

1972

REPEALED

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The following is a list of the names of the persons who were members of the Board of Directors of the American Red Cross during the year 1941. The names are listed in alphabetical order.

Mr. J. Edgar Hoover
Mr. Charles E. Hughes
Mr. William C. Clegg
Mr. J. P. Coyne
Mr. J. M. Glavin
Mr. E. A. Tamm
Mr. J. H. Egan
Mr. J. C. Gurnea
Mr. J. L. Rosen
Mr. J. W. Quinn
Mr. J. R. Connelley
Mr. J. H. Ladd
Mr. J. E. McGuire
Mr. J. M. Mumford
Mr. J. P. Nathan
Mr. J. R. Tracy
Mr. J. W. Harbo
Mr. J. H. C. Smith
Mr. J. M. Gurnea
Mr. J. L. Rosen
Mr. J. W. Quinn
Mr. J. R. Connelley
Mr. J. H. Ladd
Mr. J. E. McGuire
Mr. J. M. Mumford
Mr. J. P. Nathan
Mr. J. R. Tracy
Mr. J. W. Harbo
Mr. J. H. C. Smith

Table showing effect of Parliament Legislation of 1972

Part I.—Central Acts amended, repealed or otherwise affected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 1972 Act by which affected
1	2	3	4	5
1860	45	Indian Penal Code 1860	S. 153A amended. S. 153B inserted.	31, s. 2. <i>Ibid.</i> , s. 2.
1885	13	Indian Telegraph Act, 1885	S. 5 substituted.	38, s. 2.
1890	9	Indian Railways Act, 1890	S. 77 amended.	71, s. 2.
1898	5	Code of Criminal Procedure, 1898	Ss. 99A, 106, 108, 196, Second Sch. amended.	31, s. 3.
1898	5	Code of Criminal Procedure, 1898	S. 197A amended.	54, s. 2.
1903	10	Victoria Memorial Act, 1903	S. 2 amended.	40, s. 2.
1908	5	Code of Civil Procedure, 1908	S. 87B amended.	54, s. 3.
1920	0	Aligarh Muslim University Act, 1920	ss. 2, 3, 15, 17, 18, 19, 21, 23, 27, 28, 34, Sch. substituted (w.e.f. 17-6-1972). ss. 5, 8, 10, 11, 12, 13, 16, 22, 24, 25, 26, 29, 35, 36, 38 amended (w.e.f. 17-6-1972). S. 12A omitted. (w.e.f. 17-6-1972). Ss. 20, 20A, 20B, 36A, 36B, 40, 41 inserted (w.e.f. 17-6-1972).	34, ss. 2, 3, 11, 13, 14, 15, 17, 19, 23, 24, 26, 32. <i>Ibid.</i> , ss. 4, 5, 6, 7, 8, 10, 12, 18, 20, 21, 22, 25, 27, 28, 30. <i>Ibid.</i> , s. 9. <i>Ibid.</i> , ss. 16, 29, 31.
1922	8	Delhi University Act, 1922	ss. 4, 28, 29, amended (w.e.f. 22-6-1972).	48, ss. 2, 3, 4.
1934	20	Indian Carriage by Air Act, 1934	Repealed (w.e.f.).	69, s. 9.
1934	22	Aircraft Act, 1934	Ss. 2, 5, 6, 8, 9, 19 amended. S. 4 substituted. Ss. 5A, 8C, 9A to 9D, 11A, 11B inserted.	12, ss. 2, 4, 6, 7, 9, 12. <i>Ibid.</i> , s. 3. <i>Ibid.</i> , s. 5, 8, 10, 11.
1934	32	Indian Tariff Act, 1934	First Sch. amended. First Sch. amended (w.e.f. 1-1-1973).	16, s. 61 and Sch. II. 73, s. 2.
1940	23	Drugs and Cosmetics Act, 1940	Ss. 1, 3, amended. S. 3A inserted.	19, ss. 2, 3. <i>Ibid.</i> , s. 4.
1944	1	Central Excises and Salt Act, 1944	S. 35A inserted. S. 36 amended. First Sch. amended.	16, s. 64. 64. s. 64, and Sch. III.

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Table showing effect of Parliamentary Legislation of 1972

1	2	3	4	5
1944	18	Public Debt Act, 1944	Ss. 1A, 3, 28 amended (w.e.f. 1-9-1972). S.31 inserted (w.e.f. 1-9-1972).	44, ss. 2, 3, 4. <i>Ibid.</i> , s. 5.
1947	14	Industrial Disputes Act, 1947	Ss. 25FFA, 30A inserted.	32, ss. 2, 3.
1947	31	Antiquities (Export Control) Act, 1947	Repealed (w.e.f.)	52, s. 32.
1947	32	Coal Mines Labour Welfare Fund Act, 1947	Ss. 3, 4, 5, 10 amended.	70, ss. 2, 3, 4, 5.
1948	15	Industrial Finance Corporation Act, 1948	Ss. 2, 4, 10A, 11, 17, 20, 21, 23, 24, 25, 26, 27, 28, 30, 32, 39, 43, amended. S. 14 omitted. Ss. 21A, 21B, 32B inserted.	74, ss. 2, 3, 4, 5, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21. <i>Ibid.</i> , s. 6. <i>Ibid.</i> , ss. 10, 19.
1948	16	Dentists Act, 1948	Ss. 1, 2, 3, 6, 9, 16, 17, 20, 21, 23, 27, 29, 33, 34, 39, 41, 44, 50, 55 amended (w.e.f. 1-11-1972). Ss. 2A, 15A, 16A, 17A, 46A, 53A inserted (w.e.f. 1-11-1972). S. 10, Sch. substituted (w.e.f. 1-11-1972).	42, ss. 2, 3, 5, 6, 7, 10, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 27. <i>Ibid.</i> , ss. 4, 9, 11, 13, 24, 26. <i>Ibid.</i> , ss. 8, 28.
1949	1	Indian Tariff (Amendment) Act, 1949	Ss. 4, 5, amended.	16, s. 63.
1950	49	Contingency Fund of India Act, 1950	S. 2 amended (w.e.f. 9-2-1972)	10, s. 2.
1951	43	Representation of the People Act, 1951	S. 168 repealed.	54, s. 4.
1951	63	State Financial Corporations Act, 1951	Ss. 2, 4, 7, 10, 11, 14, 17, 18, 19, 23, 25, 26, 27, 28, 29, 31, 32, 33, 35, 35A, 37, 39, 46A, 48 amended. Ss. 4A, 7A inserted. S. 22 substituted.	77, ss. 2, 3, 5, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28. <i>Ibid.</i> , ss. 4, 6. <i>Ibid.</i> , s. 13.
1953	12	Khadi and Other Handloom Industries Development (Additional Excise Duty on Cloth) Act, 1953.	S. 3. amended (w.e.f. 10-1-1957). S. 5. amended (Partly w.e.f. 1-3-1960 and partly retrospectively).	60, s. 2. <i>Ibid.</i> , s. 3.
1954	30	Salaries and Allowances of Members of Parliament Act, 1954	Ss. 4, 6 6A amended. S. 6A inserted.	29, ss. 2, 3, 4. <i>Ibid.</i> , s. 4.
1954	37	Prevention of Food Adulteration Act, 1954	Extended to Kohima and Mokokchung districts in the State of Nagaland.	24, s. 2.
1956	3	University Grants Commission Act, 1956	Ss. 2, 6, 12, 14 amended (w.e.f. 17-6-1972). S. 5 substituted (w.e.f. 17-6-1972). Ss. 12A, 27 inserted (w.e.f. 17-6-1972).	33, ss. 2, 4, 5, 7. <i>Ibid.</i> , s. 3. <i>Ibid.</i> , ss. 6, 8.

Table showing effect of Parliamentary Legislation of 1972

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1	2	3	4	5
1956	74	Central Sales Tax Act, 1956	<p>Ss. 6, 7, 8, 9, 10, 10A, 13 amended (w.e.f. 1-4-1973).</p> <p>Ss. 6A, 9B, Chapter V (ss. 16 to 18) inserted (w.e.f. 1-4-1973).</p> <p>S. 14 amended (partly w.e.f. 1-4-1973 and partly retrospectively).</p> <p>S. 15 amended (partly w.e.f. 1-10-1958 and partly w.e.f. 1-4-1973).</p>	<p>61, Ss. 2, 4, 5, 6, 8, 9, 10.</p> <p><i>Ibid.</i>, ss. 3, 7, 13.</p> <p><i>Ibid.</i>, s. 11.</p> <p><i>Ibid.</i>, s. 12.</p>
57	27	Wealth-tax Act, 1957	<p>Ss. 31, 34A, 32, 44A, 46 amended (w.e.f. 1-4-1972).</p> <p>S. 2 (h) amended (partly retrospectively and partly w.e.f. 1-4-1965).</p> <p>S. 5 amended (Partly retrospectively and partly w. e. f. 1-4-1973).</p> <p>S. 45 amended (partly w.e.f. 1-4-1972 and partly retrospectively).</p> <p>S. 21A inserted (w.e.f. 1-4-1973).</p> <p>Ss. 2, 36, 46 amended (w.e.f. 15-11-1972).</p> <p>Ss. 7, 23, 24, 26, 35, 37 amended (w.e.f. 1-1-1973).</p> <p>S. 12A, Chapter VIIB (ss. 34AA to 34AD), s. 38A inserted (w.e.f. 15-11-1972).</p> <p>S. 16A inserted (w.e.f. 1-1-1973).</p> <p>S. 5 amended (partly w.e.f. 28-12-1971).</p>	<p>16, ss. 47, 48, 49, 51.</p> <p><i>Ibid.</i>, s. 44.</p> <p><i>Ibid.</i>, s. 45.</p> <p><i>Ibid.</i>, s. 50.</p> <p><i>Ibid.</i>, s. 46.</p> <p>45, ss. 7, 16, 19.</p> <p><i>Ibid.</i>, ss. 8, 11, 12, 13, 15, 17.</p> <p><i>Ibid.</i>, ss. 9, 14, 18.</p> <p><i>Ibid.</i>, s. 10.</p> <p>54, s. 5.</p>
1957	46	Cantonments (Extension of Rent Control Laws) Act, 1957.	<p>Ss. 1, 4 amended</p> <p>S. 3 amended (retrospectively).</p>	<p>22, ss. 2, 4.</p> <p><i>Ibid.</i>, s. 3.</p>
1957	58	Additional Duties of Excise (Goods of Special Importance) Act, 1957.	<p>First Sch. amended.</p>	<p>16, s. 66 and Sch. IV.</p>
1957	67	Mines and Minerals (Regulation and Development) Act, 1957.	<p>Ss. 4A, 9A, 13A, 18A, 23A, Third Sch. inserted.</p> <p>Ss. 6, 9, 14, 15 (partly retrospectively), 16, 17, 21, 25, 28 amended.</p>	<p>56, ss. 2, 5, 6, 11, 13, 16.</p> <p><i>Ibid.</i>, ss. 3, 4, 7, 8, 9, 10, 12, 14, 15.</p>
1958	18	Gift-tax Act, 1958	<p>Ss. 32, 33, 33A, 44, 46 amended (w.e.f. 1-4-1972).</p> <p>S. 45 amended (w.e.f. 1-4-1973).</p> <p>Ss. 2, 15, 23, 25 amended (w.e.f. 1-1-1973).</p> <p>S. 43A inserted (w.e.f. 1-1-1973).</p> <p>S. 5 amended (w.e.f. 1-4-1973).</p>	<p>16, ss. 52, 53, 54, 56.</p> <p><i>Ibid.</i>, s. 55.</p> <p>45, ss. 20, 21, 22, 23.</p> <p><i>Ibid.</i>, s. 24.</p> <p>54, s. 6.</p>

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Table showing effect of Parliamentary Legislation of 1972

1	2	3	4	5
1958	21 Rice-Milling Industry (Regulation) Act, 1958	S. 1 amended (w.e.f.)	47, s. 2.	
		S. 2A inserted (w.e.f.)	<i>Ibid.</i> , s. 3.	
1958	24 Ancient Monuments and Archaeological Sites and Remains Act, 1958	Ss. 1, 23, 26, 28 amended (w.e.f.)	52, s. 33.	
		S. 2A inserted (w.e.f.)	<i>Ibid.</i> , s. 33.	
1958	27 Mineral Products (Additional Duties of Excise and Customs) Act, 1958	S. 3 amended.	16, s. 67 and Sch. V.	
1958	28 Armed Forces (Assam and Manipur) Special Powers Act, 1958	Long title and s. 1 amended.	7, ss. 2, 3.	
		S. 3 substituted.	<i>Ibid.</i> , s. 4.	
1959	29 Public Wakfs (Extension of Limitation) Act, 1959 (As in force in the Union territory of Delhi)	S. 3 amended (w.e.f. 1-1-1971).	9, s. 2.	
1961	43 Income-tax Act, 1961	Ss. 2(37A), 10(3), 56, 75, 77, 80A, 125, 132A, 139(1), 139(2), 139(8), 201, 213 to 217, 220, 243, 244, Second Sch, 197, 198, 199, 200, 202, 203, 204, 205, 207, 208, 209, 211, 212, 215, 252, 295 amended (w.e.f. 1-4-72).	16, ss. 3, 4, 10, 12, 13, 14, 24, 25, 26, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 40, 41.	
		Ss. 2(14), 2(24), 10(10), 10(25), 11, 13, 45, 80B, 80C, 80G, 80J, 80L, 139(4A), 164, Fourth Sch, amended (w.e.f. 1-4-1973).	<i>Ibid.</i> , ss. 3, 4, 5, 7, 8, 15, 16, 17, 19, 20, 26, 27, 42.	
		S. 90 substituted (w.e.f. 1-4-1972).	<i>Ibid.</i> , s. 23.	
		S. 12 substituted (w.e.f. 1-4-1973).	<i>Ibid.</i> , s. 6.	
		Ss. 74A, 80TT, 194B, 194C, 228A inserted (w.e.f. 1-4-1972).	<i>Ibid.</i> , ss. 11, 22, 28, 39.	
		S. 54C inserted (w.e.f. 1-4-1973).	<i>Ibid.</i> , s. 9.	
		Ss. 80I, 80Q, Sixth Sch. omitted (w.e.f. 1-4-1973).	<i>Ibid.</i> , ss. 18, 21, 43.	
		Ss. 40, 58, amended (retrospectively).	41, ss. 2, 3.	
		Ss. 55A, 287A inserted (w.e.f. 1-1-1973).	45, ss. 2, 6.	
		S. 254 amended (w.e.f. 1-1-1973).	<i>Ibid.</i> , s. 3.	
		Chapter XXA (ss. 269A to 269S), s. 281A inserted (w.e.f. 15-11-1972).	<i>Ibid.</i> , ss. 4, 5.	
		S. 10 (partly w.e.f. 28-12-1971, partly from 9-9-1972 and partly from 2-4-1973), 297 amended.	54, s. 7.	
1961	53 Maternity Benefit Act, 1961	S. 2 amended.	21, s. 2.	
		S. 5A inserted.	<i>Ibid.</i> , s. 3.	

Table showing effect of Parliamentary Legislation of 1972

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I	2	3	4	5
1963	45	Administrators General Act, 1963	Ss. 9, 10, 29, 36, amended (w.e.f. 25-2-1972).	8, s. 2.
1964	7	Companies (Profits) Sur-tax Act, 1964	S. 24A substituted (w. e. f. 1-4-1972). S. 25 amended (w.e.f. 1-4-1972).	16, s. 57. <i>Ibid.</i> , s. 58.
1964	18	Industrial Development Bank of India Act, 1964	Ss. 2, 9, 12, 37 amended. Ss. 9A, 11A, 30A inserted.	75, ss. 2, 3, 6, 8. <i>Ibid.</i> , ss. 4, 5, 7.
1964	37	Food Corporations Act, 1964	Ss. 1, 2, 4, 27, 34, 35 amended.	67, ss. 2, 3, 4, 5, 6, 7.
1965	21	Payment of Bonus Act, 1965	Ss. 10, 13, 19 amended.	68, ss. 2, 3, 4.
1966	54	Seeds Act, 1966	Ss. 2, 9, 25 amended (w.e.f. 16-1-1973). Ss. 8A to 8E inserted (w.e.f. 16-1-1973).	55, ss. 2, 4, 5. <i>Ibid.</i> , s. 3.
1967	37	Unlawful Activities (Prevention) Act, 1967	S. 2 amended.	31, s. 4.
1968	46	Insecticides Act, 1968	Ss. 9, 13, 17, 18, amended (w.e.f. 1-8-1971).	46, ss. 2, 3, 4, 5.
1970	26	Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act, 1970	S. 1 amended.	37, s. 2.
1970	27	University Grants Commission (Amendment) Act, 1970	Repealed (w.e.f. 17-6-1972).	33, s. 10.
1971	17	General Insurance (Emergency Provisions) Act, 1971	Ss. 4A, 4B inserted (w.e.f. 13-5-1971). S. 6 amended (w.e.f. 13-5-1971) s. 14 repealed.	27, s. 2. <i>Ibid.</i> , s. 3. 57, s. 40.
1971	32	Finance (No. 2) Act, 1971	Ss. 43, 44 amended (w. e. f. 1-7-1972).	25, s. 2 and Sch.
1971	47	Tax on Postal Articles Act, 1971	Ss. 1, 3 amended (w. e. f. 1-7-1972).	25, s. 2 and Sch.
	48	Inland Air Travel Tax Act, 1971	Ss. 1, 2 amended (w.e.f. 1-7-1972). S. 4 substituted (w.e.f. 1-7-1972)	<i>Ibid.</i> , s. 2 and Sch. <i>Ibid.</i> , s. 2 and Sch.
1972	11	Indian Copper Corporation Repealed (Taking Over of Management) Act, 1972		58, s. 19.

Part II.—Central Ordinances Repealed

Year of Ordinance	No. of Ordinance	Short title of Ordinance	How affected	No. and section of 1972 Act by which repealed
I	2	3	4	5
1972	1	Contingency Fund of India (Amendment) Ordinance, 1972	Repealed (w.e.f. 9-2-1972).	10, s. 3.
	2	Administrators-General (Amendment) Ordinance, 1972	Repealed (w.e.f. 25-2-1972).	8, s. 3.
	3	Public Wakfs (Extension of Limitation) Delhi Amendment Ordinance, 1972	Repealed (w.e.f. 1-1-1971).	9, s. 3.

I	2	3	4	5
1972	4	Indian Copper Corporation (Taking Over of Management) Ordinance, 1972	Repealed (w.e.f. 10-3-1972).	11, s. 15.
	5	Delhi University (Amendment) Ordinance, 1972	Repealed (w.e.f. 22-6-1972).	48, s. 5.
	6	Indian Iron and Steel Company (Taking Over of Management) Ordinance, 1972	Repealed (w.e.f. 14-7-72).	50, s. 17.
	7	Income-tax (Amendment) Ordinance, 1972	Repealed.	41, s. 6.
	8	Payment of Bonus (Amendment) Ordinance, 1972	Repealed.	68, s. 5.
	9	Sick Textile Undertakings (Taking Over of Management) Ordinance, 1972	Repealed (w.e.f. 31-10-1972).	72, s. 18.

Part III.—State Acts amended, repealed or otherwise affected

Year	No.	Short title	How affected	No. and section of 1972 Act by which affected.
2000 (1940 A.D.)	J&K 20	Jammu and Kashmir Drugs Act, 2000	On and from the date on which any of the provisions of the Drugs and Cosmetics Act, 1940, take effect in the State of J & K, the corresponding provisions, if any, of the J. & K. Act shall stand repealed.	19, s. 5.
1925	Bombay 7	Bombay Cooperative Societies Act, 1925 (as in force in Delhi)	Repealed (w.e.f. 2-4-1973).	35, s. 98.
1941	Ben- gal 6	Bengal Finance (Sales Tax) Act, 1941 (as in force in Delhi)	Ss. 5, 17 amended. ss. 12A to 12F inserted.	16, s. 69. <i>Ibid.</i> , s. 69.
1953	Pun- jab 1	Punjab New Capital (Periphery) Control Act, 1952 (as in force in Chandigarh)	Ss. 6, 15, 16 amended. S. 12 substituted	49, ss. 2, 4, 5. <i>Ibid.</i> , s. 3.

Part IV.—Constitution of India amended

Articles and how affected	No. and section of 1972 Act by which affected
Article 31 amended (w.e.f. 20-4-1972)	Constitution (Twenty-fifth Amendment) Act, 1971 s. 2.
Article 32 inserted (w.e.f. 20-4-1972)	<i>Ibid.</i> , s. 3.
Ninth Schedule amended	Constitution (Twenty-ninth Amendment) Act, 1972, s. 2.
Article 312A inserted (w.e.f. 29-8-1972)	Constitution (Twenty-eighth Amendment) Act, 1972, s. 2.
Article 314 omitted (w.e.f. 29-8-1972)	<i>Ibid.</i> , s. 3.

THE APPROPRIATION ACT, 1972

NO. 1 OF 1972

[21st March, 1972]

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 1971-72.

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

1. This Act may be called the Appropriation Act, 1972.

Short title.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of one thousand eight hundred and seventy-five crores, seventy-three lakhs and ninety-five thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1971-72, in respect of the services specified in column 2 of the Schedule.

Issue of
Rs. 18,75,
73,95,000
out of
the Con-
solidated
Fund of
India
for the
year
1971-72.

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

Appropriation.

THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
2	Defence Services, Effective—Army	1,45,03,50,000	..	1,45,03,50,000
3	Defence Services, Effective—Navy	8,14,90,000	..	8,14,90,000
4	Defence Services, Effective—Air Force	20,43,00,000	30,000	20,43,30,000
5	Defence Services, Non-Effective	3,39,00,000	..	3,39,00,000
12	Other Revenue Expenditure of the Ministry of External Affairs	40,00,00,000	..	40,00,00,000
15	Union Excise Duties	1,00,00,000	20,000	1,00,20,000
16	Taxes on Income including Corpora- tion Tax, etc.	1,75,00,000	..	1,75,00,000
18	Audit	20,00,000	..	20,00,000
20	Mint	40,51,000	..	40,51,000
22	Pensions and Other Retirement Benefits	1,11,13,000	86,000	1,11,99,000
24	Other Revenue Expenditure of the Ministry of Finance	15,87,28,000	..	15,87,28,000
25	Grants-in-aid to State and Union Terri- tory Governments . . . . .	..	6,04,42,000	6,04,42,000
	CHARGED—Interest on Debt and Other Obligations and Reduction or Avoidance of Debt . . . . .	..	35,29,99,000	35,29,99,000
	CHARGED—Payments of States' Share of Union Excise Duties . . . . .	..	52,43,92,000	52,43,92,000
29	Agriculture	1,000	..	1,000
32	Other Revenue Expenditure of the Ministry of Agriculture	16,50,00,000	..	16,50,00,000
33	Ministry of Foreign Trade	7,28,000	..	7,28,000
34	Foreign Trade	8,74,53,000	..	8,74,53,000
38	Ministry of Home Affairs	14,35,000	..	14,35,000
39	Cabinet	20,69,000	..	20,69,000
40	Department of Personnel	10,50,000	..	10,50,000
41	Police	14,21,66,000	..	14,21,66,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
42	Census	36,01,000	..	36,01,000
46	Delhi	2,12,25,000	..	2,12,25,000
47	Chandigarh	46,00,000	2,47,000	48,47,000
48	Andaman and Nicobar Islands	1,26,92,000	..	1,26,92,000
49	Tribal Areas	1,65,86,000	..	1,65,86,000
*51A	Mizoram	1,40,43,000	..	1,40,43,000
52	Other Revenue Expenditure of the Ministry of Home Affairs	37,07,000	1,000	37,08,000
54	Industries	94,11,000	30,05,000	1,24,16,000
56	Other Revenue Expenditure of the Ministry of Industrial Development	89,08,000	..	89,08,000
66	Expenditure on Displaced Persons . . . . .	..	1,00,000	1,00,000
70	Other Revenue Expenditure of the Ministry of Law and Justice	5,64,93,000	..	5,64,93,000
71	Ministry of Petroleum and Chemicals	4,18,000	..	4,18,000
78	Ministry of Steel and Mines	4,16,000	..	4,16,000
86	Public Works	5,00,00,000	..	5,00,00,000
93	Posts and Telegraphs—Dividend to General Revenues, Appropriation to Reserve Funds and Repayments of Loans from General Revenues	10,63,21,000	..	10,63,21,000
97	Department of Electronics	2,49,06,000	..	2,49,06,000
101	Department of Parliamentary Affairs	35,000	..	35,000
103	Survey of India	34,78,000	1,000	34,79,000
106	Supplies and Disposals . . . . .	..	5,000	5,000
	CHARGED—Staff, Household and Allow- ances of the President . . . . .	..	19,000	19,000
111	Defence Capital Outlay . . . . .	..	12,00,000	12,00,000
116	Capital Outlay on Mints	11,86,000	..	11,86,000
118	Commuted Value of Pensions . . . . .	..	3,18,000	3,18,000
121	Loans and Advances by the Central Government	19,41,28,000	2,40,50,00,000	2,68,91,28,000
	CHARGED—Repayment of Debt . . . . .	..	9,74,45,56,000	9,74,45,56,000
122	Purchase of Foodgrains and Fertilizers	45,47,00,000	5,000	45,47,05,000
124	Capital Outlay of the Ministry of Foreign Trade	1,95,48,000	..	1,95,48,000
126	Capital Outlay in Union Territories and Tribal Areas	2,49,93,000	1,50,10,000	4,00,03,000
128	Capital Outlay of the Ministry of Industrial Development	19,30,00,000	..	19,30,00,000

1	2	3		
No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
132	Capital Outlay of the Ministry of Labour and Rehabilitation . . .	..	4,000	4,000
133	Capital Outlay of the Ministry of Petroleum and Chemicals . . .	7,76,84,000	..	7,76,84,000
137	Capital Outlay of the Ministry of Steel and Mines	1,43,15,42,000	..	1,43,15,42,000
141	Delhi Capital Outlay	1,20,00,000	10,00,000	1,30,00,000
143	Capital Outlay of the Department of Atomic Energy	4,00,00,000	..	4,00,00,000
	TOTAL	5,55,89,55,000	13,19,84,40,000	18,75,73,95,000

THE APPROPRIATION (No. 2) ACT, 1972

No. 2 OF 1972

[21st March, 1972]

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, 1970 in excess of the amounts granted for those services and for that year.

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

1. This Act may be called the Appropriation (No. 2) Act, 1972. 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 fourteen crores, seventy-five lakhs, seventy-four thousand, eight hundred and twenty-one 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, 1970, in excess of the amounts granted for those services and for that year. Issue of Rs. 14,75,74,821 out of the Consolidated Fund of India to meet certain excess expenditure for the year ended on the 31st March, 1970.

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, 1970. Appropriation.

