at both the places where they occur, the words “or internal disturbance” shall be inserted;

(b) in article 358, in clause (1), after the words “or by external aggression”, the words “or by armed rebellion, or that the integrity of India is threatened by internal disturbance in the whole or any part of the territory of Punjab,” shall be inserted;

(c) in article 359, for the words and figures “articles 20 and 21”, at both the places where they occur, the word and figures “article 20” shall be substituted.

(2) The amendment made to the Constitution by sub-section (1) shall cease to operate on the expiry of a period of two years from the commencement of this Act, except as respects things done or omitted to be done before such cesser.

THE CONSTITUTION (SIXTIETH AMENDMENT) ACT, 1988

[20th December, 1988.]

An Act further to amend the Constitution of India.

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

Short
title.

1. This Act may be called the Constitution (Sixtieth Amendment) Act, 1988.

Amend-
ment of
article
276.

2. In article 276 of the Constitution, in clause (2),—

(a) for the words “two hundred and fifty rupees”, the words “two thousand and five hundred rupees” shall be substituted;

(b) the proviso shall be omitted.

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