THE SCHEDULE
(See sections 2 and 3)

I No. of Vote	2 Services and purposes	3		
		Voted portion	Excess	
			Charged portion	Total
		Rs.	Rs.	Rs.
4	Defence Services, Effective—Air Force	2,65,54,717	..	2,65,54,717
5	Defence Services, Non-Effective	18,642	..	18,642
17	Taxes on Income including Corpora- tion Tax, etc. . . . .	..	2,875	2,875
23	Pensions and Other Retirement Benefits	3,91,954	..	3,91,954
34	Ministry of Foreign Trade and Supply	74,592	..	74,592
40	Public Works	19,57,848	..	19,57,848
53	Andaman and Nicobar Islands	22,61,685	..	22,61,685
62	Ministry of Information and Broad- casting	51,325	..	51,325
77	Other Revenue Expenditure of the Ministry of Petroleum and Chemi- cals and Mines and Metals	5,04,058	..	5,04,058
78	Ministry of Shipping and Transport	2,51,005	..	2,51,005
79	Roads	84,89,601	36,285	85,25,886
83	Ministry of Steel and Heavy Engi- neering	1,18,624	..	1,18,624
94	Posts and Telegraphs—Dividend to General Revenues, Appropriation to Reserve Funds and Repayments of Loans from General Revenues	5,01,08,331	..	5,01,08,331
103	Defence Capital Outlay	5,45,41,422	..	5,45,41,422
109	Commuted Value of Pensions	22,06,518	..	22,06,518
123	Capital Outlay on Multi-purpose River Schemes . . . . .	..	5,339	5,339
	TOTAL	14,75,30,322	44,499	14,74,821

THE APPROPRIATION (RAILWAYS) ACT, 1972

No. 3 OF 1972

[22nd March, 1972]

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 1971-72 for the purposes of Railways.

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

1. This Act may be called the Appropriation (Railways) Act, 1972. 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 fifty-one crores, twenty-three lakhs and fourteen thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1971-72, in respect of the services relating to railways specified in column 2 of the Schedule. Issue of Rs. 51, 23,14,000 out of the Consolidated Fund of India for the financial year 1971-72.
3. The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year. Appropriation.

THE SCHEDULE

(See sections 2 and 3)

I No. of Vote	2 Services and purposes	3		
		Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
3	Payments to Worked Lines and Others	2,19,000	..	2,19,000
4	Working Expenses—Administration .	1,67,57,000	2,67,000	1,70,24,000
5	Working Expenses—Repairs and Maintenance	10,12,17,000	2,16,000	10,14,33,000
6	Working Expenses—Operating Staff	5,05,23,000	4,99,000	5,10,22,000
7	Working Expenses—Operation (Fuel)	..	45,000	45,000
8	Working Expenses—Operation other than Staff and Fuel	1,02,43,000	24,22,000	1,26,65,000
9	Working Expenses—Miscellaneous Expenses	2,74,54,000	5,89,000	2,80,43,000
10	Working Expenses—Staff Welfare .	77,61,000	25,000	77,86,000
13	Open Line Works (Revenue) . . . .	..	6,000	6,000
14	Construction of New Lines—Capital and Depreciation Reserve Fund . . .	..	17,74,000	17,74,000
15	Open Line Works—Capital, Deprecia- tion Reserve Fund and Develop- ment Fund	17,95,84,000	42,59,000	18,38,43,000
16	Pensionary Charges—Pension Fund	1,50,49,000	..	1,50,49,000
18	Appropriation to Development Fund	44,78,000	..	44,78,000
19	Appropriation to Revenue Reserve Fund	8,63,07,000	..	8,63,07,000
20	Payment towards Amortisation of over-capitalisation, Repayment of Loans from General Revenues and Interest thereon—Revenue Reserve Fund	26,20,000	..	26,20,000
	TOTAL	50,22,12,000	1,01,02,000	51,23,14,000

THE APPROPRIATION (RAILWAYS) No. 2 ACT, 1972

No. 4 OF 1972

[22nd March, 1972]

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, 1970, in excess of the amounts granted for those services and for that year.

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

1. This Act may be called the Appropriation (Railways) No. 2 Act, 1972. 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 two crores, thirty-four lakhs, eighty-six thousand and eighty rupees shall be deemed to have been authorised to be paid and applied to meet the amount spent for defraying the charges in respect of the services relating to Railways specified in column 2 of the Schedule during the financial year ended on the 31st day of March, 1970, in excess of the amounts granted for those services and for that year. Issue of Rs. 2,34,86,080 out of the Consolidated Fund of India to meet certain expenditure for the year ended on the 31st March, 1970.

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, 1970. Appropriation.

THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3		
		Sums aggregating to		
		Voted by Parliament	Charged on the Conso- lidated Fund	Total
		Rs.	Rs.	Rs.
2	Miscellaneous Expenditure . . . . .	..	414	414
7	Working Expenses—Operation (Fuel)	2,28,10,143	..	2,28,10,143
9	Working Expenses—Miscellaneous Expenses	5,60,772	..	5,60,772
14	Construction of New Lines—Capital and Depreciation Reserve Fund . . . . .	..	32,762	32,762
16	Pensionary Charges—Pension Fund	81,901	..	81,901
20	Payments towards Amortisation of over-capitalisation	88	..	88
	TOTAL	2,34,52,994	32,776	2,34,86,080

THE APPROPRIATION (RAILWAYS) VOTE ON
ACCOUNT ACT, 1972

No. 3 OF 1972

[26th March, 1972]

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 1972-73 for the purposes of Railway.

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

1. This Act may be called the Appropriation (Railways) Vote on Short Account Act, 1972. 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 four hundred and thirty-five crores, seventy-four lakhs and two thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1972-73, in respect of the services relating to railways specified in column 2 of the Schedule.

Withdrawal of
Rs. 435,
74,02,000
from and
out of
the Con-
solidated
Fund of
India for
the finan-
cial year
1972-73.

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.

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	41,29,000	..	41,29,000
2	Miscellaneous Expenditure	1,80,48,000	75,000	1,81,23,000
3	Payments to Worked Lines and Others	4,28,000	..	4,28,000
4	Working Expenses—Administration	22,40,12,000	5,000	22,40,17,000
5	Working Expenses—Repairs and Maintenance	77,39,73,000	7,000	77,39,80,000
6	Working Expenses—Operating Staff	47,85,74,000	..	47,85,74,000
7	Working Expenses—Operation (Fuel)	43,19,61,000	..	43,19,61,000
8	Working Expenses—Operation other than Staff and Fuel	12,63,23,000	17,90,000	12,81,13,000
9	Working Expenses—Miscellaneous Expenses	9,64,89,000	1,48,000	9,66,37,000
10	Working Expenses—Staff Welfare	7,33,31,000	..	7,33,31,000
11	Working Expenses—Appropriation to Depreciation Reserve Fund	27,50,00,000	..	27,50,00,000
11-A	Working Expenses—Appropriation to Pension Fund	4,00,00,000	..	4,00,00,000
12	Dividend to General Revenues	4,54,02,000	..	4,54,02,000
13	Open Line Works (Revenue)	1,75,09,000	..	1,75,09,000
14	Construction of New Lines—Capital and Depreciation Reserve Fund	9,42,97,000	70,000	9,43,67,000
15	Open Line Works—Capital, Depre- ciation Reserve Fund and Deve- lopment Fund	163,04,85,000	83,000	163,05,68,000
16	Pensionary Charges—Pension Fund	2,52,63,000	..	2,52,63,000
	TOTAL	435,52,24,000	21,78,000	435,74,02,000

THE APPROPRIATION (VOTE ON ACCOUNT) ACT, 1972

No. 6 OF 1972

[30th March, 1972]

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 1972-73.

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

1. This Act may be called the Appropriation (Vote on Account) Act, 1972. **Short title.**

2. From and out of the Consolidated Fund of India there may be withdrawn sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of three thousand five hundred and sixteen crores, thirteen lakhs and thirty-five thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1972-73.

Withdrawal of Rs. 35,16,13,35,000 from and out of the Consolidated Fund of India for the financial year 1972-73.

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.**

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	Ministry of Defence	20,20,000	..	20,20,000
2	Defence Services, Effective— Army	1,53,65,67,000	1,50,000	1,53,67,17,000
3	Defence Services, Effective— Navy	11,33,92,000	8,000	11,34,00,000
4	Defence Services, Effective—Air Force	45,31,97,000	20,000	45,32,17,000
5	Defence Services, Non-effective	9,01,67,000	..	9,01,67,000
6	Department of Education	40,67,000	..	40,67,000
7	Education	13,20,92,000	..	13,20,92,000
8	Department of Social Welfare	1,45,63,000	..	1,45,63,000
9	External Affairs	5,70,19,000	1,000	5,70,20,000
10	Other Revenue Expenditure of the Ministry of External Affairs	10,17,88,000	..	10,17,88,000
11	Ministry of Finance	3,29,74,000	..	3,29,74,000
12	Customs	1,84,40,000	7,000	1,84,47,000
13	Union Excise Duties	3,68,46,000	12,000	3,68,58,000
14	Taxes on Income including Corporation Tax, etc.	3,75,94,000	34,000	3,76,28,000
15	Stamps	86,20,000	..	86,20,000
16	Audit	6,23,34,000	9,69,000	6,33,03,000
17	Currency and Coinage	2,79,60,000	..	2,79,60,000
18	Mint	91,20,000	..	91,20,000
19	Pensions and Other Retirement Benefits	3,16,08,000	6,29,000	3,22,37,000
20	Opium Factories and Alkaloid Works	7,63,62,000	1,000	7,63,63,000
21	Other Revenue Expenditure of the Ministry of Finance	12,24,36,000	..	12,24,36,000
22	Grants-in-aid to State and Union Territory Govern- ments	1,31,45,57,000	40,05,75,000	1,71,51,32,000
23	Miscellaneous Adjustments between the Central and State and Union Territory Governments	8,64,000	..	8,64,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		Total Rs.
		Voted by Parliament	Charged on the Consolidated Fund	
		Rs.	Rs.	
24	Pre-partition Payments	4,000	74,000	78,000
	CHARGED.—Interest on Debt and other obligations . . . . .	..	1,21,67,26,000	1,21,67,26,000
	CHARGED.—Payments of States' Share of Union Excise Duties . . . . .	..	44,78,64,000	44,78,64,000
25	Department of Agriculture	92,95,000	..	92,95,000
26	Agriculture	5,23,96,000	..	5,23,96,000
27	Payments to Indian Council of Agricultural Research	5,42,31,000	..	5,42,31,000
28	Forest	32,89,000	..	32,89,000
29	Department of Food	20,06,92,000	..	20,06,92,000
30	Department of Community Deve- lopment	8,35,000	..	8,35,000
31	Department of Co-operation	53,64,000	..	53,64,000
32	Ministry of Foreign Trade	82,32,000	..	82,32,000
33	Foreign Trade	21,14,08,000	..	21,14,08,000
34	Export Oriented Industries	1,26,84,000	..	1,26,84,000
35	Ministry of Health and Family Planning	26,28,000	..	26,28,000
36	Medical and Public Health	5,20,55,000	..	5,20,55,000
37	Ministry of Home Affairs	27,95,000	..	27,95,000
38	Cabinet	14,12,000	..	14,12,000
39	Department of Personnel	76,92,000	..	76,92,000
40	Police	18,47,27,000	..	18,47,27,000
41	Census	67,56,000	..	67,56,000
42	Statistics	86,95,000	..	86,95,000
43	Territorial and Political Pensions	37,99,000	..	37,99,000
44	Other Revenue Expenditure of the Ministry of Home Affairs	2,38,71,000	..	2,38,71,000
45	Delhi	11,77,97,000	5,42,000	11,83,39,000
46	Chandigarh	1,41,20,000	5,74,000	1,46,94,000
47	Andaman and Nicobar Islands	2,02,06,000	1,000	2,02,07,000
48	Arunachal Pradesh	2,70,22,000	..	2,70,22,000
49	Dadra and Nagar Haveli Area	15,21,000	..	15,21,000
50	Laccadive, Minicoy and Amin- divi Islands	41,34,000	..	41,34,000
51	Mizoram	1,08,30,000	..	1,08,30,000
52	Ministry of Industrial Develop- ment	35,60,000	..	35,60,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
53	Industria	77,75,000	..	77,75,000
54	Village and Small Industries	3,76,61,000	2,50,000	3,79,11,000
55	Ministry of Information and Broadcasting	5,74,000	..	5,74,000
56	Broadcasting	2,87,46,000	..	2,87,46,000
57	Information and Publicity	1,54,56,000	..	1,54,56,000
58	Ministry of Irrigation and Power	1,68,19,000	..	1,68,19,000
59	Irrigation and Flood Control Schemes	63,16,000	..	63,16,000
60	Electricity Schemes	61,17,000	..	61,17,000
61	Department of Labour and Employment	27,52,000	..	27,52,000
62	Labour and Employment	3,72,43,000	1,000	3,72,44,000
63	Department of Rehabilitation	6,43,48,000	7,000	6,43,55,000
64	Ministry of Law and Justice	1,09,55,000	..	1,09,55,000
65	Administration of Justice	47,000	6,69,000	7,16,000
66	Ministry of Petroleum and Chemicals	14,41,000	..	14,41,000
67	Ministry of Planning	85,000	..	85,000
68	Planning Commission	28,94,000	..	28,94,000
69	Ministry of Shipping and Transport	28,83,000	..	28,83,000
70	Roads	4,22,99,000	2,000	4,23,01,000
71	Shipping	1,51,67,000	1,000	1,51,68,000
72	Lighthouses and Lightships	22,42,000	..	22,42,000
73	Ports	1,88,83,000	..	1,88,83,000
74	Road and Inland Water Transport	8,16,000	..	8,16,000
75	Department of Steel	19,12,000	..	19,12,000
76	Department of Mines	2,98,52,000	6,000	2,98,58,000
77	Geological Survey	2,80,83,000	..	2,80,83,000
78	Ministry of Tourism and Civil Aviation	4,86,000	..	4,86,000
79	Meteorology	1,07,44,000	..	1,07,44,000
80	Aviation	2,59,54,000	..	2,59,54,000
81	Tourism	52,20,000	..	52,20,000
82	Ministry of Works and Housing	50,96,000	..	50,96,000
83	Public Works	7,14,48,000	6,41,000	7,20,89,000
84	Stationery and Printing	2,79,35,000	1,000	2,79,36,000

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	Department of Atomic Energy	5,30,000	..	5,30,000
86	Atomic Energy Research and Nuclear Power Schemes	9,15,13,000	..	9,15,13,000
87	Ministry of Communications	12,37,000	..	12,37,000
88	Overseas Communications Service	87,34,000	..	87,34,000
89	Posts and Telegraphs (Working Expenses)	48,72,12,000	2,000	48,72,14,000
90	Posts and Telegraphs—Dividend to General Revenues, Appropriations to Reserve Funds and Repayments of Loans from General Revenues	7,52,00,000	..	7,52,00,000
91	Department of Company Affairs	20,60,000	..	20,60,000
92	Department of Electronics	63,25,000	..	63,25,000
93	Department of Culture	75,05,000	..	75,05,000
94	Archaeology	40,70,000	..	40,70,000
95	Department of Parliamentary Affairs	2,06,000	..	2,06,000
	Department of Science and Technology	59,05,000	..	59,05,000
97	Survey of India	1,48,49,000	..	1,48,49,000
98	Grants to Council of Scientific and Industrial Research	4,12,22,000	..	4,12,22,000
99	Department of Supply	30,82,000	..	30,82,000
100	Supplies and Disposals	84,75,000	..	84,75,000
101	Lok Sabha	47,37,000	17,000	47,54,000
102	Rajya Sabha	19,36,000	15,000	19,51,000
	CHARGED.—Staff, Household and Allowances of the President . . . . .	..	8,28,000	8,28,000
103	Secretariat of the Vice-President	63,000	..	63,000
	CHARGED.—Union Public Service Commission . . . . .	..	19,02,000	19,02,000
104	Defence Capital Outlay	31,78,33,000	3,33,000	31,81,66,000
105	Other Capital Outlay of the Ministry of Defence	1,04,17,000	..	1,04,17,000
106	Capital Outlay of the Ministry of Education and Social Welfare	17,46,000	..	17,46,000
107	Capital Outlay on the India Security Press	17,03,000	..	17,03,000

I No. of Vot.	2 Services and purposes	3		
		Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
108	Capital Outlay on Currency and Coinage	4,01,08,000	..	4,01,08,000
109	Capital Outlay on Mints	10,58,000	..	10,58,000
110	Commuted Value of Pensions	1,67,87,000	47,000	1,68,34,000
111	Other Capital Outlay of the Ministry of Finance	50,12,000	..	50,12,000
112	Capital Outlay on Grants to State Governments for Development	5,14,81,000	..	5,14,81,000
113	Loans and Advances by the Central Government	1,39,95,72,000	1,91,17,34,000	3,31,13,06,000
	CHARGED.— <i>Repayment of Debt.</i>	..	21,19,80,97,000	21,19,80,97,000
114	Purchase of Foodgrains and Fertilisers	26,44,03,000	34,000	26,44,37,000
115	Other Capital Outlay of the Ministry of Agriculture	9,05,32,000	17,000	9,05,49,000
116	Capital Outlay of the Ministry of Foreign Trade	54,93,000	..	54,93,000
117	Capital Outlay of the Ministry of Health and Family Planning	4,28,19,000	..	4,28,19,000
118	Capital Outlay in Union Territories	4,54,52,000	34,60,000	4,89,12,000
119	Other Capital Outlay of the Ministry of Home Affairs	42,08,000	..	42,08,000
120	Capital Outlay of the Ministry of Industrial Development	3,42,46,000	..	3,42,46,000
121	Capital Outlay of the Ministry of Information and Broadcasting	2,08,03,000	..	2,08,03,000
122	Capital Outlay on Irrigation and Flood Control Schemes	1,98,36,000	..	1,98,36,000
123	Other Capital Outlay of the Ministry of Irrigation and Power	5,45,20,000	..	5,45,20,000
124	Capital Outlay of the Ministry of Labour and Rehabilitation	1,33,18,000	..	1,33,18,000
125	Capital Outlay of the Ministry of Petroleum and Chemicals	13,82,52,000	..	13,82,52,000
126	Capital Outlay on Roads	14,27,17,000	33,000	14,27,50,000
127	Capital Outlay on Ports	1,70,02,000	83,000	1,70,85,000
128	Other Capital Outlay of the Ministry of Shipping and Transport	2,93,39,000	..	2,93,39,000
129	Other Capital Outlay of the Ministry of Steel and Mines	15,31,59,000	..	15,31,59,000
130	Capital Outlay on Aviation	94,46,000	33,000	94,79,000

1 No. of Vote	2 Services and purposes	3		
		Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
131	Other Capital Outlay of the Ministry of Tourism and Civil Aviation	1,99,15,000	..	1,99,15,000
132	Capital Outlay on Public Works	2,09,04,000	1,67,000	2,10,71,000
133	Delhi Capital Outlay	1,20,40,000	2,84,000	1,23,24,000
134	Other Capital Outlay of the Ministry of Works and Hous- ing	45,26,000	..	45,26,000
135	Capital Outlay of the Depart- ment of Atomic Energy	11,79,60,000	..	11,79,60,000
136	Capital Outlay on Posts and Tele- graphs (Not met from Re- venue)	24,21,17,000	..	24,21,17,000
137	Other Capital Outlay of the Ministry of Communications	60,13,000	..	60,13,000
	TOTAL	9,97,44,84,000	25,18,68,51,000	35,16,13,35,000

THE ARMED FORCES (ASSAM AND MANIPUR)
SPECIAL POWERS (AMENDMENT) ACT, 1972

NO. 7 OF 1972

[5th April, 1972]

An Act to amend the Armed Forces (Assam and Manipur) Special Powers Act, 1958.

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

Short title.

1. This Act may be called the Armed Forces (Assam and Manipur) Special Powers (Amendment) Act, 1972.

Amendment of long title.

~~2. In the Armed Forces (Assam and Manipur) Special Powers Act, 1958 (hereinafter referred to as the principal Act), in the long title, for the words "in the State of Assam and the Union territory of Manipur", the words "in the States of Assam, Manipur, Meghalaya, Nagaland and Tripura and the Union territories of Arunachal Pradesh and Mizoram" shall be substituted.~~ ^l x x x
28 of 1958.

Amendment of section 1

3. In section 1 of the principal Act,—

(a) in sub-section (1), for the words, brackets and figures "the Armed Forces (Assam and Manipur) Special Powers Act, 1958", the words, brackets and figures "the Armed Forces (Special Powers) Act, 1958" shall be substituted;

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

"(2) It extends to the whole of the States of Assam, Manipur, Meghalaya, Nagaland and Tripura and the Union territories of Arunachal Pradesh and Mizoram."

Substitution of new section for section 3.

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

Power to declare areas to be disturbed areas.

"3. If, in relation to any State or Union territory to which this Act extends, the Governor of that State or the Administrator of that Union territory or the Central Government, in either case, is of the opinion that the whole or any part of such State or Union

[Act 7 of 1972] *Armed Forces (Assam and Manipur) Special Powers* 21
(Amendment)

territory, as the case may be, is in such a disturbed or dangerous condition that the use of armed forces in aid of the civil power is necessary, the Governor of that State or the Administrator of that Union territory or the Central Government, as the case may be, may, by notification in the Official Gazette, declare the whole or such part of such State or Union territory to be a disturbed area.

5. As from the commencement of this Act, the principal Act, as extended by notification of the Government of India in the Ministry of Home Affairs No. G.S.R. 1970, dated the 25th November, 1970 to the then existing Union territory of Tripura, shall cease to operate in the State of Tripura.

Principal Act as extended to the former Union territory of Tripura to cease to operate.

Rep. by Act. 38 of 1978, S. 2 & Sch. I

THE ADMINISTRATORS-GENERAL (AMENDMENT)
ACT, 1972

No. 8 OF 1972

[12th April, 1972]

An Act further to amend the Administrators-General Act, 1963.

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

Short
title and
com-
mence-
ment

1. (1) This Act may be called the Administrators-General (Amendment) Act, 1972.

(2) It shall be deemed to have come into force on the 25th day of February, 1972.

Amend-
ment of
sections
9, 10, 29
and 36.

2. In section 9, section 10, section 29 and section 36 of the Administrators-General Act, 1963 (hereinafter referred to as the principal Act), for the words "five thousand", wherever they occur, the words "fifteen thousand" shall be substituted. 45 of 1963.

Repeal
and
savings.

3. (1) The Administrators-General (Amendment) Ordinance, 1972, is hereby repealed. 2 of 1972.

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

THE PUBLIC WAKFS (EXTENSION OF LIMITATION)
(DELHI AMENDMENT) ACT, 1972

No. 9 OF 1972

[12th April, 1972]

An Act further to amend the Public Wakfs (Extension of Limitation) Act, 1959.

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

1. (1) This Act may be called the Public Wakfs (Extension of Limitation) (Delhi Amendment) Act, 1972.

Short title, extent and commencement.

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

(3) It shall be deemed to have effect from the 1st day of January, 1971.

29 of 1959. 2. In section 3 of the Public Wakfs (Extension of Limitation) Act, 1959 (hereinafter referred to as the principal Act), as in force in the Union territory of Delhi, for the words, figures and letters "the 31st day of December, 1970", the words, figures and letters "the 31st day of December, 1972" shall be substituted. Amend-ment of section 3.

3 of 1972. 3. (1) The Public Wakfs (Extension of Limitation) (Delhi Amendment) Ordinance, 1972, 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.

Rep. by Act 38 of 1978, S. 2 + Sch. I

THE CONTINGENCY FUND OF INDIA (AMENDMENT)
ACT, 1972

NO. 10 OF 1972

[12th April, 1972]

An Act further to amend the Contingency Fund of India Act, 1950.

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

Short title and commencement.

1. (1) This Act may be called the Contingency Fund of India (Amendment) Act, 1972.

(2) It shall be deemed to have come into force on the 9th day of February, 1972.

Amendment of section 2.

2. To section 2 of the Contingency Fund of India Act, 1950 (hereinafter referred to as the principal Act), the following proviso shall be added, namely:—

‘Provided that during the period beginning on the 9th day of February, 1972 and ending on the 30th day of April, 1972, this section shall have effect subject to the modification that for the words “thirty crores of rupees”, the words “one hundred crores of rupees” shall be substituted.’

Repeal and saving.

3. (1) The Contingency Fund of India (Amendment) Ordinance, 1972, 1 of 1972, 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.

Rep. by Act 58 of 1972, S. 19.

**THE INDIAN COPPER CORPORATION (TAKING OVER
OF MANAGEMENT) ACT, 1972**

No. II OF 1972

[20th April, 1972]

An Act to provide for the taking over, in the public interest, of the management of the undertaking of the Indian Copper Corporation Limited, pending acquisition of that undertaking.

WHEREAS it is expedient in the public interest that the undertaking of the Indian Copper Corporation Limited should be acquired for the purpose of enabling the Central Government to conserve and exploit in a scientific and rational manner to the maximum advantage of the nation, the copper deposits in the Singhbhum belt in the State of Bihar and to utilise the deposits in such manner as to subserve the common good, in the context of the requirements of copper in the country;

AND WHEREAS it is expedient, in the public interest, to take over the management of the undertaking of the Indian Copper Corporation Limited pending acquisition thereof;

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

CHAPTER 1

PRELIMINARY

1. (1) This Act may be called the Indian Copper Corporation (Taking Over of Management) Act, 1972.

Short title and commencement.

(2) It shall be deemed to have come into force on the 10th day of March, 1972.

Definitions.

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

(a) "appointed day" means the 10th day of March, 1972;

(b) "company" or "Indian Copper Corporation" means the Indian Copper Corporation Limited, being a company incorporated in England and having its head office at Gillander House, Netaji Subhas Road, Calcutta-1;

(c) "Custodian" means the Government company appointed under section 4 to take over the management of the undertaking of the company;

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

1 of 1956.

(e) "undertaking", in relation to the company, means the undertaking of the company, in India, referred to in sub-section (2) of section 3.

CHAPTER II

MANAGEMENT OF THE UNDERTAKING OF THE INDIAN COPPER CORPORATION

Management of the undertaking of the company to vest in Central Government.

3. (1) On and from the appointed day, the management of the undertaking of the company shall vest in the Central Government.

(2) The undertaking of the company shall be deemed to include all assets, rights, leaseholds (including mining leases, if any), powers, authorities and privileges and all property, movable and immovable, including lands, buildings, works, mines, workshops, projects, smelters, refineries, stores, instruments, machinery, locomotives, automobiles and other vehicles, mined or extracted copper and other ores, concentrates and metals, in process or in stock or in transit, cash balances, reserve fund, investments and book debts and all other rights and interests arising out of such property as were immediately before the appointed day in the ownership, possession, power or control of the company in relation to the undertaking, within India, and all books of account, registers, maps, plans, sections, drawings, records of survey and all other documents of whatever nature relating thereto.

(3) Any contract, whether express or implied, or other arrangement, in so far as it relates to the management of the business and affairs of the company in relation to its undertaking and in force immediately before the appointed day, shall be deemed to have terminated on the appointed day.

(4) All persons in whom the management of the business and affairs of the company in relation to its undertaking vests immediately before the appointed day, shall, as from that day, cease to be so vested.

(5) No resolution passed at any meeting of the Board of Directors or of the share-holders of the company on or after the appointed day regarding the business of the company in so far as it relates to its undertaking shall be given effect to unless approved by the Central Government.

4. (1) The Central Government shall, as from the appointed day, appoint a Government company as the Custodian of the undertaking of the company for the purpose of taking over the management thereof and the Custodian shall carry on the management of the undertaking of the company for and on behalf of the Central Government.

Appoint-
ment of
Custodian
to take
over
manage-
ment
of the
under-
taking of
the com-
pany.

(2) The Central Government may issue such directions (including directions as to initiating, defending or continuing any legal proceedings before any court, tribunal or other authority) to the Custodian as to its powers and duties as the Central Government deems desirable and the Custodian may apply to the Central Government at any time for instructions as to the manner in which the Custodian shall conduct the management of the undertaking of the company or in relation to any matter arising in the course of such management.

(3) Any person having possession, custody or control of any property forming part of the undertaking of the company shall deliver forthwith such property to the Custodian or to any such person (being the chairman, director, or officer or other employee of the Custodian) as may be authorised by the Central Government in this behalf.

(4) Any person who, on the appointed day, has in his possession or under his control any books, papers or other documents relating to the undertaking of the company, including the minutes books containing the resolutions of the persons in charge of the management before the appointed day, the current cheque books relating to the undertaking of the company, any letters, memoranda, notes or other communications between him and the company shall, notwithstanding anything contained in any law for the time being in force, be liable to account for the books, papers and other documents (including such minutes books, cheque books, letters, memoranda or other communications) to the Custodian and shall deliver them up to the Custodian or to any such person (being the chairman, director, or officer or other employee of the Custodian) as may be authorised by the Central Government in this behalf.

(5) Every person in charge of the management of the undertaking of the company immediately before the appointed day shall, within ten days from that day or within such further period as the Central Government may allow in this behalf, furnish to the Custodian a complete inventory of all the properties and assets (including particulars of book debts and investments and belongings) forming part of the undertaking of the company immediately before the appointed day and of all the liabilities and obligations of the company in relation to its undertaking subsisting immediately before that day and also of all agreements entered into by the company in relation to its undertaking and in force immediately before that day.

(6) The Custodian shall receive from the funds of the undertaking of the company such remuneration as the Central Government may fix.

5. (1) The company shall be given by the Central Government an amount, in cash, for vesting in it, under section 3, of the management of the undertaking of the company.

Payment
of amount
to the
company.

(2) For every month during which the management of the undertaking remains vested in the Central Government, the amount referred to in sub-section (1) shall be a sum of seventy-five thousand rupees:

Provided that the amount payable under this sub-section shall be apportioned between the company and the persons in charge of the management of the undertaking of the company immediately before the appointed day, by virtue of a contract or other arrangement with the company, in such proportion as may be agreed upon by or between the company and such persons, and, in the event of there being no such agreement, in such proportion as may be determined by the High Court within the local limits of whose jurisdiction the principal place of business of the company in India is situated.

CHAPTER III

MISCELLANEOUS

Penalties.

6. (1) Any person, who—

(a) having in his possession, custody or control any property forming part of the undertaking of the company wrongfully withholds such property from the Custodian or any person authorised under this Act, or

(b) wrongfully obtains possession of any such property, or

(c) wilfully retains any property of the undertaking of the company or removes or destroys it, or

(d) wilfully withholds or fails to deliver any books, papers or other documents which may be in his possession or under his control to the Custodian or any person authorised under this Act, or

(e) fails, without reasonable cause, to furnish information or particulars as provided in sub-section (5) of section 4,

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.

(2) No court shall take cognizance of an offence punishable under this section except with the previous sanction of the Central Government or of an officer authorised by the Central Government in this behalf.

Offences
by com-
panies.

7. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

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

8. No proceeding for the appointment of a Receiver in respect of the business of the company in so far as it relates to its undertaking, shall lie in any court except with the consent of the Central Government.

Certain proceedings before court to be barred.

9. In computing the period of limitation prescribed by law for the time being in force for any suit or application against any person by the company in respect of any matter arising out of any transaction in relation to the undertaking of the company, the time during which this Act is in force shall be excluded.

Exclusion of period of operation of Act.

10. The provisions of this Act or any notification, order or rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law other than this Act or in any instrument having effect by virtue of any law other than this Act or in any decree or order of any court.

Act to have overriding effect.

11. (1) No suit, prosecution or other legal proceeding shall lie against any officer or other employee of the Central Government, the Custodian or any chairman, director, officer or other employee of the Custodian for anything which is in good faith done or intended to be done under this Act.

Protection of action taken in good faith.

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

12. (1) If the Central Government is satisfied, after such inquiry as it may think fit, that any contract or agreement entered into at any time within twelve months immediately preceding the appointed day, between the company or the managing agents of the company and any other person, in so far as such contract or agreement relates to the undertaking of the company, has been entered into in bad faith, and is detrimental to the interests of the undertaking of the company, make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) and thereafter the contract or agreement shall have effect accordingly:

Contracts in bad faith may be cancelled or varied.

Provided that no contract or agreement shall be cancelled or varied except after giving to the parties to the contract or agreement reasonable opportunity of being heard.

(2) Any person aggrieved by an order under sub-section (1) may make an application to the High Court within the local limits of whose jurisdiction the principal place of business of the company in India is situated

for the variation or reversal of such order and thereupon such court may confirm, modify or reverse such order.

Power to terminate contract of employment.

13. If the Custodian is of the opinion that any contract of employment entered into by the company or the managing agents of the company, in relation to the undertaking of the company, at any time before the appointed day, is unduly onerous, it may, by giving to the employee one month's notice in writing or the salary or wages for one month in lieu thereof, terminate such contract of employment.

Power to make rules.

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

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

Repeal and savings.

15. (1) The Indian Copper Corporation (Taking Over of Management) Ordinance, 1972, is hereby repealed.

Ord.
4 of 1972.

(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.

Rep. by Act. 38 of 1978, S. 2 + Sch. I

THE AIRCRAFT (AMENDMENT) ACT, 1972

NO. 12 OF 1972

[20th April, 1972]

An Act further to amend the Aircraft Act, 1934.

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

Short
title.

1. This Act may be called the Aircraft (Amendment) Act, 1972.

Amend-
ment of
section 2.

2. In section 2 of the Aircraft Act, 1934 (hereinafter referred to as the principal Act),—

22 of 1934.

(a) in clause (1), after the words "reactions of the air", the words "other than reactions of the air against the earth's surface" shall be inserted;

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

'(2A) "aerodrome reference point", in relation to any aerodrome, means a designated point established in the horizontal plane at or near the geometric centre of that part of the aerodrome reserved for the departure or landing of aircraft;'

Substitu-
tion
of new
section
for
section 4.

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

Repealed

Power of Central Government to make rules to implement the Convention of 1944.

Amendment of section 5.

"4. The Central Government may, by notification in the Official Gazette, make such rules as appear to it to be necessary for carrying out the Convention relating to International Civil Aviation signed at Chicago on the 7th day of December, 1944 (including any Annex thereto relating to international standards and recommended practices) as amended from time to time."

4. In section 5 of the principal Act,—

(i) in sub-section (1), the words "and for securing the safety of aircraft operations" shall be inserted at the end;

(ii) in sub-section (2), in clause (g), the word "and" occurring at the end shall be omitted and after that clause as so amended, the following clause shall be inserted, namely:—

"(gg) the prohibition of slaughtering and flaying of animals and of depositing rubbish, filth and other polluted and obnoxious matter within a radius of ten kilometres from the aerodrome reference point; and".

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

Insertion of new section 5A.

"5A. (1) The Director General of Civil Aviation or any other officer specially empowered in this behalf by the Central Government may, from time to time, by order, issue directions, consistent with the provisions of this Act and the rules made thereunder, with respect to any of the matters specified in clauses (b), (c), (e), (f), (g), (h) and (m) of sub-section (2) of section 5, to any person or persons engaged in aircraft operations or using any aerodrome, in any case where the Director General of Civil Aviation or such other officer is satisfied that in the interests of the security of India or for securing the safety of aircraft operations it is necessary so to do.

Power to issue directions.

(2) Every direction issued under sub-section (1) shall be complied with by the person or persons to whom such direction is issued."

6. In section 6 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

Amendment of section 6.

"(1A) Any order made under sub-section (1) shall have effect notwithstanding anything inconsistent therewith contained in any rule made under this Act."

7. In section 8 of the principal Act, in clause (b) of sub-section (1), the words "or to implement any order made by any court" shall be inserted at the end.

Amendment of section 8.

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

Insertion of new section 8C.

"8C. The Central Government may, by notification in the Official Gazette, make rules which may provide for securing the safe custody and re-delivery of any property which, while not in proper custody,

Power of Central Government.

Repealed

is found on any aerodrome or in any aircraft on any aerodrome and any such rules may, in particular, provide for—

(a) the payment of charges in respect of any such property before it is re-delivered to the person entitled thereto; and

(b) the disposal of any such property in cases where the same is not re-delivered to the person entitled thereto before the expiration of such period as may be specified therein.”

to make rules for securing safe custody and re-delivery of un-claimed property.

21 of 1923. 44 of 1958. 9. In section 9 of the principal Act, in sub-section (1), for the words and figures “The provisions of Part VII of the Indian Merchant Shipping Act, 1923”, the words and figures “The provisions of Part XIII of the Merchant Shipping Act, 1958” shall be substituted.

Amendment of section 9.

10. After section 9 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 9A, 9B, 9C and 9D.

“9A. (1) If the Central Government is of opinion that it is necessary or expedient so to do for the safety of aircraft operations, it may, by notification in the Official Gazette,—

Power of Central Government to prohibit or regulate construction of buildings, planting of trees, etc.

(i) direct that no building or structure shall be constructed or erected, or no tree shall be planted, on any land within such radius, not exceeding twenty kilometres from the aerodrome reference point, as may be specified in the notification and where there is any building, structure or tree on such land, also direct the owner or the person having control of such building, structure or tree to demolish such building or structure or, as the case may be, to cut such tree within such period as may be specified in the notification;

(ii) direct that no building or structure higher than such height as may be specified in the notification shall be constructed or erected, or no tree, which is likely to grow or ordinarily grows higher than such height as may be specified in the notification, shall be planted, on any land within such radius, not exceeding twenty kilometres from the aerodrome reference point, as may be specified in the notification and where the height of any building or structure or tree on such land is higher than the specified height, also direct the owner or the person having control of such building, structure or tree to reduce the height thereof so as not to exceed the specified height, within such period as may be specified in the notification.

(2) In specifying the radius under clause (i) or clause (ii) of sub-section (1) and in specifying the height of any building, structure or tree under the said clause (ii), the Central Government shall have regard to—

(a) the nature of the aircraft operated or intended to be operated in the aerodrome; and

(b) the international standards and recommended practices governing the operations of aircraft.

(3) Where any notification has been issued under sub-section (1) directing the owner or the person having control of any building

Repealed

structure or tree to demolish such building or structure or to cut such tree or to reduce the height of any building, structure or tree, a copy of the notification containing such direction shall be served on the owner or the person having the control of the building, structure or tree, as the case may be,—



- (i) by delivering or tendering it to such owner or person; or
- (ii) if it cannot be so delivered or tendered, by delivering or tendering it to any officer of such owner or person or any adult male member of the family of such owner or person or by affixing a copy thereof on the outer door or on some conspicuous part of the premises in which such owner or person is known to have last resided or carried on business or personally worked for gain; or failing service by these means;
- (iii) by post.



(4) Every person shall be bound to comply with any direction contained in any notification issued under sub-section (1).

Payment of compensation.

9A. (1) If in consequence of any direction contained in any notification issued under sub-section (1) of section 9A, any person sustains any loss or damage, such person shall be paid compensation the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,—

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;

(b) where no such agreement can be reached, the Central Government shall appoint as arbitrator a person who is or has been qualified for appointment as a Judge of a High Court;

(c) the Central Government may, in any particular case, nominate a person having expert knowledge as to the nature of the loss or damage suffered by the person to be compensated and where such nomination is made, the person to be compensated may also nominate an assessor for the same purpose;

(d) at the commencement of the proceedings before the arbitrator, the Central Government and the person to be compensated shall state what, in their respective opinion, is a fair amount of compensation;

(e) the arbitrator shall, after hearing the dispute, make an award determining the amount of compensation which appears to him to be just and specify the person or persons to whom such compensation shall be paid; and in making the award he shall have regard to the circumstances of each case and,—

(i) the damage sustained by the person to be compensated in his earnings;

(ii) if in consequence of any direction contained in any notification issued under sub-section (1) of section 9A the market value of the land immediately after the issue of such notification is diminished, the diminution in such market value,

6C

Repealed

(iii) where ~~any building or structure has been demolished or any tree has been cut or~~ the height of any building, structure or tree has been reduced in pursuance of any direction, the damage sustained by the person to be compensated in consequence of such ~~demolition~~ cutting or reduction and the expenses incurred by such person for such ~~demolition~~ cutting or reduction;

(iv) if the person to be compensated is compelled to change his residence or place of business, the reasonable expenses, if any, that may have to be incurred by him incidental to such change;

(f) where there is any dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such dispute and if the arbitrator finds that more persons than one are entitled to compensation, he shall apportion the amount thereof amongst such persons;

(g) nothing in the Arbitration Act, 1940, shall apply to arbitrations under this section.

10 of 1940.

(2) Every award made by the arbitrator under clause (e) of subsection (1) shall also state the amount of costs incurred in the proceedings before it and by what persons and, in what proportions they are to be paid.

^E 9C. Any person aggrieved by an award of the arbitrator made under section 9B may, within thirty days from the date of such award, prefer an appeal to the High Court within whose jurisdiction the aerodrome is situate:

Appeals from awards in respect of compensation.

Provided that the High Court may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

^F 9D. The arbitrator appointed under section ^C 9B, while holding arbitration proceedings under this Act, shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—

Arbitrator to have certain powers of civil courts.

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

(b) requiring the discovery and production of any document;

(c) reception of evidence on affidavits;

(d) requisitioning any public record from any court or office;

(e) issuing commissions for examination of witnesses.”

5 of 1908.

Repealed

Insertion of new sections 11A and 11B

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

Penalty for failure to comply with directions issued under section 5A.

“11A. If any person wilfully fails to comply with any direction issued under section 5A, he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

Penalty for failure to comply with directions issued under section 9A.

11B. (1) If any person wilfully fails to comply with any direction contained in any notification issued under section 9A, he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

(2) Without prejudice to the provisions of sub-section (1), if any person fails to demolish any building or structure or cut any tree or fails to reduce the height of any building, structure or tree in pursuance of any direction contained in any notification issued under sub-section (1) of section 9A within the period specified in the notification, then, subject to such rules as the Central Government may make in this behalf, it shall be competent for any officer authorised by the Central Government in this behalf to demolish such building or structure or cut such tree or reduce the height of such building, structure or tree.”

Amendment of section 19.

12. In section 19 of the principal Act, in sub-section (1), after the words “or in any order or rule made thereunder” the words, figures and letters “other than a rule made under section 8A or under section 8B” shall be inserted.

**THE MARINE PRODUCTS EXPORT DEVELOPMENT
AUTHORITY ACT, 1972**

ARRANGEMENT OF SECTIONS

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2. Declaration as to expediency of control by the Union.
3. Definitions.

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25. Other penalties.
26. Offences by companies.
27. Jurisdiction of court.
28. Previous sanction of Central Government.
29. Protection of action taken in good faith.
30. Power to delegate.
31. Suspension of operation of Act.
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33. Power of Central Government to make rules.
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THE MARINE PRODUCTS EXPORT DEVELOPMENT
AUTHORITY ACT, 1972

No. 13 of 1972

[20th April, 1972]

An Act to provide for the establishment of an Authority for the development of the marine products industry under the control of the Union and for matters connected therewith.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Marine Products Export Development Authority Act, 1972.

(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:

Provided that different dates may be appointed for different provisions of this Act.

Short
title, ex-
tent and
com-
mence-
ment.

¹12.7.1972 : Provisions of sections other than sections 11 to 19 (both inclusive), *vide* Notification No. GSR 388 (E), dated 12.7.72, *see* Gazette of India, Extraordinary, Part II, sec. 3(i), p. 377.

²15.1.1973 : Provisions of sections 11 to 19 (both inclusive), *vide* Notification No. GSR 8(E) dated 10-1-1973, *see* Gazette of India, Extraordinary, Part II, Sec. 3(i), p. 14.

Declara-
tion as
to expedi-
ency of
control
by the
Union.

2. It is hereby declared that it is expedient in the public interest that the Union should take under its control the marine products industry.

Definitions.

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

(a) "Authority" means the Marine Products Export Development Authority established under section 4;

(b) "Chairman" means the Chairman of the Authority;

(c) "conveyance" includes a carrier vessel or a vehicle;

(d) "dealer" means a dealer in any of the marine products;

(e) "Director" means the Director of Marine Products Export Development appointed under section 7;

(f) "export" and "import" mean respectively taking out of, or bringing into, India by land, sea or air;

(g) "fishing vessel" means a ship or boat fitted with mechanical means of propulsion which is exclusively engaged in sea-fishing for profit;

(h) "marine products" includes all varieties of fishery products known commercially as shrimp, prawn, lobster, crab, fish, shell-fish, other aquatic animals or plants or part thereof and any other products which the Authority may, by notification in the Gazette of India, declare to be marine products for the purposes of this Act;

(i) "member" means a member of the Authority;

(j) "owner", in relation to any fishing vessel or in relation to any processing plant or storage premises for marine products or in relation to any conveyance used for the transport of marine products, includes—

(i) any agent of the owner; and

(ii) a mortgagee, lessee or other person in actual possession of the fishing vessel, processing plant, storage premises or conveyance;

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

(l) "processing", in relation to marine products, includes the preservation of such products such as canning, freezing, drying, salting, smoking, peeling or filleting and any other method of processing which the Authority may, by notification in the Gazette of India, specify in this behalf.

CHAPTER II

MARINE PRODUCTS EXPORT DEVELOPMENT AUTHORITY

Establish-
ment and
constitu-
tion of
the Autho-
rity.

4. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, specify in this behalf, there shall be established for the purposes of this Act, an Authority to be called the Marine Products Export Development Authority.

(2) The Authority 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 Authority shall consist of the following members, namely:—

(a) a Chairman to be appointed by the Central Government;

(b) the Director of Marine Products Export Development, *ex officio*;

(c) three members of Parliament of whom two shall be elected by the House of the People and one by the Council of States;

(d) five members to represent respectively the Ministries of the Central Government dealing with—

(i) agriculture,

(ii) finance,

(iii) foreign trade,

(iv) industry, and

(v) shipping and transport;

(e) such number of other members not exceeding twenty as the Central Government may think expedient, to be appointed by that Government by notification in the Official Gazette from among persons who are in its opinion capable of representing—

(i) the Governments of the States or Union territories having a sea-coast;

(ii) the interests of owners of fishing vessels, processing plants or storage premises for marine products and conveyances used for the transport of marine products;

(iii) the interests of dealers;

(iv) the interests of persons employed in the marine products industry;

(v) the interests of persons employed in research institutions engaged in the researches connected with the said industry; and

(vi) such other persons or class of persons who, in the opinion of the Central Government, ought to be represented on the Authority.

(4) The number of persons to be appointed as members from each of the categories specified in clause (e) of sub-section (3), the term of office of the members other than the member referred to in clause (b) of that sub-section, and the manner of filling vacancies among, and the procedure to be followed in the discharge of their functions by the members shall be such as may be prescribed.

(5) Any officer of the Central Government, not being a member of the Authority, when deputed by that Government in this behalf, shall have the right to attend meetings of the Authority and take part in the proceedings thereof but shall not be entitled to vote.

(6) The Authority shall elect from among its members a Vice-Chairman who shall exercise such of the powers and perform such of the functions of the Chairman as may be prescribed or as may be delegated to him by the Chairman.

Acts or proceedings of Authority or its Committees not to be invalidated.

5. No act or proceeding of the Authority or any Committee appointed by it under section 8, shall be invalidated merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Authority or such Committee; or

(b) any defect in the appointment of a person acting as a member of the Authority or such Committee; or

(c) any irregularity in the procedure of the Authority or such Committee not affecting the merits of the case.

Salary and allowances of Chairman.

6. The Chairman 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.

Executive officers of the Authority and other staff.

7. (1) The Central Government shall appoint a Director of Marine Products Export Development to exercise such powers and perform such duties under the Chairman as may be prescribed or as may be delegated to him by the Chairman.

(2) The Central Government shall appoint a Secretary to the Authority to exercise such powers and perform such duties under the Chairman as may be prescribed or as may be delegated to him by the Chairman.

(3) The Director and the Secretary to the Authority shall be entitled to such salaries and allowances and such conditions of service in respect of leave, pension, provident fund and other matters as may be fixed by the Central Government.

(4) Subject to such control and restrictions as may be prescribed, the Authority may appoint such other officers and employees as may be necessary for the efficient performance of its functions and pay them such salaries and allowances as it may determine from time to time.

(5) The Chairman, the Director, the Secretary and other employees of the Authority shall not undertake any work unconnected with their duties under this Act except with the permission of the Central Government.

Committees of the Authority.

8. (1) The Authority may appoint such Committees as may be necessary for the efficient discharge of its duties and performance of its functions under this Act.

(2) The Authority shall have the power to co-opt as members of any Committee appointed under sub-section (1) such other number of persons who are not members of the Authority, as it may think fit.

Functions of the Authority.

9. (1) It shall be the duty of the Authority to promote, by such measures as it thinks fit, the development under the control of the Central Government of the marine products industry with special reference to exports.

(2) Without prejudice to the generality of the provisions of sub-section (1), the measures referred to therein may provide for—

(a) developing and regulating off-shore and deep-sea fishing and undertaking measures for the conservation and management of off-shore and deep-sea fisheries;

(b) registering fishing vessels, processing plants or storage premises for marine products and conveyances used for the transport of marine products;

(c) fixing of standards and specifications for marine products for purposes of export;

(d) rendering of financial or other assistance to owners of fishing vessels engaged in off-shore and deep-sea fishing and owners of processing plants or storage premises for marine products and conveyances used for the transport of marine products, and acting as an agency for such relief and subsidy schemes as may be entrusted to the Authority;

(e) carrying out inspection of marine products in any fishing vessel, processing plant, storage premises, conveyance or other place where such products are kept or handled, for the purpose of ensuring the quality of such products;

(f) regulating the export of marine products;

(g) improving the marketing of marine products outside India;

(h) registering of exporters of marine products on payment of such fees as may be prescribed;

(i) collecting statistics from persons engaged in the catching of fish or other marine products, owners of processing plants or storage premises for marine products or conveyances used for the transport of marine products, exporters of such products and such other persons as may be prescribed on any matter relating to the marine products industry and the publishing of statistics so collected, or portions thereof or extracts therefrom;

(j) training in various aspects of the marine products industry; and

(k) such other matters as may be prescribed.

(3) The Authority shall perform its functions under this section in accordance with and subject to such rules as may be made by the Central Government.

10. (1) The Central Government may, by notification in the Official Gazette and for reasons to be specified therein, direct that the Authority shall be dissolved from such date and for such period as may be specified in the notification: Dissolu-
tion of
the Autho-
rity.

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Authority to make representations against the proposed dissolution and shall consider the representations, if any, of the Authority.

(2) When the Authority is dissolved under the provisions of subsection (1),—

(a) all members notwithstanding that their term of office has not expired, shall, from the date of dissolution, vacate their offices as such members;

(b) all powers and duties of the Authority shall, during the period of dissolution, be exercised and performed by such person or persons as the Central Government may appoint in this behalf;

(c) all funds and other property vested in the Authority shall, during the period of dissolution, vest in the Central Government; and

(d) as soon as the period of dissolution expires, the Authority shall be reconstituted in accordance with the provisions of this Act.

CHAPTER III REGISTRATION

Registra-
tion of
fishing
vessel,
processing
plant, etc.

11. (1) Every owner of a fishing vessel, processing plant or storage premises for marine products or conveyance used for the transport of marine products shall, before the expiration of one month from the date on which he first became owner of such fishing vessel, processing plant, storage premises or conveyance, or before the expiration of three months from the date of coming into force of this section, whichever is later, apply to the Authority for registration under this Act of every such fishing vessel, processing plant, storage premises, or conveyance owned by him:

Provided that the Authority may, for sufficient reason, extend the time-limit for registration by such period as it thinks fit.

(2) Registration once made shall continue to be in force until it is cancelled by the Authority.

Applica-
tion,
cancella-
tion, fee
payable
and other
matters
relating
to registra-
tion.

12. The form of application for registration under section 11 and for the cancellation of such registration, the fee payable on such applications, the particulars to be included in such applications, the procedure to be followed in granting and cancelling registration and the registers to be kept by the Authority shall be such as may be prescribed.

Returns
to be
made by
owners.

13. (1) Every owner referred to in sub-section (1) of section 11 shall furnish to the Authority at the prescribed time and in the prescribed manner such returns as may be prescribed.

(2) The Authority may authorise a member or any of its officers to inspect any fishing vessel, processing plant, storage premises or conveyance at any time to verify the accuracy of any return made under this section.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

Imposi-
tion of
a cess
on marine
products
exported.

14. (1) There shall be levied on all marine products which are exported, a cess for the purposes of this Act at such rate not exceeding three per cent. *ad valorem* as the Central Government may, by notification in the Official Gazette, fix.

(2) The cess levied under sub-section (1) shall be in addition to any cess or duty leviable on marine products under any other law for the time being in force.

(3) The provisions of the Customs Act, 1962, and the rules and regulations made thereunder, including those relating to refunds and

exemptions from duty, shall, as far as may be, apply in relation to the levy and collection of the cess leviable under sub-section (1) as they apply in relation to the levy and collection of a duty of customs under that Act or those rules and regulations.

15. The proceeds of the cess levied under section 14 shall first be credited to the Consolidated Fund of India and the Central Government may, if Parliament by appropriation made by law in this behalf so provides, pay to the Authority, from time to time, from out of such proceeds, after deducting the expenses of collection, such sums of money as it may think fit for being utilised for the purposes of this Act.

Payment of proceeds of cess to the Authority.

16. The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Authority by way of grants or loans such sums of money as the Central Government may consider necessary.

Grants and loans by the Central Government.

17. (1) There shall be formed a Fund to be called the Marine Products Export Development Fund and there shall be credited thereto—

Constitution of the Fund.

(a) the proceeds of the cess made over to the Authority by the Central Government;

(b) all fees levied and collected in respect of registration made under this Act;

(c) any other fee that may be levied and collected by the Authority under this Act or the rules made thereunder;

(d) any grants or loans that may be made by the Central Government for the purposes of this Act;

(e) any grants or loans that may be made by any institution for the purposes of this Act; and

(f) all sums realised by the Authority in carrying out the measures referred to in section 9.

(2) The Fund shall be applied—

(a) for meeting the salaries, allowances and other remuneration of the officers and other employees of the Authority;

(b) for meeting the other administrative expenses of the Authority;

(c) for meeting the cost of the measures referred to in section 9; and

(d) for repayment of any loans from the Central Government or from any institution.

18. Subject to such rules as may be made in this behalf, the Authority shall have power to borrow on the security of the Marine Products Export Development Fund or any other asset for carrying out the purposes of this Act.

Borrowing powers of the Authority.

19. (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the profit and loss account and the balance-sheet in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

Accounts and audit.

(2) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority 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 Authority shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.

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

CHAPTER V

CONTROL BY CENTRAL GOVERNMENT

Power to prohibit or control imports and exports of marine products.

20. (1) The Central Government may, by order published in the Official Gazette, make provision for prohibiting, restricting or otherwise controlling the import or export of marine products, either generally or in specified classes of cases.

(2) All marine products to which any order under sub-section (1) applies, shall be deemed to be goods of which the import or export has been prohibited under section 11 of the Customs Act, 1962, and all the provisions of that Act shall have effect accordingly. 52 of 1962.

(3) If any person contravenes any order made under sub-section (1), he shall, without prejudice to any confiscation or penalty to which he may be liable under the provisions of the Customs Act, 1962, as applied by sub-section (2), be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Directions by Central Government.

21. The Authority shall carry out such directions as may be issued to it from time to time by the Central Government for the efficient administration of this Act.

Returns and reports.

22. (1) The Authority 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 in regard to any proposed or existing programme for the promotion and development of the marine products industry, as the Central Government may, from time to time, require.

(2) Without prejudice to the provisions of sub-section (1), the Authority 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 financial year.

(3) A copy of the report received under sub-section (2) shall be laid before each House of Parliament.

CHAPTER VI

MISCELLANEOUS

23. Any person who being required by or under this Act to furnish any return fails to furnish such return or furnishes a return containing any particular which is false and which he knows to be false or does not believe to be true shall be punishable with fine which may extend to five hundred rupees.

Penalty for making false returns.

24. Any person who—

(a) obstructs any member authorised by the Chairman in writing or any officer or other employee of the Authority authorised by it in this behalf or any person authorised in this behalf by the Central Government or by the Authority, in the exercise of any power conferred, or in the discharge of any duty imposed, on him by or under this Act; or

Penalties for obstructing a member or officer of the Authority in the discharge of his duties and for failure to produce books and records.

(b) having control over or custody of any account book or other record, fails to produce such book or record when required to do so by or under this Act,

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

25. Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules made thereunder other than the provisions, punishment for the contravention whereof has been provided for in sections 20, 23 and 24, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both, and in the case of a continuing contravention with an additional fine which may extend to fifty rupees for every day during which such contravention continues after conviction for the first such contravention.

Other penalties.

26. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager,

secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

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

Jurisdiction of court.

27. No court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

Previous sanction of Central Government.

28. No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Central Government.

Protection of action taken in good faith.

29. No suit, prosecution or other legal proceedings shall lie against the Government, or the Authority or any Committee appointed by it, or any member of the Authority or such Committee, or any officer or other employee of the Government or of the Authority or any other person authorised by the Government or the Authority, for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Power to delegate.

30. The Central Government may, by order notified in the Official Gazette, direct that any power exercisable by it under this Act (not being the power to make rules under section 33) may also be exercised, in such cases and subject to such conditions, if any, as may be specified in the order, by such officer or authority as may be specified therein.

Suspension of operation of Act.

31. (1) If the Central Government is satisfied that circumstances have arisen rendering it necessary that certain of the restrictions imposed by this Act should cease to be imposed or if it considers necessary or expedient so to do in the public interest, the Central Government may, by notification in the Official Gazette, suspend or relax to a specified extent, either indefinitely or for such period as may be specified in the notification, the operation of all or any of the provisions of this Act.

(2) Where the operation of any provision of this Act has under sub-section (1) been suspended or relaxed indefinitely, such suspension or relaxation may at any time while this Act remains in force be removed by the Central Government by notification in the Official Gazette.

Application of other laws not barred.

32. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

Power of Central Government to make rules.

33. (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 number of persons to be appointed as members from each of the categories specified in clause (e) of sub-section (3) of section 4, the term of office and other conditions of service of members, the manner of filling vacancies among, and the procedure to be followed in the discharge of their functions by, such members;

(b) the circumstances in which and the authority by which a member may be removed;

(c) the holding of a minimum number of meetings of the Authority every year;

(d) the procedure to be followed at meetings of the Authority for the conduct of business and the number of members which shall form a quorum at a meeting;

(e) the maintenance by the Authority of records of business transacted by the Authority and the submission of copies thereof to the Central Government;

(f) the powers of the Authority, its Chairman, the Director and Committees of the Authority with respect to the incurring of expenditure;

(g) the conditions subject to which the Authority may incur expenditure outside India;

(h) the preparation of budget estimates of receipts and expenditure of the Authority and the authority by which the estimates are to be sanctioned;

(i) the form and manner in which the accounts should be kept by the Authority;

(j) the deposit of the funds of the Authority in banks and the investment of such funds;

(k) the conditions subject to which the Authority may borrow;

(l) the conditions subject to which and the manner in which contracts may be entered into by or on behalf of the Authority;

(m) the additional matters in respect of which the Authority may undertake measures in the discharge of its functions;

(n) the remuneration and other allowances payable to the person or persons referred to in clause (b) of sub-section (2) of section 10;

(o) the form of, and the particulars to be contained in, any returns or reports to be made to the Authority under this Act;

(p) the form of, and the manner of making applications for registration and for its cancellation by the Authority, the fee payable on such applications and the procedure to be followed in granting and cancelling registration and the conditions governing such registration;

(q) the collection of any information or statistics in respect of marine products;

(r) any other matter which is to be or may be prescribed by, or provided for by rules under, this Act.

(3) Every rule made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment

shall be without prejudice to the validity of anything previously done under that rule.

Power to
make
regula-
tions.

34. (1) The Authority 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 Committees appointed by the Authority and the number of members which shall form a quorum at a meeting;

(b) the delegation to the Chairman, members, Director, Secretary or other officers of the Authority of any of the powers and duties of the Authority under this Act;

(c) the travelling and other allowances of members of the Authority and of Committees thereof;

(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 Authority;

(e) the maintenance of its accounts;

(f) the maintenance of the registers and other records of the Authority and its various Committees;

(g) the appointment by the Authority of agents to discharge on its behalf any of its functions;

(h) the persons by whom, and the manner in which, payments, deposits and investments may be made on behalf of the Authority.

(3) No regulation made by the Authority shall have effect until it has been approved by the Central Government and published in the Official Gazette, and the Central Government, in confirming a regulation, may make any change therein which appears to it to be necessary.

(4) The Central Government may, by notification in the Official Gazette, cancel any regulation which it has confirmed and thereupon the regulation shall cease to have effect.

THE APPROPRIATION (No. 3) ACT, 1972

No. 14 OF 1972

[20th May, 1972]

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 1972-73.

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

1. This Act may be called the Appropriation (No. 3) Act, 1972.

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, 1972] to the sum of twenty thousand, eight hundred and forty-nine crores, eighty-two lakhs and twelve thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1972-73 in respect of the services specified in column 2 of the Schedule.

Issue of
Rs. 2,08,49
82,12,000
out of
the
Consoli-
dated
Fund of
India
for the
year
1972-73.

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 Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Ministry of Defence	1,21,19,000	..	1,21,19,000
2	Defence Services, Effective —Army	9,21,94,00,000	9,00,000	9,22,03,00,000
3	Defence Services, Effective —Navy	68,03,50,000	50,000	68,04,00,000
4	Defence Services, Effective —Air Force	2,71,91,80,000	1,20,000	2,71,93,00,000
5	Defence Services, Non- Effective	54,10,00,000	..	54,10,00,000
6	Department of Education	2,44,04,000	..	2,44,04,000
7	Education	79,25,54,000	..	79,25,54,000
8	Department of Social Welfare	8,73,78,000	..	8,73,78,000
9	External Affairs	34,21,13,000	5,000	34,21,18,000
10	Other Revenue Expenditure of the Ministry of External Affairs	61,07,29,000	..	61,07,29,000
11	Ministry of Finance	19,78,44,000	..	19,78,44,000
12	Customs	11,06,39,000	44,000	11,06,83,000
13	Union Excise Duties	22,10,76,000	70,000	22,11,46,000
14	Taxes on Income including Corporation Tax, etc.	22,55,62,000	2,04,000	22,57,66,000
15	Stamps	5,17,17,000	..	5,17,17,000
16	Audit	37,40,03,000	58,15,000	37,98,18,000
17	Currency and Coinage	16,77,60,000	..	16,77,60,000
18	Mint	5,47,19,000	..	5,47,19,000
19	Pensions and Other Retirement Benefits	12,64,32,000	25,17,000	12,89,49,000
20	Opium Factories and Alkaloid Works	8,76,44,000	1,000	8,76,45,000
21	Other Revenue Expenditure of the Ministry of Finance	73,46,24,000	..	73,46,24,000
22	Grants-in-aid to State and Union Territory Govern- ments	7,28,73,42,000	1,60,23,02,000	8,88,96,44,000
23	Miscellaneous Adjustments between the Central and State and Union Territory Governments	51,82,000	..	51,82,000

1	2	3		
		Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
24	Pre-partition Payments . . .	25,000	4,47,000	4,72,000
	CHARGED.—Interest on Debt and Other Obligations . . .	..	7,30,03,60,000	7,30,03,60,000
	CHARGED.—Payments of States' Share of Union Excise Duties . . .	..	5,37,43,60,000	5,37,43,60,000
25	Department of Agriculture . . .	5,57,71,000	..	5,57,71,000
26	Agriculture . . .	31,43,74,000	..	31,43,74,000
27	Payments to Indian Council of Agricultural Research . . .	32,53,88,000	..	32,53,88,000
28	Forest . . .	1,97,34,000	..	1,97,34,000
29	Department of Food . . .	1,20,41,51,000	..	1,20,41,51,000
30	Department of Community Development . . .	50,13,000	..	50,13,000
31	Department of Co-operation . . .	3,21,82,000	..	3,21,82,000
32	Ministry of Foreign Trade . . .	4,93,91,000	..	4,93,91,000
33	Foreign Trade . . .	1,26,84,50,000	..	1,26,84,50,000
34	Export Oriented Industries . . .	7,61,03,000	..	7,61,03,000
35	Ministry of Health and Family Planning . . .	1,57,71,000	..	1,57,71,000
36	Medical and Public Health . . .	31,23,28,000	..	31,23,28,000
37	Ministry of Home Affairs . . .	1,67,71,000	..	1,67,71,000
38	Cabinet . . .	84,72,000	..	84,72,000
39	Department of Personnel . . .	4,61,53,000	..	4,61,53,000
40	Police . . .	1,10,83,65,000	..	1,10,83,65,000
41	Census . . .	4,05,34,000	..	4,05,34,000
42	Statistics . . .	5,21,72,000	..	5,21,72,000
43	Territorial and Political Pensions . . .	2,27,95,000	..	2,27,95,000
44	Other Revenue Expenditure of the Ministry of Home Affairs . . .	14,32,26,000	..	14,32,26,000
45	Delhi . . .	70,67,82,000	32,52,000	71,00,34,000
46	Chandigarh . . .	8,47,21,000	34,46,000	8,81,67,000
47	Andaman and Nicobar Islands . . .	12,12,38,000	5,000	12,12,43,000
48	Arunachal Pradesh . . .	16,21,33,000	..	16,21,33,000
49	Dadra and Nagar Haveli Area . . .	91,24,000	..	91,24,000
50	Laccadive, Minicoy and Amindivi Islands . . .	2,48,03,000	..	2,48,03,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
51	Mizoram	1,62,44,000	..	1,62,44,000
52	Ministry of Industrial De- velopment	2,13,61,000	..	2,13,61,000
53	Industries	4,66,52,000	..	4,66,52,000
54	Village and Small Industries	22,59,63,000	15,00,000	22,74,63,000
55	Ministry of Information and Broadcasting	34,44,000	..	34,44,000
56	Broadcasting	17,24,76,000	..	17,24,76,000
57	Information and Publicity .	9,27,38,000	..	9,27,38,000
58	Ministry of Irrigation and Power	10,09,15,000	..	10,09,15,000
59	Irrigation and Flood Control Schemes	3,78,94,000]	..	3,78,94,000
60	Electricity Schemes	3,67,00,000	..	3,67,00,000
61	Department of Labour and Employment	1,65,13,000	..	1,65,13,000
62	Labour and Employment . .	22,34,60,000	5,000	22,34,65,000
63	Department of Rehabilitation	13,60,89,000	42,000	13,61,31,000
64	Ministry of Law and Justice	6,57,30,000	..	6,57,30,000
65	Administration of Justice . .	2,84,000	40,15,000	42,99,000
66	Ministry of Petroleum and Chemicals	79,14,000	..	79,14,000
67	Ministry of Planning	5,12,000	..	5,12,000
68	Planning Commission	1,73,64,000]	..	1,73,64,000
69	Ministry of Shipping and Transport	1,72,97,000	..	1,72,97,000
70	Roads	25,37,94,000]	10,000	25,38,04,000
71	Shipping	9,10,03,000	5,000	9,10,08,000
72	Lighthouses and Lightships .	1,34,51,000	..	1,34,51,000
73	Ports	5,32,97,000	..	5,32,97,000
74	Road and Inland Water Transport	48,99,000	..	48,99,000
75	Department of Steel	1,14,75,000	..	1,14,75,000
76	Department of Mines	17,91,15,000	35,000	17,91,50,000
77	Geological Survey	16,84,97,000	..	16,84,97,000
78	Ministry of Tourism and Civil Aviation	29,16,000	..	29,16,000
79	Meteorology	6,44,62,000	..	6,44,62,000

1	2	3		
		Sums not exceeding		
No. of Vote	Services and purposes	Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
80	Aviation	15,57,22,000	..	15,57,22,000
81	Tourism	3,13,20,000	..	3,13,20,000
82	Ministry of Works and Housing	3,05,76,000	..	3,05,76,000
83	Public Works	42,86,85,000	38,50,000	43,25,35,000
84	Stationery and Printing	16,76,10,000	3,000	16,76,13,000
85	Department of Atomic Energy	31,80,000	..	31,80,000
86	Atomic Energy Research and Nuclear Power Schemes	54,90,76,000	..	54,90,76,000
87	Ministry of Communications	74,24,000	..	74,24,000
88	Overseas Communications Service	5,24,04,000	..	5,24,04,000
89	Posts and Telegraphs (Working Expenses)	2,92,32,73,000	10,000	2,92,32,83,000
90	Posts and Telegraphs—Dividend to General Revenues, Appropriations to Reserve Funds and Repayments of Loans from General Revenues	45,11,98,000	..	45,11,98,000
91	Department of Company Affairs	1,23,59,000	..	1,23,59,000
92	Department of Electronics	3,79,49,000	..	3,79,49,000
93	Department of Culture	4,50,30,000	..	4,50,30,000
94	Archaeology	2,44,22,000	..	2,44,22,000
95	Department of Parliamentary Affairs	12,34,000	..	12,34,000
96	Department of Science and Technology	3,54,30,000	..	3,54,30,000
97	Survey of India	8,90,94,000	..	8,90,94,000
98	Grants to Council of Scientific and Industrial Research	24,73,30,000	..	24,73,30,000
99	Department of Supply	1,84,89,000	..	1,84,89,000
100	Supplies and Disposals	5,08,50,000	..	5,08,50,000
101	Lok Sabha	2,79,34,000	1,04,000	2,80,38,000
102	Rajya Sabha	1,16,17,000	90,000	1,17,07,000
	CHARGED.—Staff, Household and Allowances of the President . . . . .	..	49,68,000	49,68,000
103	Secretariat of the Vice-President	3,78,000	..	3,78,000

I No. of Vote	2 Services and purposes	3		
		Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
	CHARGED.—Union Public Service Commission	..	1,14,10,000	1,14,10,000
104	Defence Capital Outlay	1,90,70,00,000	20,00,000	1,90,90,00,000
105	Other Capital Outlay of the Ministry of Defence	6,25,00,000	..	6,25,00,000
106	Capital Outlay of the Ministry of Education and Social Welfare	1,04,75,000	..	1,04,75,000
107	Capital Outlay on the India Security Press	1,02,19,000	..	1,02,19,000
108	Capital Outlay on Currency and Coinage	24,06,51,000	..	24,06,51,000
109	Capital Outlay on Mints	63,46,000	..	63,46,000
110	Commuted Value of Pensions	10,07,24,000	2,80,000	10,10,04,000
111	Other Capital Outlay of the Ministry of Finance	3,00,70,000	..	3,00,70,000
112	Capital Outlay on Grants to State Governments for Development	30,88,88,000	..	30,88,88,000
113	Loans and Advances by the Central Government	7,79,74,35,000	10,87,04,04,000	18,66,78,39,000
	CHARGED.—Repayment of Debt	..	1,25,57,49,85,000	1,25,57,49,85,000
114	Purchase of Foodgrains and Fertilizers	1,58,64,17,000	2,05,000	1,58,66,22,000
115	Other Capital Outlay of the Ministry of Agriculture	54,31,92,000	1,00,000	54,32,92,000
116	Capital Outlay of the Ministry of Foreign Trade	3,29,57,000	..	3,29,57,000
117	Capital Outlay of the Ministry of Health and Family Planning	25,69,14,000	..	25,69,14,000
118	Capital Outlay in Union territories	27,27,12,000	2,07,62,000	29,34,74,000
119	Other Capital Outlay of the Ministry of Home Affairs	2,52,50,000	..	2,52,50,000
120	Capital Outlay of the Ministry of Industrial Development	20,54,74,000	..	20,54,74,000
121	Capital Outlay of the Ministry of Information and Broadcasting	12,48,16,000	..	12,48,16,000
122	Capital Outlay on Irrigation and Flood Control Schemes	11,90,15,000	..	11,90,15,000
123	Other Capital Outlay of the Ministry of Irrigation and Power	32,71,19,000	..	32,71,19,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
124	Capital Outlay of the Ministry of Labour and Rehabilitation	7,99,05,000	..	7,99,05,000
125	Capital Outlay of the Ministry of Petroleum and Chemicals	82,95,13,000	..	82,95,13,000
126	Capital Outlay on Roads	85,63,05,000	2,00,000	85,65,05,000
127	Capital Outlay on Ports	10,20,10,000	5,00,000	10,25,10,000
128	Other Capital Outlay of the Ministry of Shipping and Transport	17,60,32,000	..	17,60,32,000
129	Other Capital Outlay of the Ministry of Steel and Mines	71,16,79,000	..	71,16,79,000
130	Capital Outlay on Aviation	5,66,79,000	2,00,000	5,68,79,000
131	Other Capital Outlay of the Ministry of Tourism and Civil Aviation	11,94,87,000	..	11,94,87,000
132	Capital Outlay on Public Works	12,54,25,000	10,00,000	12,64,25,000
133	Delhi Capital Outlay	7,22,40,000	17,00,000	7,39,40,000
134	Other Capital Outlay of the Ministry of Works and Housing	2,71,57,000	..	2,71,57,000
135	Capital Outlay of the Department of Atomic Energy	70,77,66,000	..	70,77,66,000
136	Capital Outlay on Posts and Telegraphs (Not met from Revenue)	1,45,27,00,000	..	1,45,27,00,000
137	Other Capital Outlay of the Ministry of Communications	3,60,75,000	..	3,60,75,000
	TOTAL	57,70,59,31,000	1,50,79,22,81,000	2,08,49,82,12,000

THE NEWSPAPERS (PRICE CONTROL) ACT, 1972

No. 15 OF 1972

[26th May, 1972]

An Act to provide for the control, in the interests of the general public, of the prices of newspapers with a view to ensuring that newspapers continue to function, in the prevailing conditions, as effective mass communication media and for securing their availability at fair prices.

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

Short
title, ex-
tent and
duration.

1. (1) This Act may be called the Newspapers (Price Control) Act, 1972.

(2) It extends to the whole of India.

(3) It shall cease to have effect on the expiry of two years from the date of its commencement except as respects things done or omitted to be done before such cesser of operation of this Act and section 6 of the General Clauses Act, 1897, shall apply upon such cesser of operation of this Act as if it had then been repealed by a Central Act.

Defini-
tions.

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

(a) "basic price", in relation to a newspaper, means the price of the newspaper on the 22nd of October 1971 [being the date on which the Stamp and Excise Duties (Amendment) Ordinance, 1971, was promulgated] or if the newspaper was published on that day, its price on the day on which it is first published after that day; Ord. 16 of 1971.

(b) "basic price date", in relation to a newspaper, means the date with reference to which its basic price is to be ascertained under clause (a);

(c) the expressions "newspaper", "owner" and "publisher" have the same meanings as in the Press and Registration of Books Act, 1867.

3. (1) If the Central Government is of opinion that for the purpose of securing the availability of any newspapers or any class of newspapers at fair prices, it is necessary or expedient to do so, the Central Government may, from time to time, by order published in the Official Gazette, determine the maximum prices which may be charged for such newspapers or newspapers of such class as may be specified in the order.

Power to fix maximum prices of newspapers.

(2) In making under sub-section (1) any order determining the maximum price which may be charged for any newspaper referred to in that sub-section, the Central Government shall have regard to—

(a) the basic price of the newspaper;

(b) the excise duties and other taxes, if any, payable in respect of the newspaper;

(c) any special circumstances arising on or after the basic price date of the newspaper and having a bearing on the cost of the production of newspapers; and

(d) all other relevant circumstances:

Provided that the maximum price determined in respect of a newspaper shall in no case be less than its basic price.

(3) No order shall be made under this section in respect of any newspaper which is being sold at a price not exceeding its basic price.

(4) An order made under sub-clause (1) may provide for different maximum prices in respect of different newspapers or different classes of newspapers or different newspapers in each such class and may provide for such incidental and supplemental matters (including the printing in a newspaper to which the order relates of the price thereof in a conspicuous manner) as the Central Government may deem fit.

4. (1) The owner or publisher of a newspaper to which an order under sub-section (1) of section 3 relates may,—

Review and revision of orders.

(a) if he is aggrieved by such order, make within thirty days of the date of publication of the order in the Official Gazette, an application to the Central Government for a review of the order setting out in such application the grounds on which he considers such review to be necessary;

(b) whenever fresh circumstances having a bearing on the cost of production of the newspaper arise after the date of making of the order, make an application for a revision of the order within thirty days after the date on which such circumstances have arisen,

and the Central Government may pass such order on the said application for review or revision as it thinks fit:

Provided that the Central Government may for sufficient cause allow any such application to be made after the expiry of the period of thirty days aforesaid.

(2) Save as otherwise provided by an order made under clause (a) or clause (b) of sub-section (1), the order of the Central Government under sub-section (1) of section 3 shall be final.

Power to call for information, return, etc.

5. (1) The Central Government or any officer authorised by the Central Government in this behalf may, by order in writing, require the owner or publisher of any newspaper to furnish, within such time as may be specified in the order any information, return or report which the Central Government or such officer may consider necessary for carrying out the purposes of this Act and such owner or publisher shall be bound to comply with such order.

(2) If any owner or publisher contravenes any order under sub-section (1), he shall be punishable with fine which may extend to five hundred rupees.

Prohibition of sale of newspapers in contravention of the order under section 3. Penalty.

6. No newspaper shall be sold in the territories to which this Act extends in contravention of an order made under section 3.

7. Whoever sells or causes to be sold a newspaper in contravention of an order made under section 3 shall, on first conviction, be punishable with fine which may extend to one thousand rupees and, on any second or subsequent conviction, with fine which may extend to two thousand rupees.

Offences by companies.

8. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means a body corporate and includes a firm or other association of individuals; and

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

Previous sanction of Central Government for prosecution.

9. No prosecution shall be instituted against any person in respect of any offence punishable under section 5 or section 7 without the previous sanction of the Central Government or such officer or authority as may be authorised by that Government by order in writing in that behalf.

PROCESSED BY THE DIRECTOR GENERAL OF PUBLICATIONS

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THE FINANCE ACT, 1972

ARRANGEMENT OF SECTIONS

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THE FINANCE ACT, 1972

No. 16 OF 1972

[28th May, 1972]

An Act to give effect to the financial proposals of the Central Government for the financial year 1972-73.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Finance Act, 1972.

(2) Save as otherwise provided in this Act, sections 2 to 60 shall be deemed to have come into force on the 1st day of April, 1972.

Short
title
and
commence-
ment.

CHAPTER II

RATES OF INCOME-TAX

2. (1) Subject to the provisions of sub-sections (2) and (3), for the Income-assessment year commencing on the 1st day of April, 1972, income-tax shall be charged at the rates specified in Part I of the First Schedule and shall be increased,—

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

(b) in the cases to which Paragraph C of that Part applies, by a surcharge for purposes of the Union and a special surcharge for purposes of the Union; and

(c) in the cases to which Paragraph E and F of that Part apply by a surcharge,

calculated in each case in the manner provided therein.

(2) In making any assessment for the assessment year commencing on the 1st day of April, 1972, where the total income of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956, includes any profits and gains from life insurance business, the income-tax payable by it shall be the aggregate of the income-tax calculated—

(i) on the amount of profits and gains from life insurance business so included, at the rate applicable in the case of the Life Insurance Corporation of India, in accordance with Paragraph E of Part I of the First Schedule, to that part of its total income which consists of profits and gains from life insurance business; and

(ii) on the remaining part of its total income, at the rate applicable to the company on its total income.

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

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

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

Provided that in respect of any income chargeable to tax under section 164 of the Income-tax Act at the rate of sixty-five per cent., "advance tax" shall be computed at that rate.

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

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

(b) "domestic company" means an Indian company, or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 1972, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income in accordance with the provisions of section 194 of that Act;

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

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

(d) "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;

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

CHAPTER III

DIRECT TAXES

Income-tax

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

(a) in clause (14), for sub-clause (ii), the following sub-clause shall be substituted with effect from the 1st day of April, 1973, namely:—

Amend-
ment of
section 2.

'(ii) personal effects, that is to say, movable property (including wearing apparel and furniture, but excluding jewellery) held for personal use by the assessee or any member of his family dependent on him.

Explanation.—For the purposes of this sub-clause, "jewellery" includes—

(a) ornaments made of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals, whether or not containing any precious or semi-precious stone, and whether or not worked or sewn into any wearing apparel;

(b) precious or semi-precious stones, whether or not set in any furniture, utensil or other article or worked or sewn into any wearing apparel;';

(b) in clause (24),—

(i) after sub-clause (ii), the following sub-clause shall be inserted with effect from the 1st day of April, 1973, namely:—

“(iii) voluntary contributions received by a trust created wholly or partly for charitable or religious purposes or by an institution established wholly or partly for such purposes, not being contributions made with a specific direction that they shall form part of the corpus of the trust or institution.

Explanation.—For the purposes of this sub-clause, “trust” includes any other legal obligation;”

(ii) after sub-clause (viii), the following sub-clause shall be inserted, namely:—

“(ix) any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature whatsoever;”

(c) in clause (37A), in sub-clause (ii), for the figures and letter “194A”, the figures and letters “194A, 194B” shall be substituted.

Amend-
ment of
section
10.

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

(a) for clause (3), the following clause shall be substituted, namely:—

“(3) any receipts which are of a casual and non-recurring nature, not being winnings from lotteries, to the extent such receipts do not exceed one thousand rupees in the aggregate:

Provided that this clause shall not apply to—

(i) capital gains chargeable under the provisions of section 45; or

(ii) receipts arising from business or the exercise of a profession or occupation; or

(iii) receipts by way of addition to the remuneration of an employee;”

(b) in clause (10), with effect from the 1st day of April, 1973,—

(i) for the words “, a local authority or a corporation established by a Central, State or Provincial Act”, the words “or a local authority” shall be substituted;

(ii) for the portion beginning with the words “or any other gratuity” and ending with the words “whichever is less;”, the following shall be substituted, namely:—

“any other gratuity received by an employee on his retirement or on his becoming incapacitated prior to such retirement or on termination of his employment, or any gratuity received by his widow, children or dependants on his

death, to the extent it does not, in either case, exceed one-half month's salary for each year of completed service, calculated on the basis of the average salary for the three years immediately preceding the year in which the gratuity is paid, subject to a maximum of twenty-four thousand rupees or fifteen months' salary so calculated, whichever is less;";

(c) in clause (25), after sub-clause (iii), the following sub-clause shall be inserted with effect from the 1st day of April, 1973, namely:—

“(iv) any income received by the trustees on behalf of an approved gratuity fund;”.

5. In section 11 of the Income-tax Act, in clause (c) of sub-section (1), for the words “income from property held under trust”, the words “income derived from property held under trust” shall be substituted with effect from the 1st day of April, 1973.

Amendment of section 11.

6. For section 12 of the Income-tax Act, the following sections shall be substituted with effect from the 1st day of April, 1973, namely:—

Substitution of new sections for section 12.

“12. Any voluntary contributions received by a trust created wholly for charitable or religious purposes or by an institution established wholly for such purposes (not being contributions made with a specific direction that they shall form part of the corpus of the trust or institution) shall for the purposes of section 11 be deemed to be income derived from property held under trust wholly for charitable or religious purposes and the provisions of that section and section 13 shall apply accordingly.

Income of trusts or institutions from contributions.

12A. The provisions of section 11 and section 12 shall not apply in relation to the income of any trust or institution unless the following conditions are fulfilled, namely:—

Conditions as to registration of trusts, etc.

(a) the person in receipt of the income has made an application for registration of the trust or institution in the prescribed form and in the prescribed manner to the Commissioner before the 1st day of July, 1973, or before the expiry of a period of one year from the date of the creation of the trust or the establishment of the institution, whichever is later:

Provided that the Commissioner may, in his discretion, admit an application for the registration of any trust or institution after the expiry of the period aforesaid;

(b) where the total income of the trust or institution as computed under this Act without giving effect to the provisions of section 11 and section 12 exceeds twenty-five thousand rupees in any previous year, the accounts of the trust or institution for that 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.”.

**Amend-
ment of
section 13.**

7. In section 13 of the Income-tax Act, with effect from the 1st day of April, 1973,—

(a) in sub-section (1),—

(i) in the opening portion, for the words and figures “Nothing contained in section 11”, the words and figures “Nothing contained in section 11 or section 12” shall be substituted;

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

“*Explanation.*—For the purposes of sub-clause (ii) of clause (c), in determining whether any part of the income or any property of any trust or institution is during the previous year used or applied, directly or indirectly, for the benefit of any person referred to in sub-section (3), in so far as such use or application relates to any period before the 1st day of July, 1972, no regard shall be had to the amendments made to this section by section 7 [other than sub-clause (ii) of clause (a) thereof] of the Finance Act, 1972.”;

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

“(g) if any income or property of the trust or institution is diverted during the previous year in favour of any person referred to in sub-section (3):

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;”;

(c) in sub-section (3),—

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

“(cc) any trustee of the trust or manager (by whatever name called) of the institution;”;

(ii) in clause (d), for the words “or member”, the words “member, trustee or manager” shall be substituted;

(iii) in clause (e), for the brackets and letter “(c)”, the brackets and letters “(c), (cc)” shall be substituted;

(d) in sub-section (4), for the word and figures “section 11”, the words and figures “section 11 or section 12” shall be substituted;

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

“*Explanation 1.*—For the purposes of sections 11, 12, 12A and this section, “trust” includes any other legal obligation and

for the purposes of this section "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 descendant of a brother or sister of either the individual or of the spouse of the individual.

8. In section 45 of the Income-tax Act, for the words, figures and letter "sections 53, 54 and 54B", the words, figures and letters "sections 53, 54, 54B and 54C" shall be substituted with effect from the 1st day of April, 1973. Amendment of section 45.

9. In the Income-tax Act, after section 54B, the following section shall be inserted with effect from the 1st day of April, 1973, namely:— Insertion of new section 54C.

54C. Where the capital gain arises from the transfer of a capital asset, being jewellery held for personal use by the assessee or any member of his family dependent on him, and the assessee has, within a period of six months after such transfer, acquired any other jewellery for personal use by the assessee or any member of his family dependent on him, the capital gain shall be dealt with in accordance with the following provisions of this section, that is to say,— Capital gain on transfer of jewellery held for personal use not to be charged in certain cases.

- (i) if the cost of the jewellery so acquired is not less than the full value of the consideration received or accruing in respect of the transferred jewellery, the whole of such capital gain shall not be charged under section 45; or

- (ii) if the cost of the jewellery so acquired is less than the full value of the consideration received or accruing in respect of the transferred jewellery, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of the jewellery so acquired bears to the full value of the consideration received or accruing in respect of the transferred jewellery shall not be charged under section 45.

Explanation.—For the purposes of this section, "jewellery" shall have the same meaning as is assigned to it in the *Explanation* to sub-clause (ii) of clause (14) section 2.

10. In section 56 of the Income-tax Act, in sub-section (2), after clause (ia), the following clause shall be inserted, namely:— Amendment of section 56.

"(ib) income referred to in sub-clause (ix) of clause (24) of section 2:"

Inser-
tion of
new sec-
tion 74A.

11. In the Income-tax Act, after section 74, the following section shall be inserted, namely:—

Losses
from
certain
specified
sources
falling
under
the head
"Income
from
other
sources".

"74A. (1) Where the net result of the computation made for any assessment year in respect of any source falling under the head "Income from other sources" and being a source specified in sub-section (2), is a loss, such loss shall not be set off except against income, if any, from the same source.

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

(a) lotteries;

(b) crossword puzzles;

(c) races including horse races;

(d) card games;

(e) other games of any sort;

(f) gambling or betting of any form or nature whatsoever not falling under any of the foregoing clauses.

Amend-
ment of
section 75. 12. In section 75 of the Income-tax Act, in sub-section (1), for the figures and word "73 and 74", the figures, word and letter "73, 74 and 74A" shall be substituted.

Amend-
ment of
section 77. 13. In section 77 of the Income-tax Act, in clause (a) of sub-section (2), for the words, brackets and figures "or sub-section (1) of section 73", the words, brackets, figures and letter ", sub-section (1) of section 73 or section 74A" shall be substituted.

Amend-
ment of
section
80A. 14. In section 80A of the Income-tax Act, in sub-section (3), for the word, figures and letter "section 80T," the words, figures and letters "section 80T or section 80TT," shall be substituted.

Amend-
ment of
section
80B. 15. In section 80B of the Income-tax Act, clause (7) shall be omitted with effect from the 1st day of April, 1973.

Amend-
ment of
section
80C. 16. In section 80C of the Income-tax Act, with effect from the 1st day of April, 1973,—

(a) in sub-section (2),—

(i) in clause (a), in sub-clauses (iii) and (iv), the word "or" shall be inserted at the end and after sub-clause (iv) as so amended, the following sub-clause shall be inserted, namely:—

"(v) as a contribution for participation in the Unit-linked Insurance Plan, 1971 (hereinafter in this section referred to as the Unit-linked Insurance Plan) made under section 19(1)(ec) of the Unit Trust of India Act, 1963;"

(ii) in sub-clause (i) of clause (g), in item (3), the word "or" shall be inserted at the end and after item (3) as so amended, the following item shall be inserted, namely:—

"(4) as a contribution for participation by any one member of such association or body in the Unit-linked Insurance Plan;"

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

"(5) If the assessee participating in the Unit-linked Insurance Plan, or in the case of an assessee being an association of persons or a body of individuals referred to in clause (g) of sub-section (2), the member thereof participating in the Plan, terminates his participation in the Plan (by notice to that effect or where he ceases to participate by reason of failure to pay any contribution, by not reviving his participation) before contributions in respect of such participation have been paid for five years, then—

(a) no deduction shall be allowed to the assessee under this section in respect of the contribution, if any, paid in the previous year in which the participation is so terminated; and

(b) the deductions allowed in respect of the contributions paid in the previous years preceding the previous year referred to in clause (a) shall be deemed to be the income of the assessee of that previous year and shall be chargeable to tax accordingly.

Explanation.—For the purposes of this sub-section, the deduction allowed under this section in respect of the contribution paid in any previous year shall be the amount by which the deduction allowed under this section for that year exceeds the deduction which would have been allowed for that year if no such contribution had been paid during that year."

17. In section 80G of the Income-tax Act, in *Explanation 2* below sub-section (5), with effect from the 1st day of April, 1973,—

Amendment of section 80G.

(a) in clause (i), for the word and figures "section 11", the words, figures and letter "section 11, section 12 or section 12A" shall be substituted;

(b) in clause (ii), for the word and figures "section 11", the words and figures "section 11 or section 12" shall be substituted.

18. Section 80I of the Income-tax Act shall be omitted with effect from the 1st day of April, 1973.

Omission of section 80I.

19. In section 80J of the Income-tax Act, with effect from the 1st day of April, 1973,—

Amendment of section 80J.

(a) in sub-section (1), for the brackets, words, figures and letters "(reduced by the aggregate of the deductions, if any, admissible to

the assessee under section 80H and section 80I)", the brackets, words, figures and letter "(reduced by the deduction, if any, admissible to the assessee under section 80H)" shall be substituted;

(b) in sub-section (3), the word, figures and letter, "section 80I" shall be omitted.

Amendment of section 80L.

20. In section 80L of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 1973,—

(a) in clause (vii), the word "or" at the end shall be omitted;

(b) in clause (viii), for the words "member of the society," the words "member of the society; or" shall be substituted;

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

"(ix) dividends from any co-operative society."

Omission of section 80Q.

21. Section 80Q of the Income-tax Act shall be omitted with effect from the 1st day of April, 1973.

Insertion of new section 80TT.

22. After section 80T of the Income-tax Act and before the heading "D.—Other deductions", the following section shall be inserted, namely:—

Deduction in respect of winnings from lottery.

"80TT. Where the gross total income of an assessee, not being a company, includes any income by way of winnings from any lottery (such income being hereafter in this section referred to as winnings), there shall be allowed, in computing the total income of the assessee, a deduction from the winnings of an amount equal to,—

(a) in a case where the gross total income does not exceed ten thousand rupees or where the winnings do not exceed five thousand rupees, the whole of such winnings;

(b) in any other case, five thousand rupees as increased by a sum equal to fifty per cent. of the amount by which the winnings exceed five thousand rupees."

Substitution of new section for section 90.

23. For section 90 of the Income-tax Act, the following section shall be substituted, namely:—

Agreement with foreign countries.

"90. The Central Government may enter into an agreement with the Government of any country outside India—

(a) for the granting of relief in respect of income on which have been paid both income-tax under this Act and income-tax in that country, or

(b) for the avoidance of double taxation of income under this Act and under the corresponding law in force in that country, or

(c) for exchange of information for the prevention of evasion or avoidance of income-tax chargeable under this Act or

under the corresponding law in force in that country, or investigation of cases of such evasion or avoidance, or

(d) for recovery of income-tax under this Act and under the corresponding law in force in that country,

and may, by notification in the Official Gazette, make such provisions as may be necessary for implementing the agreement.”.

24. In section 125 of the Income-tax Act, in the proviso to sub-section (1), after the figures “228,” the figures and letter “228A,” shall be inserted. Amendment of section 125.

25. In section 132A, section 201, sections 213 to 217, section 220, section 243 and section 244 of the Income-tax Act and in rule 60 of the Second Schedule to that Act, for the words “nine per cent.,” wherever they occur, the words “twelve per cent.” shall be substituted. Amendment of sections 132A, 201, 213 to 217, 220, 243 and 244 and Second Schedule.

26. In section 139 of the Income-tax Act,— Amendment of section 139.
 (a) in clause (a) of sub-section (1), for the words “six months” the words “four months” shall be substituted;

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

“Provided that, on an application made in the prescribed manner, the Income-tax Officer may, in his discretion, extend the date for furnishing the return, and, notwithstanding that the date is so extended, interest shall be chargeable in accordance with the provisions of sub-section (8).”;

(c) for sub-section (4A), the following sub-section shall be substituted with effect from the 1st day of April, 1973, namely:—

“(4A) Every person in receipt of income derived from property held under trust or other legal obligation wholly for charitable or religious purposes or in part only for such purposes, or of income being voluntary contributions referred to in sub-clause (iia) of clause (24) of section 2, shall, if the total income in respect of which he is assessable as a representative assessee (the total income for this purpose being computed under this Act without giving effect to the provisions of sections 11 and 12) 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).”;

(d) in sub-section (8) (a),—

(i) for the portion beginning with the words, brackets and figure “Where the return under sub-section (1)” and ending with

the words "waive the interest payable by any person under this sub-section.", the following shall be substituted, namely:—

'Where the return under sub-section (1) or sub-section (2) or sub-section (4) for an assessment year is furnished after the specified date, or is not furnished, then [whether or not the Income-tax Officer has extended the date for furnishing the return under sub-section (1) or sub-section (2)], the assessee shall be liable to pay simple interest at twelve per cent. per annum, reckoned from the day immediately following the specified date to the date of the furnishing of the return or, where no return has been furnished, the date of completion of the assessment under section 144, on the amount of the tax payable on the total income as determined on regular assessment, as reduced by the advance tax, if any, paid, and any tax deducted at source:

Provided that the Income-tax Officer may, in such cases and under such circumstances as may be prescribed, reduce or waive the interest payable by any assessee under this sub-section.

Explanation 1.—For the purposes of this sub-section, "specified date", in relation to a return for an assessment year, means,—

(a) in the case of every assessee whose total income, or the total income of any person in respect of which he is assessable under this Act, includes any income from business or profession, the date of the expiry of four months from the end of the previous year or where there is more than one previous year, from the end of the previous year which expired last before the commencement of the assessment year, or the 30th day of June of the assessment year, whichever is later;

(b) in the case of every other assessee, the 30th day of June of the assessment year.;

(ii) the existing *Explanation* shall be re-numbered as *Explanation 2*.

Amend-
ment of
section
164.

27. In section 164 of the Income-tax Act, with effect from the 1st day of April, 1973,—

(a) in sub-section (2), for the words and figures "tax shall be charged on so much of the relevant income as is not exempt under section 11", the words, brackets, figures and letter "or which is of the nature referred to in sub-clause (iia) of clause (24) of section 2, tax shall be charged on so much of the relevant income as is not exempt under section 11 or section 12" shall be substituted;

(b) in sub-section (3), for the words "In a case where the relevant income is derived from property held under trust in part only for charitable or religious purposes", the words, brackets, figures and letter "In a case where the relevant income is derived from property held under trust in part only for charitable or religious purposes or

is of the nature referred to in sub-clause (ii) of clause (24) of section 2" shall be substituted.

28. After section 194A of the Income-tax Act, the following sections shall be inserted, namely:—

Insertion of new sections 194B and 194C.

"194B. The person responsible for paying to any person any income by way of winnings from any lottery or crossword puzzle in an amount exceeding one thousand rupees shall, at the time of payment thereof, deduct income-tax thereon at the rates in force:

Winnings from lottery or crossword puzzle.

Provided that no deduction shall be made under this section from any payment made before the 1st day of June, 1972.

194C. (1) Any person responsible for paying any sum to any resident (hereafter in this section referred to as the contractor) for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract between the contractor and—

Payments to contractors and sub-contractors.

(a) the Central Government or any State Government; or

(b) any local authority; or

(c) any corporation established by or under a Central, State or Provincial Act; or

(d) any company,

shall, at the time of credit of such sum to the account of the contractor or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to two per cent. of such sum as income-tax on income comprised therein.

(2) Any person (being a contractor and not being an individual or a Hindu undivided family) responsible for paying any sum to any resident (hereafter in this section referred to as the sub-contractor) in pursuance of a contract with the sub-contractor for carrying out, or for the supply of labour for carrying out, the whole or any part of the work undertaken by the contractor or for supplying whether wholly or partly any labour which the contractor has undertaken to supply shall, at the time of credit of such sum to the account of the sub-contractor or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to one per cent. of such sum as income-tax on income comprised therein.

(3) No deduction shall be made under sub-section (1) or sub-section (2) from—

(i) any sum credited or paid in pursuance of any contract the consideration for which does not exceed five thousand rupees; or

(ii) any sum credited or paid before the 1st day of June, 1972.

(4) Where the Income-tax Officer is satisfied that the total income of the contractor or the sub-contractor justifies the deduction of income-tax at any lower rate or no deduction of income-tax, as the case may be, the Income-tax Officer shall, on an application made by the contractor or the sub-contractor in this behalf, give to him such certificate as may be appropriate.

(5) Where any such certificate is given, the person responsible for paying the sum referred to in sub-section (1) or sub-section (2), shall, until such certificate is cancelled by the Income-tax Officer, deduct income-tax at the rates specified in such certificate or deduct no tax, as the case may be."

Amendment of section 197.

29. In section 197 of the Income-tax Act, in clause (a) of sub-section (1), for the figures, letter and word "194A and 195", the figures, letters and word "194A, 194B and 195" shall be substituted.

Amendment of sections 198, 199, 200, 202 and 203.

30. In section 198, section 199, section 200, section 202 and section 203 of the Income-tax Act, for the words, figures and letter "section 194A and", the words, figures and letters "section 194A, section 194B, section 194C and" shall be substituted.

Amendment of section 204.

31. In section 204 of the Income-tax Act, after the word, figures and letter "section 194A,", the words, figures and letters "section 194B, section 194C," shall be inserted.

Amendment of section 205.

32. In section 205 of the Income-tax Act, for the words, figures and letter "section 194A and", the words, figures and letters "section 194A, section 194B, section 194C and" shall be substituted.

Amendment of section 207.

33. In section 207 of the Income-tax Act, in sub-section (1), for the words "in the case of income other than income chargeable under the head "Capital gains".", the following shall be substituted, namely:—

"in the case of income other than—

(a) income chargeable under the head "Capital gains"; and

(b) income referred to in sub-clause (ix) of clause (24) of section 2."

Amendment of section 208.

34. In section 208 of the Income-tax Act, in clause (a) of sub-section (1), for the words "exclusive of capital gains", the words, brackets and figures "exclusive of capital gains and income referred to in sub-clause (ix) of clause (24) of section 2," shall be substituted.

Amendment of section 209.

35. In section 209 of the Income-tax Act, in clause (a),—

(a) in sub-clause (ii), for the words "the amount of capital gains", the words, brackets and figures "the amount of capital gains and income referred to in sub-clause (ix) of clause (24) of section 2" shall be substituted;

(b) in sub-clause (iii), for the words, figures and letter "section 194A and", the words, figures and letters "section 194A, section 194C and" shall be substituted.

36. In section 211 of the Income-tax Act, in the *Explanation* below sub-section (1), for the words "by the capital gains", the words, brackets and figures "by the amount of capital gains and income referred to in sub-clause (ix) of clause (24) of section 2" shall be substituted. Amendment of section 211.

37. In section 212 of the Income-tax Act, in sub-section (1), for the brackets and words "(exclusive of capital gains, if any)", the brackets, words and figures "[exclusive of capital gains and income referred to in sub-clause (ix) of clause (24) of section 2, if any]" shall be substituted. Amendment of section 212.

38. In section 215 of the Income-tax Act, in sub-section (5), for the word, figures and letter "section 194A", the words, figures and letters "section 194A, section 194C" shall be substituted. Amendment of section 215.

39. After section 228 of the Income-tax Act, the following section shall be inserted, namely:— Insertion of new section 228A.

"228A. (1) Where an agreement is entered into by the Central Government with the Government of any country outside India for recovery of income-tax under this Act and the corresponding law in force in that country and the Government of that country or any authority under that Government which is specified in this behalf in such agreement sends to the Board a certificate for the recovery of any tax due under such corresponding law from a person having any property in India, the Board may forward such certificate to any Tax Recovery Officer within whose jurisdiction such property is situated and thereupon such Tax Recovery Officer shall— Recovery of tax in pursuance of agreements with foreign countries.

(a) proceed to recover the amount specified in the certificate in the manner in which he would proceed to recover the amount specified in a certificate received from an Income-tax Officer; and

(b) remit any sum so recovered by him to the Board after deducting his expenses in connection with the recovery proceedings.

(2) Notwithstanding the issue of a certificate under section 222 to the Tax Recovery Officer, where an assessee is in default or is deemed to be in default in making a payment of tax, the Income-tax 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 specifying the amount of arrears due from the assessee and the Board may take such action thereon as it may deem appropriate having regard to the terms of the agreement with such country."

40. In section 252 of the Income-tax Act, after sub-section (3), the following sub-sections shall be inserted, namely:— Amendment of section 252.

"(4) The Central Government may appoint one or more members of the Appellate Tribunal to be the Vice-President or, as the case may be, Vice-Presidents thereof.

(5) A Vice-President shall exercise such of the powers and perform such of the functions of the President as may be delegated to him by the President by a general or special order in writing."

Amendment of section 295. 41. In section 295 of the Income-tax Act, in sub-section (2), after clause (m), the following clause shall be inserted, namely:—

“(mm) the circumstances in which, the conditions subject to which and the manner in which, the Appellate Assistant Commissioner may permit an appellant to produce evidence which he did not produce or which he was not allowed to produce before the Income-tax Officer;”.

Amendment of Fourth Schedule. 42. In the Fourth Schedule to the Income-tax Act, in Part C, for the brackets, words and figures “[See sections 2(5), 17(1)(iii), 36(1)(v)]”, the brackets, words and figures “[See sections 2(5), 10(25)(iv), 17(1)(iii), 36(1)(v)]” shall be substituted with effect from the 1st day of April, 1973.

Omission of Sixth Schedule. 43. The Sixth Schedule to the Income-tax Act shall be omitted with effect from the 1st day of April, 1973.

Wealth-tax

Amendment of section 2. 44. In section 2 of the Wealth-tax Act, 1957 (hereinafter referred to as the Wealth-tax Act),—

(a) after clause (h), the following clause shall be, and shall be deemed always to have been, inserted, namely:—

“(ha) “co-operative society” means a co-operative society registered under the Co-operative Societies Act, 1912 or under any other law for the time being in force in any State for the registration of co-operative societies;”

(b) existing clause (ha) shall be deemed to have been re-lettered as clause (hb) with effect from the 1st day of April, 1965.

Amendment of section 5. 45. In section 5 of the Wealth-tax Act,—

(a) in sub-section (1),—

(i) after clause (xviiia), the following clauses shall be, and shall be deemed always to have been, inserted, namely:—

“(xviiib) any property held by the trustees on behalf of any provident fund to which the Provident Funds Act, 1925 applies or which is a recognised provident fund within the meaning of clause (38) of section 2 of the Income-tax Act; 19 of 1925.

(xviiic) any property held by the trustees on behalf of any gratuity fund which is an approved gratuity fund within the meaning of clause (5) of section 2 of the Income-tax Act;

(xviid) any property held by the trustees on behalf of any superannuation fund which is an approved superannuation fund within the meaning of clause (6) of section 2 of the Income-tax Act;”;

(ii) after clause (xxx), the following clauses shall be inserted with effect from the 1st day of April, 1973, namely:—

“(xxxi) the value, as determined in the prescribed manner, of assets (not being any land or building or any

rights in any land or building or any asset referred to in any other clause of this sub-section) forming part of an industrial undertaking belonging to the assessee.

Explanation.—For the purposes of this clause and clause (xxxii), the term “industrial undertaking” means an undertaking engaged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in the manufacture or processing of goods or in mining;

(xxxii) the value, as determined in the prescribed manner, of the interest of the assessee in the assets (not being any land or building or any rights in any land or building or any asset referred to in any other clause of this sub-section) forming part of an industrial undertaking belonging to a firm or an association of persons of which the assessee is a partner or, as the case may be, a member.’;

(b) in sub-section (1A), for the brackets, figures and word “(xxviii) and (xxix)”, the brackets, figures and word “(xxviii), (xxix), (xxxi) and (xxxii)” shall be substituted with effect from the 1st day of April, 1973;

(c) in sub-section (3), after the proviso, the following *Explanation* shall be inserted with effect from the 1st day of April, 1973, namely:—

Explanation.—For the purposes of clause (a) or clause (b) of this sub-section, in computing the period of six months in relation to any asset (not being any share or security held as stock-in-trade for the purposes of the business of the assessee) in a case where such asset (hereafter in this *Explanation* referred to as the relevant asset) was acquired by the assessee by conversion of, or in exchange for, or with the proceeds of, or with the money constituting, any other asset exempt from wealth-tax under sub-section (1) or sub-section (2), there shall be included, if the assessee acquired the relevant asset within thirty days after he ceased to hold such other asset, so much of the period for which the assessee held such other asset as falls within the period of twelve months ending with the relevant valuation date.”

46. After section 21 of the Wealth-tax Act, the following section shall be inserted with effect from the 1st day of April, 1973, namely:—

Insertion
of new
section
21A.

21A. Notwithstanding anything contained in clause (i) of sub-section (1) of section 5, where any property is held under trust for any public purpose of a charitable or religious nature in India and

Assess-
ment in
cases of
diversion
of pro-
perty, or
of income
from
property,
held
under
trust

(i) any part of such property or any income of such trust [whether derived from such property or from voluntary contributions referred to in sub-clause (iia) of clause (24) of section 2 of the Income-tax Act] is used or applied, or

(ii) any part of the income of the trust [whether derived from such property or from voluntary contributions referred to in sub-clause (iia) of clause (24) of section 2 of the Income-tax for

public
charit-
able or
religious
purposes.

Act], being a trust created on or after the 1st day of April, 1962, enures,

directly or indirectly, for the benefit of any person referred to in sub-section (3) of section 13 of the Income-tax Act, wealth-tax shall be leviable upon and recoverable from the trustee or manager (by whatever name called) in the like manner and to the same extent as if the property were held by an individual who is a citizen of India and resident in India for the purposes of this Act and—

(a) at the rates specified in Part I of the Schedule in the case of an individual; or

(b) at the rate of one and one-half per cent.,
whichever course is more beneficial to the revenue:

Provided that in the case of a trust created before the 1st day of April, 1962, the provisions of clause (i) shall not apply to any use or application, whether directly or indirectly, of any part of such property or any income of such trust for the benefit of any person referred to in sub-section (3) of section 13 of the Income-tax Act if such use or application is by way of compliance with a mandatory term of the trust:

Provided further that in a case where the aggregate of the funds of the trust invested in a concern in which 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 does not exceed five per cent. of the capital of that concern, the exemption under clause (i) of sub-section (1) of section 5 shall not be denied in relation to any property other than such investment, by reason only that the funds of the trust have been invested in a concern in which any person referred to in the aforesaid sub-section (3) has such substantial interest.

Explanation.—For the purposes of this section,—

(a) any part of the property or income of a trust shall be deemed to have been used or applied for the benefit of any person referred to in sub-section (3) of section 13 of the Income-tax Act 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 (1) of that section at any time during the period of twelve months ending with the relevant valuation date;

(b) "trust" includes any other legal obligation.

Amend-
ment of
sections
31 and
34A.

47. In sections 31 and 34A of the Wealth-tax Act, for the words "nine per cent.", the words "twelve per cent." shall be substituted.

Amend-
ment of
section 32.

48. In section 32 of the Wealth-tax Act, for the words and figures "sections 221 to 227", the words, figures and letter "sections 221 to 227, 228A" shall be substituted.

Amend-
ment of
section
44A.

49. In section 44A of the Wealth-tax Act, for the portion beginning with the words "The Central Government may" and ending with the

words "for implementing the agreement.", the following shall be substituted, namely:—

"The Central Government may enter into an agreement with the Government of any reciprocating country—

(a) for the avoidance or relief of double taxation with respect to wealth-tax payable under this Act and under the corresponding law in force in the reciprocating country, or

(b) for exchange of information for the prevention of evasion or avoidance of wealth-tax chargeable under this Act or under the corresponding law in force in that country or investigation of cases of such evasion or avoidance, or

(c) for recovery of tax under this Act and under the corresponding law in force in that country,

and may, by notification in the Official Gazette, make such provision as may be necessary for implementing the agreement."

50. In section 45 of the Wealth-tax Act,—

Amendment of section 45

(a) for the words "The provisions of this Act shall not apply to—", the words "No tax shall be levied under this Act in respect of the net wealth of—" shall be substituted;

(b) after clause (f), the following clause shall be, and shall be deemed always to have been, inserted, namely:—

"(g) any co-operative society."

51. In section 46 of the Wealth-tax Act, in sub-section (2), after clause (c), the following clause shall be inserted, namely:—

Amendment of section 46.

"(cc) the circumstances in which, the conditions subject to which and the manner in which, the Appellate Assistant Commissioner may permit an appellant to produce evidence which he did not produce or which he was not allowed to produce before the Wealth-tax Officer;"

Gift-tax

18 of 1958.

52. In sections 32 and 33A of the Gift-tax Act, 1958 (hereinafter referred to as the Gift-tax Act), for the words "nine per cent.", the words "twelve per cent." shall be substituted.

Amendment of sections 32 and 33A.

53. In section 33 of the Gift-tax Act, for the words and figures "sections 221 to 227", the words, figures and letter "sections 221 to 227, 228A" shall be substituted.

Amendment of section 33.

54. In section 44 of the Gift-tax Act, for the portion beginning with the words "The Central Government may" and ending with the words "for implementing the agreement.", the following shall be substituted, namely:—

Amendment of section 44.

"The Central Government may enter into an agreement with the Government of any reciprocating country—

(a) for the avoidance or relief of double taxation with respect to gift-tax payable under this Act and under the corresponding law in force in the reciprocating country, or

(b) for exchange of information for the prevention of evasion or avoidance of gift-tax chargeable under this Act or under

the corresponding law in force in that country or investigation of cases of such evasion or avoidance, or

(c) for recovery of tax under this Act and under the corresponding law in force in that country,

and may, by notification in the Official Gazette, make such provision as may be necessary for implementing the agreement.”

Amend-
ment of
section 45.

55. In section 45 of the Gift-tax Act, with effect from the 1st day of April, 1973,—

(a) in clause (e), for the word and figures “section 11”, the words and figures “section 11 or section 12” shall be substituted;

(b) in *Explanation 3*,—

(i) in clause (i), for the word and figures “section 11”, the words, figures and letter “section 11 or section 12 or section 12A” shall be substituted;

(ii) in clause (ii), for the word and figures “section 11”, the words and figures “section 11 or section 12” shall be substituted.

Amend-
ment of
section 46.

56. In section 46 of the Gift-tax Act, in sub-section (2), after clause (c), the following clause shall be inserted, namely:—

“(cc) the circumstances in which, the conditions subject to which and the manner in which, the Appellate Assistant Commissioner may permit an appellant to produce evidence which he did not produce or which he was not allowed to produce before the Gift-tax Officer;”

Surtax

Substi-
tution
of new
section
for
section
24A.

Agree-
ment
with
foreign
count-
ries.

57. For section 24A of the Companies (Profits) Surtax Act, 1964 7 of 1964. [hereinafter referred to as the Companies (Profits) Surtax Act], the following section shall be substituted, namely:—

“24A. The Central Government may enter into an agreement with the Government of any country outside India—

(a) for the granting of relief in respect of chargeable profits on which have been paid both surtax under this Act and tax of a similar character or income-tax on such profits in that country, or

(b) for the avoidance of double taxation of chargeable profits under this Act and under any law relating to the taxation of income or profits in force in that country, or

(c) for exchange of information for the prevention of evasion or avoidance of surtax chargeable under this Act or the tax chargeable under the corresponding law in force in that country or investigation of cases of such evasion or avoidance, or

(d) for recovery of tax under this Act and under any law relating to the taxation of income or profits in force in that country,

and may, by notification in the Official Gazette, make such provision as may be necessary for implementing the agreement.”

58. In section 25 of the Companies (Profits) Surtax Act, in sub-section (2), after clause (c), the following clause shall be inserted, namely:—

Amendment of section 25.

“(cc) the circumstances in which, the conditions subject to which and the manner in which, the Appellate Assistant Commissioner may permit an appellant to produce evidence which he did not produce or which he was not allowed to produce before the Income-tax Officer;”.

Miscellaneous

59. Notwithstanding the amendments made by this Act to the Income-tax Act, in computing, in the case of any person, the total income of a previous year relevant to the assessment year commencing on the 1st day of April, 1972, any income falling within clause (3) of section 10 of the Income-tax Act as it stood immediately before the 1st day of April, 1972, shall not be included.

Certain casual and non-recurring receipts not to be included in the total income for the assessment year 1972-73. Applicability of revised rate of interest.

60. For the removal of doubts, it is hereby declared that where interest is payable under—

- (a) section 139 of the Income-tax Act or any other provision of that Act referred to in section 25 of this Act; or
- (b) section 31 or section 34A of the Wealth-tax Act; or
- (c) section 32 or section 33A of the Gift-tax Act; or
- (d) section 18 of the Companies (Profits) Surtax Act,

in respect of any period commencing on or before the 31st day of March, 1972 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 twelve per cent. per annum.

CHAPTER IV

INDIRECT TAXES

61. The Indian Tariff Act, 1934 (hereinafter referred to as the Tariff Act) shall be amended in the manner specified in the Second Schedule.

Amendment of Act 32 of 1934.

62. (1) With a view to regulating or bringing greater economy in imports, there shall be levied and collected, with effect from such date and at such rate, as may be specified in this behalf by the Central Government by notification in the Official Gazette, on all or any of the goods mentioned in the First Schedule to the Tariff Act, or in that Schedule as amended from time to time, a regulatory duty of customs which shall not exceed 15 per cent. of the value of the goods as determined in accordance with the provisions of section 14 of the Customs Act, 1962:

Regulatory duties of customs.

52 of 1962.

Provided that different dates and different rates may be specified by the Central Government for different kinds of goods.

(2) Sub-section (1) shall cease to have effect after the 15th day of May, 1973, 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 regulatory duty of customs leviable under this section in respect of any goods referred to in sub-section (1) shall be in addition to any other duty of customs chargeable on such goods under the Customs Act, 1962. 52 of 1962.

(4) The provisions of the Customs Act, 1962, 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 regulatory duty 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. 52 of 1962.

(5) Every notification issued under sub-section (1) shall, as soon as may be after it is issued, be placed before each House of Parliament.

(6) All regulatory duties of customs levied under sub-section (1) of section 4 of the Finance Act, 1971 and in force immediately before the 18th day of March, 1972, shall, subject to any notification issued under section 25 of the Customs Act, 1962, read with sub-section (4) of the said section 4, continue to have effect until the date on which the other provisions of this section come into force, and accordingly in sub-section (2) of the said section 4, for the reference to the 15th day of May, 1972, a reference to the date on which the other provisions of this section come into force shall be deemed to be substituted. 14 of 1971. 52 of 1962.

Amendment of Act 1 of 1949.

63. In the Indian Tariff (Amendment) Act, 1949, in sections 4 and 5, for the figures "1972", the figures "1973" shall be substituted.

Amendment of Act 1 of 1944.

64. In the Central Excises and Salt Act, 1944 (hereinafter referred to as the Central Excises Act),—

(a) after section 35, the following section shall be inserted, namely:—

Revision by Board.

"35A. The Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963, may, of its own motion or otherwise, call for and examine the record of any proceeding in which any decision or order has been passed under this Act or the rules made thereunder (not being a decision or order passed on appeal under section 35) for the purpose of satisfying itself as to the correctness, legality or propriety of such decision or order and may pass such order thereon as it thinks fit: 54 of 1963.

Provided that no decision or order shall be varied so as to prejudicially affect any person unless such person is given a reasonable opportunity of making a representation and, if he so desires, of being heard in his defence:

Provided further that no proceedings shall be commenced under this section in respect of any decision or order (whether such decision or order has been passed before or after the coming into force of this section) after the expiration of a period of one year from the date of such decision or order."

(b) section 36 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) The Central Government may, of its own motion or otherwise, call for and examine the record of any proceeding in which any decision or order has been passed under section 35 or section 35A of this Act for the purpose of satisfying itself as to the correctness, legality or propriety of such decision or order and may pass such order thereon as it thinks fit:

Provided that no decision or order shall be varied so as to prejudicially affect any person unless such person is given a reasonable opportunity of making a representation and, if he so desires, of being heard in his defence:

Provided further that no proceedings shall be commenced under this sub-section in respect of any decision or order (whether such decision or order has been passed before or after the coming into force of this sub-section) after the expiration of a period of one year from the date of such decision or order.”;

(c) the First Schedule shall be amended in the manner specified in the Third Schedule.

65. (1) With a view to regulating or bringing greater economy in consumption, there shall be levied and collected, with effect from such date, and at such rate, as may be specified in this behalf by the Central Government by notification in the Official Gazette, on all or any of the goods mentioned in the First Schedule to the Central Excises Act, a regulatory duty of excise which shall not exceed 15 per cent. of the value of the goods as determined in accordance with the provisions of section 4 of the Central Excises Act: Regulatory duties of excise.

Provided that different dates and different rates may be specified by the Central Government for different kinds of goods.

(2) Sub-section (1) shall cease to have effect after the 15th day of May, 1973 except as respects things done or omitted to be done before such cesser; and section 6 of the General Clauses Act, 1897, shall apply upon such cesser as if the said sub-section had then been repealed by a Central Act.

(3) The duties of excise referred to in sub-section (1) in respect of the goods specified therein shall be in addition to the duties of excise chargeable on such goods under the Central Excises Act or any other law for the time being in force and such regulatory duties shall be levied for the purposes of the Union and the proceeds thereof shall not be distributed among the States.

(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 regulatory 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.

(5) Every notification issued under sub-section (1) shall, as soon as may be after it is issued, be placed before each House of Parliament.

(6) All regulatory duties of excise levied under sub-section (1) of section 7 of the Finance Act, 1971 and in force immediately before the 14 of 1971. 18th day of March, 1972, shall, subject to any notification under rule 8 of the Central Excise Rules, 1944, read with sub-section (4) of the said section, continue to have effect until the date on which the other provisions of this section come into force, and accordingly in sub-section (2) of the said section 7, for the reference to the 15th day of May, 1972, a reference to the date on which the other provisions of this section come into force shall be deemed to be substituted.

Amend-
ment of
Act 58
of 1957.

66. 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.

Amend-
ment of
Act 27 of
1958.

67. The Mineral Products (Additional Duties of Excise and Customs) Act, 1958 (hereinafter referred to as the Mineral Products Act) shall be amended in the manner specified in the Fifth Schedule.

Discon-
tinuance
of salt
duty.

68. For the year beginning on the 1st day of April 1972, no duty under the Central Excises Act or the Tariff Act shall be levied in respect of salt manufactured in, or imported into, India.

CHAPTER V

DELHI SALES TAX

Amend-
ment of
Bengal
Act VI
of 1941
as in
force in
Delhi.

69. In the Bengal Finance (Sales Tax) Act, 1941, as in force in the Union territory of Delhi,—

(a) in section 5, in sub-section (2), in sub-clause (ii) of clause (a), for the words "for use by him as raw materials in the manufacture of goods for sale; and", the following shall be substituted, namely:—

"for use by him as raw materials in the manufacture in the Union territory of Delhi (hereafter in this sub-clause referred to as Delhi), of goods (other than goods declared tax-free under section 6),—

(A) for sale inside Delhi; or

(B) for sale in the course of inter-State trade or commerce, being a sale occasioning, or effected by transfer of documents of title to such goods during the movement of such goods from Delhi; or

(C) for sale in the course of export outside India being a sale occasioning the movement of such goods from Delhi, or a sale effected by transfer of documents of title to such goods effected during the movement of such goods from Delhi, to a place outside India and after the goods have crossed the customs frontiers of India; and";

(b) after section 12, the following sections shall be inserted, namely:—

12A. Where a dealer, liable to pay tax under this Act, transfers his business in whole or in part, by sale, gift, lease, leave or

Liabi-
lity in

licence, hire or in any other manner whatsoever, the dealer and the person to whom the business is so transferred shall jointly and severally be liable to pay the tax (including penalty) due from the dealer up to the time of such transfer, whether such tax (including penalty) has been assessed before such transfer, but has remained unpaid or is assessed thereafter:

case of transfer of business.

Provided that the liability of the transferee shall be limited to the value of the assets he obtained by such transfer.

12B. (1) Every person—

(a) who is a liquidator of any company which is being wound up whether under the orders of a court or otherwise; or

(b) who has been appointed the receiver of any assets of a company,

Liability in case of company in liquidation.

(hereinafter referred to as the liquidator) shall, within thirty days after he has become such liquidator, give notice of his appointment as such to the Commissioner.

(2) The Commissioner shall after making such enquiries or calling for such information as he may deem fit, notify to the liquidator within three months from the date on which he receives notice of appointment of the liquidator the amount which, in the opinion of the Commissioner, would be sufficient to provide for any tax (including any penalty) which is then or is likely thereafter to become, payable by the company under this Act.

(3) The liquidator shall not part with any of the assets of the company or the properties in his hand until he has been notified by the Commissioner under sub-section (2), and on being so notified the liquidator shall set aside an amount equal to the amount notified and until he so sets aside such amount, he shall not part with any of the assets of the company or the properties in his hand:

Provided that nothing contained in this sub-section shall debar the liquidator from parting with such assets or properties in compliance with any order of a court or for the purpose of the payment of the tax and penalty, if any, payable by the company under this Act or for making any payment to secured creditors whose debts are entitled under law to priority of payment over debts due to Government on the date of liquidation or for meeting such costs and expenses of the winding up of the company as are in the opinion of the Commissioner reasonable.

(4) If the liquidator fails to give notice in accordance with sub-section (1) or fails to set aside the amount as required by sub-section (3) or parts with any assets of the company or the properties in his hand in contravention of the provisions of that sub-section, he shall be personally liable for the payment of the

tax and penalty, if any, which the company would be liable to pay under this Act:

Provided that if the amount of any tax (including any penalty) payable by the company is notified under sub-section (2), the personal liability of the liquidator under this sub-section shall be to the extent of such amount.

(5) Where there are more liquidators than one, the obligations and liabilities attached to the liquidator under this section shall be attached to all the liquidators jointly and severally.

(6) When any private company is wound up and any tax (including any penalty) assessed under this Act on the company for any period before or in the course of or after its liquidation, cannot be recovered, then every person who was a director of the private company at any time during the period for which the tax is due, shall be jointly and severally liable for the payment of such tax (including penalty) unless he proves to the satisfaction of the Commissioner that non-recovery cannot be attributed to any gross negligence, misfeasance or breach of duty on his part in relation to the affairs of the company.

(7) The provisions of this section shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

(8) For the purposes of this section, the expressions "company" and "private company" shall have the meanings respectively assigned to them under clauses (i) and (iii) of sub-section (1) of section 3 of the Companies Act, 1956.

Liability of partners of firm to pay tax.

12C. Notwithstanding any contract to the contrary, where any firm is liable to pay any tax (including any penalty) under this Act, the firm and each of the partners of the firm shall be jointly and severally liable for such payment:

Provided that where any such partner retires from the firm, he shall intimate the date of his retirement to the Commissioner by a notice in that behalf in writing and he shall be liable to pay tax (including penalty) remaining unpaid at the time of his retirement and any tax (including any penalty) due up to the date of his retirement though unassessed on that date:

Provided further that if no such intimation is given within fifteen days from the date of retirement, the liability of the partner under the first proviso shall continue until the date on which such intimation is received by the Commissioner.

Liability of guardians, trustees, etc.

12D. Where the business in respect of which tax is payable under this Act is carried on by, or is in charge of any guardian, trustee or agent of a minor or other incapacitated person on his behalf and for the benefit of such minor or other incapacitated person, the tax shall be levied upon and recoverable from such guardian, trustee or agent, as the case may be, in like manner and

to the same extent as it would be assessed upon and recoverable from any such minor or other incapacitated person, if he were of full age and of sound mind and if he were conducting the business himself; and all the provisions of this Act shall, so far as may be, apply accordingly.

12E: Where the estate or any portion of the estate of a dealer owning a business in respect of which tax is payable under this Act is under the control of the Court of Wards, the Administrator-General, the Official Trustee or any Receiver or Manager (including any person, whatever be his designation, who in fact manages the business) appointed by or under any order of a court, the tax shall be levied upon and be recoverable from such Court of Wards, Administrator-General, Official Trustee, Receiver or Manager in like manner and to the same extent as it would be assessable upon and be recoverable from the dealer if he were conducting the business himself; and all the provisions of this Act shall, so far as may be, apply accordingly.

Liability of Court of Wards, etc.

12F. (1) Where a dealer is a firm or an association of persons or a Hindu undivided family, and such firm, association or family has discontinued business—

Liability in other cases.

(a) the tax payable under this Act by such firm, association or family up to the date of such discontinuance may be assessed as if no such discontinuance had taken place; and

(b) every person who was at the time of such discontinuance a partner of such firm or a member of such association or family shall, notwithstanding such discontinuance, be liable jointly and severally for the payment of tax assessed and penalty imposed and payable by such firm, association or family, whether such tax (including penalty) has been assessed prior to or after such discontinuance, and, subject as aforesaid, the provisions of this Act shall, so far as may be, apply as if every such person or partner or member were himself a dealer:

Provided that where the partner of a firm liable to pay such tax (including penalty) dies, the provisions of sub-section (4) shall, so far as may be, apply.

(2) Where a change has occurred in the constitution of a firm or association, the partners or members of the firm or association as it existed before and as it exists after its re-constitution, shall, without prejudice to the provisions of section 12C, jointly and severally be liable to pay any tax (including any penalty) due from such firm or association for any period before its re-constitution.

(3) The provisions of sub-section (1) shall, so far as may be, apply where the dealer, being a firm or association of persons is dissolved, or where the dealer, being a Hindu undivided family has effected partition with respect to the business carried on by

it and accordingly references in that sub-section to discontinuance shall be treated as references to dissolution or, as the case may be, to partition.

(4) Where a dealer liable to pay tax under this Act dies, then—

(a) if the business carried on by the dealer is continued after his death, by his legal representative or any other person, such legal representative or other person shall be liable to pay the tax (including penalty) due from the dealer under this Act whether such tax (including penalty) has been assessed before his death but has remained unpaid or is assessed after his death;

(b) if the business carried on by the dealer is discontinued after his death, his legal representative shall be liable to pay out of the estate of the deceased, to the extent the estate is capable of meeting the charge, the tax (including penalty) due from the dealer under this Act whether such tax (including penalty) has been assessed before his death but has remained unpaid or is assessed after his death,

and the provisions of this Act shall, so far as may be, apply to such legal representative or other person as if he were the dealer himself.

Explanation.—For the purposes of this sub-section "legal representative" has the meaning assigned to it in clause (11) of section 2 of the Code of Civil Procedure, 1908.;

(c) in section 17, for the words "the transferee shall for all the purposes of this Act", the words, figures and letter "then, save as otherwise provided in section 12A, the transferee shall for all the purposes of this Act" shall be substituted.

THE FIRST SCHEDULE

(See section 2)

PART I

INCOME-TAX AND SURCHARGES ON INCOME-TAX

Paragraph A

In the case of every individual or Hindu undivided family or un-registered 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 any other Paragraph of this Part applies,—

Rates of income-tax

- (1) where the total income does not exceed Rs. 5,000 Nil;
- (2) where the total income exceeds 10 per cent. of the amount by which Rs. 5,000 but does not exceed Rs. 10,000 the total income exceeds Rs. 5,000,
- (3) where the total income exceeds Rs. 500 plus 17 per cent. of the amount Rs. 10,000 but does not exceed by which the total income exceeds Rs. 15,000 Rs. 10,000;
- (4) where the total income exceeds Rs. 1,350 plus 23 per cent. of the amount Rs. 15,000 but does not exceed by which the total income exceeds Rs. 20,000 Rs. 15,000;
- (5) where the total income exceeds Rs. 2,500 plus 30 per cent. of the amount Rs. 20,000 but does not exceed by which the total income exceeds Rs. 25,000 Rs. 20,000;
- (6) where the total income exceeds Rs. 4,000 plus 40 per cent. of the amount Rs. 25,000 but does not exceed by which the total income exceeds Rs. 30,000 Rs. 25,000;
- (7) where the total income exceeds Rs. 6,000 plus 50 per cent. of the amount Rs. 30,000 but does not exceed by which the total income exceeds Rs. 40,000 Rs. 30,000;
- (8) where the total income exceeds Rs. 11,000 plus 60 per cent. of the amount Rs. 40,000 but does not exceed by which the total income exceeds Rs. 60,000 Rs. 40,000;

(9) where the total income exceeds Rs. 23,000 plus 70 per cent. of the Rs. 60,000 but does not exceed amount by which the total income exceeds Rs. 60,000;

(10) where the total income exceeds Rs. 37,000 plus 75 per cent. of the amount Rs. 80,000 but does not exceed by which the total income exceeds Rs. 1,00,000 Rs. 80,000;

(11) where the total income exceeds Rs. 52,000 plus 80 per cent. of the amount Rs. 1,00,000 but does not exceed by which the total income exceeds Rs. 2,00,000 Rs. 1,00,000;

(12) where the total income exceeds Rs. 1,32,000 plus 85 per cent. of the Rs. 2,00,000 amount by which the total income exceeds Rs. 2,00,000 :

Provided that for the purposes of this Paragraph, in the case of a Hindu undivided family which at any time during the previous year satisfies either of the following two conditions, namely:—

(a) that it has at least two members entitled to claim partition who are not less than eighteen years of age, or

(b) that it has at least two members entitled to claim partition who are not lineally descended one from the other and who are not lineally descended from any other living member of the family,—

(i) no income-tax shall be payable on a total income not exceeding Rs. 7,000;

(ii) where the total income exceeds Rs. 7,000 but does not exceed Rs. 7,660, the income-tax payable thereon shall not exceed forty per cent. of the amount by which the total income exceeds Rs. 7,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge for purposes of the Union calculated at the following rates, namely:—

(a) in a case where the total income does not exceed Rs. 15,000 10 per cent.;

(b) in any other case 15 per cent.;

Provided that the amount of surcharge payable shall, in no case, exceed the aggregate of the following sums, namely:—

(i) an amount calculated at the rate of 10 per cent. on the amount of income-tax on an income of Rs. 15,000, if such income had been the total income (the income of Rs. 15,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the person concerned); and

(ii) 40 per cent. of the amount by which the total income exceeds Rs. 15,000.

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 at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent. of such income-tax.

Paragraph C

In the case of every registered firm,—

Rates of income-tax

- (1) where the total income does not exceed Rs. 10,000 Nil;
- (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 25,000 4 per cent. of the amount by which the total income exceeds Rs. 10,000;
- (3) where the total income exceeds Rs. 25,000 but does not exceed Rs. 50,000 Rs. 600 plus 6 per cent. of the amount by which the total income exceeds Rs. 25,000;
- (4) where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000 Rs. 2,100 plus 12 per cent. of the amount by which the total income exceeds Rs. 50,000;
- (5) where the total income exceeds Rs. 1,00,000 Rs. 8,100 plus 20 per cent. of the amount by which the total income exceeds Rs. 1,00,000.

Surcharges on income-tax

The amount of income-tax computed at the rate hereinbefore specified shall be increased by the aggregate of surcharges for purposes of the Union calculated as specified hereunder:—

(a) in the case of a registered firm whose total income includes income derived from a profession carried on by it and the income so included is not less than fifty-one per cent. of such total income, a surcharge calculated at the rate of ten per cent. of the amount of income-tax computed at the rate hereinbefore specified;

(b) in the case of any other registered firm, a surcharge calculated at the rate of twenty per cent. of the amount of income-tax computed at the rate hereinbefore specified; and

(c) a special surcharge calculated at the rate of fifteen per cent. on the aggregate of the following amounts, namely:—

(i) the amount of income-tax computed at the rate hereinbefore specified; and

(ii) the amount of the surcharge calculated in accordance with clause (a), or, as the case may be, clause (b) of this subparagraph.

Explanation.—For the purposes of this Paragraph, “registered firm” includes an unregistered firm assessed as a registered firm under clause (b) of section 183 of the Income-tax Act.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income 50 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent. of such income-tax.

Paragraph E

In the case of the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956,—

31 of 1956.

Rates of income-tax

(i) on that part of its total income 52·5 per cent.;
{ which consists of profits and gains
 from life insurance business

(ii) on the balance, if any, of the total income the rate of income-tax applicable, in accordance with Paragraph F of this Part, to the total income of a domestic company which is a company in which the public are substantially interested.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge calculated at the rate of two and a half per cent. of such income-tax.

Paragraph F

In the case of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956,—

31 of 1956.

Rates of income-tax

I. In the case of a domestic company—

(1) where the company is a company in which the public are substantially interested,—

(i) in a case where the total income does not exceed Rs. 50,000 45 per cent. of the total income;

(ii) in a case where the total income exceeds Rs. 50,00 55 per cent. of the total income;

(2) where the company is not a company in which the public are substantially interested,—

(i) in the case of an industrial company—

(a) on so much of the total income as does not exceed Rs. 10,00,000 55 per cent.;

(b) on the balance, if any, of the total income 60 per cent.;

(ii) in any other case 65 per cent. of the total income;

Provided that the income-tax payable by a domestic company, being a company in which the public are substantially interested, the total income of which exceeds Rs. 50,000, shall not exceed the aggregate of—

(a) the income-tax which would have been payable by the company if its total income had been Rs. 50,000 (the income of Rs. 50,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company); and

(b) eighty per cent. of the amount by which its total income exceeds Rs. 50,000.

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of—

(a) royalties received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961, or

(b) fees for rendering technical services received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964,

and where such agreement has, in either case, been approved by the Central Government

50 per cent.;

(ii) on the balance, if any, of the total income 70 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge calculated at the rate of two and a half 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 and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to deduction, at the following rates:—

	Income-tax	
	Rate of income-tax	Rate of surcharge
1. In the case of a person other than a company—		
(a) where the person is resident—		
(i) on income by way of interest other than "Interest on securities"	10 per cent.	Nil;
(ii) on income by way of winnings from lotteries and crossword puzzles	30 per cent.	4.5 per cent.;
(iii) on any other income (excluding interest payable on a tax-free security)	20 per cent.	3 per cent.;
(b) where the person is not resident in India—		
(i) on the whole income (excluding interest payable on a tax-free security)	income-tax at 30 per cent. and surcharge at 4.5 per cent. of the amount of the income,	
	or	
	income-tax and surcharge on income-tax in respect of the income at the rates prescribed in Paragraph A of Part III of this Schedule, if such income had been the total income, whichever is higher ;	
(ii) on the income by way of interest payable on a tax-free security	15 per cent.	2.25 per cent.
2. In the case of a company—		
(a) where the company is a domestic company—		
(i) on income by way of interest other than "Interest on securities"	20 per cent.	1 per cent.;
(ii) on any other income (excluding interest payable on a tax-free security)	22 per cent.	1 per cent.;
(b) where the company is not a domestic company—		
(i) on the income by way of dividends payable by any domestic company	24.5 per cent.	1.225 per cent.;

	Income-tax	
	Rate of income-tax	Rate of surcharge
(ii) on the income by way of royalties payable by an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961, and which has been approved by the Central Government	50 per cent.	2.5 per cent.;
(iii) on the income by way of fees payable by an Indian concern for rendering technical services in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964, and which has been approved by the Central Government	50 per cent.	2.5 per cent.;
(iv) on the income by way of interest payable on a tax-free security	44 per cent.	2.2 per cent.;
(v) on any other income	70 per cent.	3.5 per cent.

PART III

Rates for calculating or charging income-tax in certain cases, deducting income-tax from income chargeable under the head "Salaries" or any payment referred to in sub-section (9) of section 80E and computing "advance tax".

In cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or deducted under sub-section (9) of section 80E of the said Act from any payment referred to in the said sub-section (9) or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" (not being "advance tax" in respect of any income chargeable to tax under section 164 of the Income-tax Act at the rate of sixty-five per cent.) shall be so calculated, charged, deducted or computed at the following rate or rates:—

Paragraph A

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 any other Paragraph of this Part applies,—

Rates of income-tax

(i) where the total income does not exceed Rs. 5,000

Nil;

- (2) where the total income exceeds 10 per cent. of the amount by which Rs. 5,000 but does not exceed Rs. 10,000 the total income exceeds Rs. 5,000;
- (3) where the total income exceeds Rs. 500 plus 17 per cent. of the amount by which the total income exceeds Rs. 10,000 but does not exceed Rs. 15,000 Rs. 10,000;
- (4) where the total income exceeds Rs. 1,350 plus 23 per cent. of the amount by which the total income exceeds Rs. 15,000 but does not exceed Rs. 20,000 Rs. 15,000;
- (5) where the total income exceeds Rs. 2,500 plus 30 per cent. of the amount by which the total income exceeds Rs. 20,000 but does not exceed Rs. 25,000 Rs. 20,000;
- (6) where the total income exceeds Rs. 4,000 plus 40 per cent. of the amount by which the total income exceeds Rs. 25,000 but does not exceed Rs. 30,000 Rs. 25,000;
- (7) where the total income exceeds Rs. 6,000 plus 50 per cent. of the amount by which the total income exceeds Rs. 30,000 but does not exceed Rs. 40,000 Rs. 30,000;
- (8) where the total income exceeds Rs. 11,000 plus 60 per cent. of the amount by which the total income exceeds Rs. 40,000 but does not exceed Rs. 60,000 Rs. 40,000;
- (9) where the total income exceeds Rs. 23,000 plus 70 per cent. of the amount by which the total income exceeds Rs. 60,000 but does not exceed Rs. 80,000 Rs. 60,000;
- (10) where the total income exceeds Rs. 37,000 plus 75 per cent. of the amount by which the total income exceeds Rs. 80,000 but does not exceed Rs. 1,00,000 Rs. 80,000;
- (11) where the total income exceeds Rs. 52,000 plus 80 per cent. of the amount by which the total income exceeds Rs. 1,00,000 but does not exceed Rs. 2,00,000 Rs. 1,00,000;
- (12) where the total income exceeds Rs. 1,32,000 plus 85 per cent. of the amount by which the total income exceeds Rs. 2,00,000 but does not exceed Rs. 2,30,000 Rs. 2,00,000;

Provided that for the purposes of this Paragraph, in the case of a Hindu undivided family which at any time during the previous year relevant to the assessment year commencing on the 1st day of April, 1973 satisfies either of the following two conditions, namely:—

(a) that it has at least two members entitled to claim partition who are not less than eighteen years of age, or

(b) that it has at least two members entitled to claim partition who are not lineally descended one from the other and who are not lineally descended from any other living member of the family,—

(i) no income-tax shall be payable on a total income not exceeding Rs. 7,000;

(ii) where the total income exceeds Rs. 7,000 but does not exceed Rs. 7,660, the income-tax payable thereon shall not exceed forty per cent. of the amount by which the total income exceeds Rs. 7,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge for purposes of the Union calculated at the following rates, namely:—

- (a) in a case where the total income does not exceed Rs. 15,000 10 per cent.;
- (b) in any other case 15 per cent.;

Provided that the amount of surcharge payable shall, in no case, exceed the aggregate of the following sums, namely:—

- (i) an amount calculated at the rate of 10 per cent. on the amount of income-tax on an income of Rs. 15,000, if such income had been the total income (the income of Rs. 15,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the person concerned); and
- (ii) 40 per cent. of the amount by which the total income exceeds Rs. 15,000.

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 at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent. of such income-tax.

Paragraph C

In the case of every registered firm,—

Rates of income-tax

- (1) where the total income does not exceed Rs. 10,000 Nil;
- (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 25,000 4 per cent. of the amount by which the total income exceeds Rs. 10,000;
- (3) where the total income exceeds Rs. 25,000 but does not exceed Rs. 50,000 Rs. 600 plus 6 per cent. of the amount by which the total income exceeds Rs. 25,000;

(4) where the total income exceeds Rs. 2,100 plus 12 per cent. of the amount Rs. 50,000 but does not exceed by which the total income exceeds Rs. 1,00,000 Rs. 50,000;

(5) where the total income exceeds Rs. 8,100 plus 20 per cent. of the amount Rs. 1,00,000 by which the total income exceeds Rs. 1,00,000.

Surcharges on income-tax

The amount of income-tax computed at the rate hereinbefore specified shall be increased by the aggregate of surcharges for purposes of the Union calculated as specified hereunder:—

(a) in the case of a registered firm whose total income includes income derived from a profession carried on by it and the income so included is not less than fifty-one per cent. of such total income, a surcharge calculated at the rate of ten per cent. of the amount of income-tax computed at the rate hereinbefore specified;

(b) in the case of any other registered firm, a surcharge calculated at the rate of twenty per cent. of the amount of income-tax computed at the rate hereinbefore specified; and

(c) a special surcharge calculated at the rate of fifteen per cent. on the aggregate of the following amounts, namely:—

(i) the amount of income-tax computed at the rate hereinbefore specified; and

(ii) the amount of the surcharge calculated in accordance with clause (a), or, as the case may be, clause (b) of this subparagraph.

Explanation.—For the purposes of this Paragraph, “registered firm” includes an unregistered firm assessed as a registered firm under clause (b) of section 183 of the Income-tax Act.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income 50 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent. of such income-tax.

Paragraph E

In the case of the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956,—

Rates of income-tax

(i) on that part of its total income which consists of profits and gains from life insurance business 52.5 per cent.;

(ii) on the balance, if any, of the total income of the company which is a company in which the public are substantially interested, of the the rate of income-tax applicable, in accordance with Paragraph F of this Part, to the total income of a domestic company which is a company in which the public are substantially interested.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge calculated at the rate of five per cent. of such income-tax.

Paragraph F

In the case of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956,—

Rates of income-tax

I. In the case of a domestic company,—

(1) where the company is a company in which the public are substantially interested,—

(i) in a case where the total income does not exceed Rs. 50,000 45 per cent. of the total income;

(ii) in a case where the total income exceeds Rs. 50,000 55 per cent. of the total income;

(2) where the company is not a company in which the public are substantially interested,—

(i) in the case of an industrial company—

(a) on so much of the total income as does not exceed Rs. 10,00,000 55 per cent.;

(b) on the balance, if any, of the total income 60 per cent.;

(ii) in any other case 65 per cent. of the total income;

Provided that the income-tax payable by a domestic company, being a company in which the public are substantially interested, the total income of which exceeds Rs. 50,000, shall not exceed the aggregate of—

(a) the income-tax which would have been payable by the company if its total income had been Rs. 50,000 (the income of Rs. 50,000 for this purpose being computed as if such income included income from various sources in the same proportion as the total income of the company); and

(b) eighty per cent. of the amount by which its total income exceeds Rs. 50,000.

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of—

(a) royalties received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 31st day of March, 1961, or

(b) fees for rendering technical services received from an Indian concern in pursuance of an agreement made by it with the Indian concern after the 29th day of February, 1964,

and where such agreement has, in either case, been approved by the Central Government

50 per cent. ;

(ii) on the balance, if any, of the total income

70 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge calculated at the rate of five per cent. of such income-tax.

THE SECOND SCHEDULE

(See section 61)

PART I

In the First Schedule to the Tariff Act, in Item No. 28(28)(b), for each of the entries in the fifth and sixth columns, the entry "60 per cent. *ad valorem*." shall be substituted.

PART II

Item No.	Name of article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty
				The United Kingdom	A British Colony	
1	2	3	4	5	6	7

In the First Schedule to the Tariff Act, for Item No. 22(5)(b), the following Item shall be substituted, namely:—

Item No.	Name of article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of	Duration of protective rates of duty
"22(5)(b)	Drugs and medicines containing spirit.	Preferential Revenue.	Rs. 14.40 per litre or 60 per cent. <i>ad valorem</i> , whichever is higher, plus Rs. 5.00 per litre.	Rs. 14.40 per litre or 60 per cent. <i>ad valorem</i> , whichever is higher, plus Rs. 5.00 per litre.	Rs. 14.40 per litre or 60 per cent. <i>ad valorem</i> , whichever is higher, plus Rs. 5.00 per litre.

THE THIRD SCHEDULE

[See section 64(c)]

PART I

In the First Schedule to the Central Excises Act,—

(i) in Item No. 1A, for each of the entries in the third column against sub-items (1) and (4), the entry "One rupee per kilogram." shall be substituted;

(ii) in Item No. 1D, for the entry in the third column, the entry "Twenty per cent. *ad valorem*." shall be substituted;

(iii) in Item No. 2, for the entry in the third column against sub-item (1), the entry "One hundred rupees per quintal." shall be substituted;

(iv) in Item No. 4,—

(a) under "I. *Unmanufactured tobacco*—", for the entries in the third column against sub-items (1), (2), (3), (4), (5), (6) and (8), the entries "Five rupees.", "Forty rupees.", "Four rupees.", "Four rupees.", "Three rupees.", "Four rupees." and "Fifty paise." shall, respectively, be substituted;

(b) under "II. *Manufactured tobacco*—", for the entry in the third column against sub-item (2), the entry "Two hundred per cent. *ad valorem*." shall be substituted;

(v) in Item No. 6, for the entry in the third column, the entry "One thousand rupees per kilolitre at fifteen degrees of Centigrade thermometer." shall be substituted;

(vi) in Item No. 7, for the entry in the third column, the entry "Three hundred rupees per kilolitre at fifteen degrees of Centigrade thermometer." shall be substituted;

(vii) in Item No. 8, for the entry in the third column against each of the sub-items (a) and (b), the entry "Five hundred rupees per kilolitre at fifteen degrees of Centigrade thermometer." shall be substituted;

(viii) in Item No. 9, for the entry in the third column, the entry "Two hundred rupees per kilolitre at fifteen degrees of Centigrade thermometer." shall be substituted;

(ix) in Item No. 10, for the entry in the third column, the entry "One hundred rupees per kilolitre at fifteen degrees of Centigrade thermometer." shall be substituted;

(x) in Item No. 11, for the entry in the third column against each of the sub-items (1) and (2), the entry "One hundred rupees per metric tonne." shall be substituted;

(xi) in Item No. 12, for the entry in the third column, the entry "One hundred rupees per metric tonne." shall be substituted;

(xii) in Item No. 14, for the entries in the third column against sub-items I(1) (i), I(1) (ii), I(2), I(3) (i), I(3) (ii), I(3) (iii), I(3) (iv), I(4) (i), I(4) (ii), I(4) (iii), I(4A), I(5), II(i), II(ii), III(i), III(ii) and III(iii), the entries "Thirty rupees per quintal.", "One hundred rupees per quintal.", "Twenty-five rupees per quintal.", "Forty rupees per quintal.", "Fifty paise per litre.", "One rupee and fifty paise per litre.", "One hundred rupees per quintal.", "Thirty rupees per quintal.", "One rupee per litre.", "Three hundred rupees per quintal.", "One rupee per litre, if in liquid form and thirty rupees per quintal if in another form.", "Fifty paise per litre.", "Twenty-five paise per litre.", "Two rupees and fifty paise per litre.", "One hundred rupees per quintal." and "Two rupees and fifty paise per litre." shall, respectively, be substituted;

(xiii) in Item No. 14BB, for the entry in the third column, the entry "Twenty per cent. *ad valorem*." shall be substituted;

(xiv) in Item No. 14C, for the entry in the third column, the entry "Twenty rupees per quintal." shall be substituted;

(xv) in each of the Item Nos. 14D and 14DD, for the entry in the third column, the entry "Twenty per cent. *ad valorem*." shall be substituted;

(xvi) in Item No. 14F, for the entry in the third column, the entry "Thirty per cent. *ad valorem*." shall be substituted;

(xvii) in Item No. 14HH, for the entry in the third column, the entry "Fifteen per cent. *ad valorem*." shall be substituted;

(xviii) in Item No. 15, for the entries in the third column against sub-items I(1), I(2) and II, the entries "Ten per cent. *ad valorem*.", "Twenty per cent. *ad valorem*." and "Ten per cent. *ad valorem*." shall, respectively, be substituted;

(xix) in Item No. 15A, for the entries in the third column against sub-items (1), (2), (3) and (4), the entries "Forty per cent. *ad valorem*.", "Forty per cent. *ad valorem*.", "Fifty per cent. *ad valorem*." and "Fifty per cent. *ad valorem*." shall, respectively, be substituted;

(xx) in Item No. 16, for the entries in the third column against sub-items (1) and (3), the entries "Fifty per cent. *ad valorem*." and "Twenty per cent. *ad valorem*." shall, respectively, be substituted;

(xxi) in Item No. 16A, for the entries in the third column against sub-items (1), (2), (3) and (4), the entries "Fifty per cent. *ad valorem*.", "Thirty per cent. *ad valorem*.", "Twenty per cent. *ad valorem*." and "Twenty per cent. *ad valorem*." shall, respectively, be substituted;

(xxii) in Item No. 17, for the entries in the third column against sub-items (1), (2), (3) and (4), the entries "Two rupees per kilogram.", "One rupee per kilogram.", "Fifty paise per kilogram." and "One rupee per kilogram." shall, respectively, be substituted;

(xxiii) in Item No. 19,—

(a) in the second column, in the opening portion,—

(1) for the brackets, figures and words,—

“(ii) 40 per cent. or more by weight of silk; or

(iii) 60 per cent. or more by weight of rayon or artificial silk:”,

the brackets, figures and words,—

“(ii) 40 per cent. or more by weight of silk;

(iii) 60 per cent. or more by weight of rayon or artificial silk; or

(iv) 50 per cent. or more by weight of jute (including Bimlipatam jute or mesta fibre):”.

shall be substituted;

(2) in the proviso, for the words, brackets and figures “referred to in (i) to (iii)”, the words, brackets and figures “referred to in (i) to (iv)” shall be substituted;

(b) for the entry in the third column against sub-item I(1), the entry “Fifteen per cent. *ad valorem*.” shall be substituted;

(xxiv) in Item No. 20,—

(a) in the second column, in the opening portion,—

(1) for the brackets, figures and words,—

“(iii) if it contains no cotton and no artificial silk and less than 40 per cent. by weight of silk; or

(iv) if manufactured on a handloom:”,

the brackets, figures and words,—

“(iii) if it contains no cotton and no artificial silk and less than 40 per cent. by weight of silk;

(iv) if it contains 50 per cent. or more by weight of jute (including Bimlipatam jute or mesta fibre); or

(v) if manufactured on a handloom:”,

shall be substituted;

(2) in the proviso, for the words, brackets and figures “referred to in (i) to (iv)”, the words, brackets and figures “referred to in (i) to (v)” shall be substituted;

(b) for the entry in the third column against sub-item (1), the entry “Fifty paise per square metre.” shall be substituted;

(xxv) in Item No. 21, for the entry in the third column against sub-item (1), the entry “Ten per cent. *ad valorem*.” shall be substituted;

(xxvi) in Item No. 22,—

(a) in the second column, in the opening portion,—

(1) for the brackets, figures and words,—

“(iii) if it contains cotton and less than 60 per cent. by weight of rayon or artificial silk; or

(iv) if it contains no cotton and less than 40 per cent. by weight of wool and less than 40 per cent. by weight of rayon or artificial silk:”,

the brackets, figures and words,—

“(iii) if it contains cotton and less than 60 per cent. by weight of rayon or artificial silk;

(iv) if it contains no cotton and less than 40 per cent. by weight of wool and less than 40 per cent. by weight of rayon or artificial silk; or

(v) if it contains 50 per cent. or more by weight of jute (including Bimlipatam jute or mesta fibre):”;

shall be substituted;

(2) in the proviso, for the words, brackets and figures “referred to in (i) to (iv)”, the words, brackets and figures “referred to in (i) to (v)” shall be substituted;

(b) for the entry in the third column against sub-item (1), the entry “Twenty per cent. *ad valorem plus* rupees five per square metre.” shall be substituted;

(xxvii) in Item No. 23, for the entry in the third column, the entry “Fifty rupees per metric tone.” shall be substituted;

(xxviii) in Item No. 23A, for the entries in the third column against sub-items (1) and (2), the entries “Twenty per cent. *ad valorem.*” and “Ten per cent. *ad valorem.*” shall, respectively, be substituted;

(xxix) in Item No. 25, for the entry in the third column, the entry “Fifty rupees per metric tonne.” shall be substituted;

(xxx) in Item No. 26, for the entry in the third column, the entry “One hundred rupees per metric tonne.” shall be substituted;

(xxxi) in Item No. 26AA, for the entries in the third column against sub-items (i), (ia), (ii), (iii), (iv) and (v), the entries “Seventy-five rupees per metric tonne *plus* the excise duty for the time being leviable on steel ingots.”, “Seventy-five rupees per metric tonne *plus* the excise duty for the time being leviable on steel ingots.”, “Five hundred rupees per metric tonne *plus* the excise duty for the time being leviable on steel ingots.”, “Five hundred rupees per metric tonne *plus* the excise duty for the time being leviable on steel ingots.”, “Five hundred rupees per metric tonne *plus* the excise duty for the time being leviable on pig iron or steel ingots, as the case may be.” and “Two hundred rupees per metric tonne *plus* the excise duty for the time being leviable on steel ingots.”, shall, respectively, be substituted;

(xxxii) in Item No. 27,—

(a) in the second column, for the brackets, letter, words and figures,—

“(c) Foils, that is a product of thickness (excluding any backing) not exceeding 0.15 millimetre.”;

the brackets, letter, words and figures,—

“(c) Foils (whether or not embossed, cut to shape, perforated, coated, printed, or backed with paper or other reinforcing material), of a thickness (excluding any backing) not exceeding 0.15 millimetre.”,

shall be substituted;

(b) for each of the entries in the third column against sub-items (a) (i), (a) (ii), (b), (c) (d), (e) and (f), the entry “Thirty per cent. *ad valorem*.” shall be substituted;

(xxxiii) in Item No. 28, for the entry in the third column, the entry “Six hundred rupees per metric tonne.” shall be substituted;

(xxxiv) in Item No. 29, for the entries in the third column against sub-items (i) and (ii), the entries “Fifteen per cent. *ad valorem*.” and “Ten per cent. *ad valorem*.”, shall, respectively, be substituted;

(xxxv) in Item No. 29A, for the entries in the third column against sub-items (1), (2) and (3), the entries “Sixty per cent. *ad valorem*.”, “Sixty per cent. *ad valorem*.” and “Seventy-five per cent. *ad valorem*.”, shall, respectively, be substituted;

(xxxvi) in Item No. 30, for the entries in the third column against sub-items (1), (2) (i), (2) (ii), (3) and (4), the entries “Twenty per cent. *ad valorem*.”, “Fifteen per cent. *ad valorem*.”, “Ten per cent. *ad valorem*.”, “Twenty per cent. *ad valorem*.” and “Twenty per cent. *ad valorem*.”, shall, respectively, be substituted;

(xxxvii) in Item No. 31, for the entries in the third column against sub-items (1), (2) and (3), the entries “Twenty per cent. *ad valorem*.”, “Twenty per cent. *ad valorem*.” and “Twenty-five per cent. *ad valorem*.”, shall, respectively, be substituted;

(xxxviii) in Item No. 33, for the entries in the third column against sub-items (1), (2) and (3), the entries “Ten per cent. *ad valorem*.”, “Fifteen per cent. *ad valorem*.” and “Fifteen per cent. *ad valorem*.”, shall, respectively, be substituted;

(xxxix) in Item No. 33B, for the entry in the third column against sub-item (ii), the entry “Ten per cent. *ad valorem*.” shall be substituted;

(xl) in Item No. 34, for the entries in the third column against sub-items (1), (2), (3), (3a) and (4), the entries “Two hundred and fifty rupees each or ten per cent. *ad valorem*, whichever is higher.”, “One thousand and five hundred rupees each or fifteen per cent. *ad valorem*, whichever is higher.”, “Four thousand rupees each or twenty per cent. *ad valorem*, whichever is higher.”, “Fifteen per cent. *ad valorem*.” and “Three thousand rupees each or fifteen per cent. *ad valorem*, whichever is higher.”, shall, respectively, be substituted;

(xli) in Item No. 37, under "II. Exposed.—", for the entries in the second and third columns, the following entries shall be substituted, namely:—

	Of a width of 30 mm. or higher	Below 30 mm. in width
"(1) News-reels and shorts not exceeding 500 metres.	One rupee per metre.	Fifty paise per metre.
(2) Feature films, advertisement shorts, and films not otherwise specified.	Two rupees per metre.	One rupee per metre."

PART II

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)

In the First Schedule to the Central Excises Act,—

(i) in Item No. 4, under "II. *Manufactured tobacco—*", for sub-item (1), the following sub-item shall be substituted, namely:—

"(1) Cigars and cheroots . . . Twenty-five rupees per hundred.";

(ii) for Item No. 11A, the following Item shall be substituted, namely:—

"11A ALL PRODUCTS DERIVED FROM REFINING OF CRUDE PETROLEUM OR SHALE (WHETHER GASEOUS, LIQUID, SEMI-SOLID, OR SOLID IN FORM), NOT OTHERWISE SPECIFIED, INCLUDING REFINERY GASES, LUBRICATING OIL AND GREASES, WAXES AND COKE—

(1) Mineral turpentine oil	Twenty per cent. <i>ad valorem plus</i> one hundred rupees per metric tonne.
(2) Liquefied petroleum gas	Two hundred and fifty rupees per metric tonne.
(3) Waxes	Twenty per cent. <i>ad valorem plus</i> two hundred rupees per metric tonne.
(4) Others	Twenty per cent. <i>ad valorem.</i> ";

(iii) for Item No. 11B, the following Item shall be substituted, namely:—

"11B BLENDED OR COMPOUNDED LUBRICATING OILS AND GREASES— Twenty per cent. *ad valorem.*";

"Blended or compounded lubricating oils and greases" means lubricating oils and greases obtained by straight blending of mineral oils, or by blending or compounding of mineral oils with any other ingredients.

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)

Explanation.—The expression “mineral oil” has the meaning assigned to it in *Explanation I* to Item No. 6.

(iv) for Item No. 18, the following Item shall be substituted, namely:—

*18 RAYON AND SYNTHETIC FIBRES AND YARN, IN OR IN RELATION TO THE MANUFACTURE OF WHICH ANY PROCESS IS ORDINARILY CARRIED ON WITH THE AID OF POWER. Sixty rupees per kilogram.;

Explanation.—“Rayon and synthetic fibres and yarn” shall be deemed to include—

- (i) man-made fibres ;
- (ii) spun (discontinuous) yarn containing not less than ninety per cent. by weight of man-made fibres calculated on the total fibre content ;
- (iii) man-made filament (continuous) yarn; and
- (iv) man-made metallic yarn.

(v) for Item No. 18A, the following Item shall be substituted, namely :

1 A COTTON TWIST, YARN AND THREAD, ALL SORTS, CONTAINING NOT LESS THAN NINETY PER CENT. BY WEIGHT OF COTTON CALCULATED ON THE TOTAL FIBRE CONTENT, WHETHER SIZED OR UNSIZED, IN ALL FORMS INCLUDING SKEINS, HANKS, COPS, CONES, BOBBINS, PIRNS, SPOOLS, REELS, CHEESES, BALLS OR ON WARP BEAMS, IN OR IN RELATION TO THE MANUFACTURE OF WHICH ANY PROCESS IS ORDINARILY CARRIED ON WITH THE AID OF POWER—

- (1) of counts 29 or more Five rupees per kilogram
- (2) of counts less than 29 One rupee per kilogram.;

Explanation.—(1) “Count” means the size of grey yarn (excluding any sizing material) expressed as the number of 1000 metre hanks per one-half kilogram.

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)

(2) For multiple-fold yarn, "count" means the count of the basic single yarn.

(vi) for Item No. 18B, the following Item shall be substituted, namely:—

18B WOOLLEN YARN, ALL SORTS INCLUDING KNITTING WOOL, CONTAINING NOT LESS THAN NINETY PER CENT. BY WEIGHT OF WOOL CALCULATED ON THE TOTAL FIBRE CONTENT, IN OR IN RELATION TO THE MANUFACTURE OF WHICH ANY PROCESS IS ORDINARILY CARRIED ON WITH THE AID OF POWER—

(1) Worsted yarn—

(a) of 48s counts and more Thirty per cent. *ad valorem*.

(b) of less than 48s counts Twenty per cent. *ad valorem*.

(2) Others Ten per cent. *ad valorem*;

Explanation.—"Count" means the size of single yarn expressed as the number of 560 yard hanks per pound.

(vii) after Item No. 18B, the following Items shall be inserted, namely:—

18C SILK YARN, ALL SORTS, CONTAINING NOT LESS THAN NINETY PER CENT. BY WEIGHT OF SILK (INCLUDING SILK NOIL) CALCULATED ON THE TOTAL FIBRE CONTENT, IN OR IN RELATION TO THE MANUFACTURE OF WHICH ANY PROCESS IS ORDINARILY CARRIED ON WITH THE AID OF POWER. Twenty per cent. *ad valorem*.

18D JUTE TWIST, YARN, THREAD, ROPE AND TWINE, ALL SORTS, CONTAINING NOT LESS THAN NINETY PER CENT. BY WEIGHT OF JUTE (INCLUDING BIMLIPATAM JUTE OR MESTA FIBRE) CALCULATED ON THE TOTAL FIBRE CONTENT, IN OR IN RELATION TO THE MANUFACTURE OF WHICH ANY PROCESS IS ORDINARILY CARRIED ON WITH THE AID OF POWER. Four hundred rupees Per metric tonne.

Item No	Description of goods	Rate of duty
(1)	(2)	(3)
18E	YARN, ALL SORTS, NOT ELSEWHERE SPECIFIED, IN OR IN RELATION TO THE MANUFACTURE OF WHICH ANY PROCESS IS ORDINARILY CARRIED ON WITH THE AID OF POWER AND CONTAINING ANY TWO OR MORE OF THE FOLLOWING FIBRES, NAMELY:—	Rupees fifty per kilogram.”;
	(i) cotton ;	
	(ii) silk ;	
	(iii) wool ;	
	(iv) jute (including Bimlipatam jute or mesta fibre) ; and	
	(v) man-made fibres;	
	(viii) for Item No. 22A, the following Item shall be substituted, namely:—	
	“22A JUTE MANUFACTURES (INCLUDING MANUFACTURES OF BIMLIPATAM JUTE OR OF MESTA FIBRE), ALL SORTS, NOT ELSEWHERE SPECIFIED, BUT EXCLUDING ANY SUCH MANUFACTURE—	
	(i) if it contains 40 per cent. or more by weight of wool ; or	
	(ii) if it contains no wool or less than 40 per cent. by weight of wool and less than 50 per cent. by weight of jute (including Bimlipatam jute or mesta fibre)—	
	(1) Hessians	Six hundred rupees per metric tonne.
	(2) Others	Four hundred rupees per metric tonne.”;
	(ix) after Item No. 22A, the following Item shall be inserted, namely:—	
	“22AA TEXTILE FABRICS, NOT ELSEWHERE SPECIFIED, AND CONTAINING ANY TWO OR MORE OF THE FOLLOWING FIBRES, NAMELY :—	
	(i) cotton ;	
	(ii) silk ;	

Item No.	Description of goods]	Rate of duty
(1)	(2)	(3)
	(iii) wool ;	
	(iv) jute (including Bimlipatam jute or mesta fibre) ; and	
	(v) man-made fibres;	
	(x) for Item No. 33A, the following Item shall be substituted, namely :—	
“33A	WIRELESS RECEIVING SETS, ALL SORTS, INCLUDING TRANSISTOR SETS AND RADIOGRAMS, WITH OR WITHOUT LOUD-SPEAKER—	
	(1) Broadcast television receiver sets	Twenty per cent. <i>ad valorem</i> .
	(2) Others	Three hundred rupees per set.”,
	(xi) for Item No. 37B, the following Item shall be substituted, namely :—	
‘37B	CINEMATOGRAPH PROJECTORS AND PARTS THEREOF—	
	(1) Cinematograph projectors	Twenty per cent. <i>ad valorem</i> .
	(2) Parts thereof	Thirty per cent. <i>ad valorem</i> .”
	<i>Explanation.</i> —For the purposes of this Item, “Cinematograph projectors” means cinematograph projectors whether in a completely assembled condition or otherwise.	

THE FOURTH SCHEDULE

(See section 66)

In the First Schedule to the Additional Duties of Excise Act,—

(i) in Item No. 4,—

(a) under "I. Unmanufactured tobacco—", for the entries in the third column against sub-items (1), (2), (3), (4), (5), (6) and (8), the entries "Sixty paise.", "Five rupees and fifty paise.", "One rupee.", "Fifty paise.", "Fifty paise.", "Seventy-five paise." and "Ten paise." shall, respectively, be substituted;

(b) under "II. Manufactured tobacco—", for the entry in the third column against sub-item (2), the entry "One hundred per cent. *ad valorem*." shall be substituted;

(ii) in Item No. 22, for the entry in the third column against sub-item (1), the entry "Seven and a half per cent. *ad valorem plus* two rupees per square metre." shall be substituted.

THE FIFTH SCHEDULE

(See section 67)

In the Table annexed to sub-section (1) of section 3 of the Mineral Products Act,—

(i) for the entry in the second column against item 3, the entry "Eight hundred and fifty rupees per kilolitre at fifteen degrees of Centigrade thermometer." shall be substituted;

(ii) for the entry in the second column against item 7, the entry "Eight hundred and fifty rupees per metric tonne." shall be substituted.

THE APPROPRIATION (RAILWAYS) No. 3 ACT, 1972

No. 17 OF 1972

[28th May, 1972]

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 1972-73 for the purposes of Railways.

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

Short
title.

1. This Act may be called the Appropriation (Railways) No. 3 Act, 1972.

Issue of
Rs. 19,33,
55,19,000
out of
the Con-
solidated
Fund of
India
for the
financial
year
1972-73.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate [inclusive of the sums specified in column 3 of the Schedule to the Appropriation (Railways) Vote on Account Act, 1972] to the sum of one thousand nine hundred and thirty-three crores, fifty-five lakhs and nineteen thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1972-73, in respect of the services relating to railways specified in column 2 of the Schedule. 5 of 1972.

Appropriations

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 Section 2 and 3)

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolida- ted Fund	Total
		Rs.	Rs.	Rs.
1	Railway Board	1,65,18,000	..	1,65,18,000
2	Miscellaneous Expenditure	7,21,94,000	3,88,000	7,24,94,000
3	Payments to Worked Lines and Others	17,10,000	..	17,10,000
4	Working Expenses—Administration	89,60,46,000	20,000	89,60,66,000
5	Working Expenses—Repairs and Maintenance	309,58,92,000	30,000	309,59,22,000
	Working Expenses—Operating Staff	191,42,97,000	..	191,42,97,000
7	Working Expenses—Operation (Fuel)	172,78,42,000	..	172,78,42,000
8	Working Expenses—Operation other than Staff and Fuel	50,52,92,000	71,59,000	51,24,51,000
9	Working Expenses—Miscellaneous Expenses	38,59,56,000	5,92,000	38,65,48,000
10	Working Expenses—Staff Welfare	29,33,25,000	..	29,33,25,000
11	Working Expenses—Appropriation to Depreciation Reserve Fund	110,00,00,000	..	110,00,00,000
11-A	Working Expenses—Appropriation to Pension Fund	16,00,00,000	..	16,00,00,000
12	Dividend to General Revenues	159,69,41,000	..	159,69,41,000
13	Open Line Works (Revenue)	7,00,36,000	..	7,00,36,000
14	Construction of New Lines—Capi- tal and Depreciation Reserve Fund	37,71,88,000	2,81,000	37,74,69,000
15	Open Line Works—Capital, Depre- ciation Reserve Fund and Deve- lopment Fund	652,19,41,000	3,32,000	652,22,73,000
16	Pensionary Charges—Pension Fund	10,10,52,000	..	10,10,52,000
17	Repayment of Loans from General Revenues and Interest thereon —Development Fund	4,19,02,000	..	4,19,02,000
18	Appropriation to Development Fund	20,50,06,000	..	20,50,06,000
19	Appropriation to Revenue Reserve Fund	12,03,37,000	..	12,03,37,000
20	Payments towards Amortisation of over-capitalisation, Repayment of Loans from General Revenues and Interest thereon—Revenue Reserve Fund	12,33,30,000	..	12,33,30,000
	TOTAL	19,32,68,05,000	87,14,000	19,33,55,19,000

THE DEPARTMENTAL INQUIRIES (ENFORCEMENT OF ATTENDANCE OF WITNESSES AND PRODUCTION OF DOCUMENTS) ACT, 1972

No. 18 OF 1972

[31st May, 1972]

An Act to provide for the enforcement of attendance of witnesses and production of documents in certain departmental inquiries and for matters connected therewith or incidental thereto.

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

Short title and extent.

1. (1) This Act may be called the Departmental Inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1972.

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

Departmental inquiries to which the Act shall apply.

2. The provisions of this Act shall apply to every departmental inquiry made in relation to—

(a) persons appointed to public services or posts in connection with the affairs of the Union;

(b) persons who, having been appointed to any public service or post in connection with the affairs of the Union, are in service or pay of,—

(i) any local authority in any Union territory,

(ii) any corporation established by or under a Central Act and owned or controlled by the Central Government,

(iii) any Government company within the meaning of section 617 of the Companies Act, 1956, in which not less than fifty-one per cent. of the paid-up share capital is held by the Central Government or any company which is a subsidiary of such Government company, 1 of 195

(iv) any society registered under the Societies Registration Act, 1860, which is subject to the control of the Central Government. 21 of 196

Definitions.

3. For the purposes of this Act,—

(a) "departmental inquiry" means an inquiry held under and in accordance with—

(i) any law made by Parliament or any rule made thereunder, or

(ii) any rule made under the proviso to article 309, or continued under article 313, of the Constitution of India,

into any allegation of lack of integrity against any person to whom this Act applies;

(b) "inquiring authority" means an officer or authority appointed by the Central Government or by any officer or authority subordinate to that Government to hold a departmental inquiry and includes any officer or authority who is empowered by or under any law or rule for the time being in force to hold such inquiry;

(c) "lack of integrity" includes bribery or corruption.

4. (1) Where the Central Government is of opinion that for the purposes of any departmental inquiry it is necessary to summon as witnesses, or call for any document from, any class or category of persons, it may, by notification in the Official Gazette, authorise the inquiring authority to exercise the power specified in section 5 in relation to any person within such class or category and thereupon the inquiring authority may exercise such power at any stage of the departmental inquiry.

Power of Central Government to authorise the exercise of powers specified in section 5.

(2) The power conferred on the Central Government by sub-section (1) may also be exercised by such authority, not being an authority inferior to the appointing authority in relation to the person against whom the departmental inquiry is being held, as the Central Government may, by notification in the Official Gazette, specify in this behalf.

5. (1) Every inquiring authority authorised under section 4 (hereafter referred to as the "authorised inquiring authority") shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

1898.

Power of authorised inquiring authority to enforce attendance of witnesses and production of documents.

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

(b) requiring the discovery and production of any document or other material which is producible as evidence;

(c) the requisitioning of any public record from any court or office.

(2) Notwithstanding anything contained in sub-section (1), the authorised inquiring authority shall not compel the Reserve Bank of India, the State Bank of India, any subsidiary bank as defined in clause (k) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959, or any

1959.

corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970,—

5 of

(a) to produce any books of account or other documents which the Reserve Bank of India, the State Bank of India, the subsidiary bank or the corresponding new bank claims to be of a confidential nature, or

(b) to make any such books or documents a part of the record of the proceedings of the departmental inquiry, or

(c) to give inspection of any such books or documents, if produced, to any party before it or to any other person.

(3) Every process issued by an authorised inquiring authority for the attendance of any witness or for the production of any document shall be served and executed through the District Judge within the local limits of whose jurisdiction the witness or other person, on whom the process is to be served or executed, voluntarily resides or carries on business or personally works for gain, and, for the purpose of taking any action for the disobedience of any such process, every such process shall be deemed to be a process issued by the District Judge.

(4) Every authorised inquiring authority making any departmental inquiry under this Act shall be deemed to be a civil court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898.

6. For the purpose of exercising the powers specified in section 5, the territorial jurisdiction of every authorised inquiring authority shall extend to the limits of the territory to which this Act extends.

Territorial jurisdiction in the limits in which powers specified in section 5 may be exercised.

Power to make rules.

7. (1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of giving effect to the provisions of this Act.

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

THE DRUGS AND COSMETICS (AMENDMENT) ACT, 1972

No. 19 OF 1972

[31st May, 1972]

An Act further to amend the Drugs and Cosmetics Act, 1940.

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

1. This Act may be called the Drugs and Cosmetics (Amendment) Act, 1972. Short title.

1940. 2. In the Drugs and Cosmetics Act, 1940 (hereinafter referred to as the principal Act), in section 1,—

(i) in sub-section (2), the words “except the State of Jammu and Kashmir” shall be omitted; Amendment of section 1.

(ii) to sub-section (3), the following proviso shall be added, namely:—

“Provided that in relation to the State of Jammu and Kashmir, Chapter III shall take effect only from such date after the commencement of the Drugs and Cosmetics (Amendment) Act, 1972, as the Central Government may, by notification in the Official Gazette, appoint in this behalf.” Amendment of section 3.

3. In section 3 of the principal Act, clause (d) shall be omitted.

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

“3A. Any reference in this Act to any law which is not in force, or any functionary not in existence, in the State of Jammu and Kashmir, shall, in relation to that State, be construed as a reference to the corresponding law in force, or to the corresponding functionary in existence, in that State.” Construction of references to any law not in force or any functionary not in existence in the State of Jammu and Kashmir.

Repeal
and
saving.

5. (1) On and from the date on which any of the provisions of the principal Act take effect in the State of Jammu and Kashmir, the corresponding provisions, if any, contained in the Jammu and Kashmir Drugs Act, 2000, shall stand repealed.

Jammu
and
Kashmir
Act 20
of 2000
(1940
A.D.).

(2) The repeal of any provisions contained in the Jammu and Kashmir Drugs Act, 2000, under sub-section (1), shall not affect—

(a) the previous operation of the provisions so repealed or anything duly done or suffered thereunder; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the provisions so repealed; or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the provisions so repealed; or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the said provisions had not been repealed:

Provided that anything done or any action taken (including any appointment made, notification issued or rule made) under the provisions so repealed shall be deemed to have been done or taken under the corresponding provisions of the principal Act as amended by this Act and now extended to the State of Jammu and Kashmir and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under the principal Act as amended by this Act.

THE ARCHITECTS ACT, 1972

ARRANGEMENT OF SECTIONS

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PRELIMINARY

SECTIONS

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COUNCIL OF ARCHITECTURE

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7. Validity of act or proceeding of Council, Executive Committee or other committees not to be invalidated by reason of vacancy, etc.
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11. Fees and allowances to President, Vice-President and members.
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ARRANGEMENT OF SECTIONS

SECTIONS

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45. Power of Council to make regulations.

THE SCHEDULE.

THE ARCHITECTS ACT, 1972

No. 20 OF 1972

[31st May, 1972]

An Act to provide for the registration of architects and for matters connected therewith

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

CHAPTER I

PRELIMINARY

- 1. (1) This Act may be called the Architects Act, 1972.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title, extent and commencement.

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

Definitions.

(a) "architect" means a person whose name is for the time being entered in the register;

(b) "Council" means the Council of Architecture constituted under section 3;

(c) "Indian Institute of Architects" means the Indian Institute of Architects registered under the Societies Registration Act, 1860;

(d) "recognised qualification" means any qualification in architecture for the time being included in the Schedule or notified under section 15;

of 1860.

4 19-1972: Vide Notifn. No. G.S.R. 400 (E), dt. 1-9-1972, Gaz. of India, Exty., Pt. II, Sec. 3 (i), p. 1077.

(e) "register" means the register of architects maintained under section 23;

(f) "regulation" means a regulation made under this Act by the Council;

(g) "rule" means a rule made under this Act by the Central Government.

CHAPTER II

COUNCIL OF ARCHITECTURE

Constitution of Council of Architecture.

3. (1) The Central Government shall, by notification in the Official Gazette, constitute, with effect from such date as may be specified in the notification, a Council to be known as the Council of Architecture, which shall be a body corporate, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and may by that name sue or be sued.

(2) The Head Office of the Council shall be at Delhi or at such other place as the Central Government may, by notification in the Official Gazette, specify.

(3) The Council shall consist of the following members, namely:—

(a) five architects possessing recognised qualifications elected by the Indian Institute of Architects from among its members;

(b) two persons nominated by the All India Council for Technical Education established by the Resolution of the Government of India in the late Ministry of Education No. F. 16-10|44-E. III, dated the 30th November, 1945;

(c) five persons elected from among themselves by heads of architectural institutions in India imparting full-time instruction for recognised qualifications;

(d) the Chief Architects in the Ministries of the Central Government to which the Government business relating to defence and railways has been allotted and the head of the Architectural Organisation in the Central Public Works Department, *ex officio*;

(e) one person nominated by the Central Government;

(f) an architect from each State nominated by the Government of that State;

(g) two persons nominated by the Institution of Engineers (India) from among its members; and

(h) one person nominated by the Institution of Surveyors of India from among its members.

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

(a) "Institution of Engineers (India)" means the Institution of Engineers (India) first registered in 1920 under the Indian Companies Act, 1913 and subsequently incorporated by a Royal Charter in 1935.

(b) "Institution of Surveyors of India" means the Institution of Surveyors registered under the Societies Registration Act, 1860. 21 of

(4) Notwithstanding anything contained in clause (a) of sub-section (3), the Central Government may, pending the preparation of the register, nominate to the first Council, in consultation with the Indian Institute of Architects, persons referred to in the said clause (a) who are qualified for registration under section 25, and the persons so nominated shall hold office for such period as the Central Government may, by notification in the Official Gazette, specify.

(5) Notwithstanding anything contained in clause (f) of sub-section (3), the Central Government may, pending the preparation of the register, nominate to the first Council, in consultation with the State Governments concerned, persons referred to in the said clause (f), who are qualified for registration under section 25, and the persons so nominated shall hold office for such period as the Central Government may, by notification in the Official Gazette, specify.

4. (1) The President and the Vice-President of the Council shall be elected by the members of the Council from among themselves: President and Vice-President of Council.

Provided that on the first constitution of the Council and until the President is elected, a member of the Council nominated by the Central Government in this behalf shall discharge the functions of the President.

(2) An elected President or Vice-President of the Council shall hold office for a term of three years or till he ceases to be a member of the Council, whichever is earlier, but subject to his being a member of the Council, he shall be eligible for re-election:

Provided that—

(a) the President or the Vice-President may, by writing under his hand addressed to the Vice-President or the President, as the case may be, resign his office;

(b) the President or the Vice-President shall, notwithstanding the expiry of his term of three years, continue to hold office until his successor enters upon office.

(3) The President and the Vice-President of the Council shall exercise such powers and discharge such duties as may be prescribed by regulations.

5. (1) Elections under this Chapter shall be conducted in such manner as may be prescribed by rules. Mode of elections.

(2) Where any dispute arises regarding any such election, the matter shall be referred by the Council to a Tribunal appointed by the Central Government by notification in the Official Gazette in this behalf, and the decision of the Tribunal shall be final:

Provided that no such reference shall be made except on an application made to the Council by an aggrieved party within thirty days from the date of the declaration of the result of the election.

(3) The expenses of the Tribunal shall be borne by the Council.

6. (1) Subject to the provisions of this section, an elected or nominated member shall hold office for a term of three years from the date of his election or nomination or until his successor has been duly elected or nominated, whichever is later. Terms of office and casual vacancies.

(2) An elected or nominated member may, at any time, resign his membership by writing under his hand addressed to the President, or in his absence, to the Vice-President, and the seat of such member shall thereupon become vacant.

(3) A member shall be deemed to have vacated his seat—

(i) if he is absent without excuse, sufficient in the opinion of the Council, from three consecutive ordinary meetings of the Council; or

(ii) if he ceases to be a member of the body referred to in clause (a), clause (g) or clause (h) of sub-section (3) of section 3 by which he was elected or nominated; as the case may be; or

(iii) in the case where he has been elected under clause (c) of sub-section (3) of section 3, if he ceases to hold his appointment as the head of an institution referred to in the said clause.

(4) A casual vacancy in the Council shall be filled by fresh election or nomination, as the case may be, and the person so elected or nominated to fill the vacancy shall hold office only for the remainder of the term for which the member whose place he takes was elected or nominated.

(5) Members of the Council shall be eligible for re-election or re-nomination, but not exceeding three consecutive terms.

Validity of act or proceeding of Council, Executive Committee or other committees not to be invalidated by reason of vacancy, etc.

7. No act or proceeding of the Council or the Executive Committee or any other committee shall be invalid merely by reason of—

(a) any vacancy in, or defect in the constitution of, the Council, the Executive Committee or any other committee, or

(b) any defect in the election or nomination of a person acting as a member thereof, or

(c) any irregularity in procedure not affecting the merits of the case.

Disabilities.

8. A person shall not be eligible for election or nomination as a member of the Council, if he—

(a) is an undischarged insolvent; or

(b) has been convicted by a court in India for any offence and sentenced to imprisonment for not less than two years, and shall continue to be ineligible for a further period of five years since his release.

Meetings of Council.

9. (1) The Council shall meet at least once in every six months at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed by regulations.

(2) Unless otherwise prescribed by regulations, nine members of the Council shall form a quorum, and all the acts of the Council shall be decided by a majority of the members present and voting.

(3) In the case of an equal division of votes, the President, or in his absence, the Vice-President or, in the absence of both, the member presiding over the meeting, shall have and exercise a second or casting vote.

10. (1) The Council shall constitute from among its members an Executive Committee, and may also constitute other committees for such general or special purposes as the Council deems necessary to carry out its functions under this Act. Execu-
tive
Com-
mittee
and
other
com-
mittees.

(2) The Executive Committee shall consist of the President and the Vice-President of the Council who shall be members *ex-officio* and five other members who shall be elected by the Council from among its members.

(3) The President and the Vice-President of the Council shall be the Chairman and Vice-Chairman respectively of the Executive Committee.

(4) A member of the Executive Committee shall hold office as such until the expiry of his term as a member of the Council but subject to his being a member of the Council, he shall be eligible for re-election.

(5) In addition to the powers and duties conferred and imposed on it by this Act, the Executive Committee shall exercise such powers and discharge such duties as may be prescribed by regulations.

11. The President, the Vice-President and other members of the Council shall be entitled to such fees and allowances as the Council may, with the previous sanction of the Central Government, fix in this behalf. Fees and
allowan-
ces to
Presi-
dent,
Vice-
Presi-
dent and
members.

12. (1) The Council shall— Officers
and other
sem-
employees.

(a) appoint a Registrar who shall act as its Secretary and who may also act, if so decided by the Council, as its treasurer;

(b) appoint such other officers and employees as the Council deems necessary to enable it to carry out its functions under this Act;

(c) with the previous sanction of the Central Government, fix the pay and allowances and other conditions of service of officers and other employees of the Council.

(2) Notwithstanding anything contained in clause (a) of sub-section (1), for the first three years from the first constitution of the Council, the Registrar of the Council shall be a person appointed by the Central Government, who shall hold office during the pleasure of the Central Government.

(3) All the persons appointed under this section shall be the employees of the Council.

13. (1) There shall be established a Fund under the management and control of the Council into which shall be paid all moneys received by the Council and out of which shall be met all expenses and liabilities properly incurred by the Council. Finances
of Coun-
cil.

(2) The Council may invest any money for the time being standing to the credit of the Fund in any Government security or in any other security approved by the Central Government.

(3) The Council shall keep proper accounts of the Fund distinguishing capital from revenue.

(4) The annual accounts of the Council shall be subject to audit by an auditor to be appointed annually by the Council.

(5) As soon as may be practicable at the end of each year, but not later than the thirtieth day of September of the year next following, the Council shall cause to be published in the Official Gazette a copy of the audited accounts and the report of the Council for that year and copies of the said accounts and report shall be forwarded to the Central Government.

(6) The Fund shall consist of—

(a) all moneys received from the Central Government by way of grant, gift or deposit;

(b) any sums received under this Act whether by way of fee or otherwise.

(7) All moneys standing at the credit of the Council which cannot immediately be applied shall be deposited in the State Bank of India or in any other bank specified in column 2 of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970. 5 o

Recogni-
tion of
qualifi-
cations
granted
by autho-
rities in
India.

14. (1) The qualifications included in the Schedule or notified under section 15 shall be recognised qualifications for the purposes of this Act.

(2) Any authority in India which grants an architectural qualification not included in the Schedule may apply to the Central Government to have such qualification recognised, and the Central Government, after consultation with the Council, may, by notification in the Official Gazette, amend the Schedule so as to include such qualification therein, and any such notification may also direct that an entry shall be made in the Schedule against such architectural qualification declaring that it shall be a recognised qualification only when granted after a specified date:

Provided that until the first Council is constituted, the Central Government shall, before issuing any notification as aforesaid, consult an expert committee consisting of three members to be appointed by the Central Government by notification in the Official Gazette.

Recogni-
tion of
architec-
tural
qualifica-
tions
granted
by
authori-
ties in
foreign
coun-
tries.

15. (1) The Central Government may, after consultation with the Council, direct, by notification in the Official Gazette, that an architectural qualification granted by any university or other institution in any country outside India in respect of which a scheme of reciprocity for the recognition of architectural qualification is not in force, shall be a recognised qualification for the purposes of this Act or, shall be so only when granted after a specified date or before a specified date:

Provided that until the first Council is constituted the Central Government shall, before issuing any notification as aforesaid, consult the expert committee set up under the proviso to sub-section (2) of section 14.

(2) The Council may enter into negotiations with the authority in any State or country outside India, which by the law of such State or country is entrusted with the maintenance of a register of architects, for settling of a scheme of reciprocity for the recognition of architectural qualifications, and in pursuance of any such scheme, the Central Government may, by notification in the Official Gazette, direct that such architectural qualification as the Council has decided should be recognised, shall be deemed to be a recognised qualification for the purposes of this Act, and any such notification may also direct that such architectural qualification shall be so recognised only when granted after a specified date or before a specified date.

16. Notwithstanding anything contained in sub-section (2) of section 14, the Central Government, after consultation with the Council, may, by notification in the Official Gazette, amend the Schedule by directing that an entry be made therein in respect of any architectural qualification.

Power of Central Government to amend Schedule.

17. Notwithstanding anything contained in any other law, but subject to the provisions of this Act, any recognised qualification shall be a sufficient qualification for enrolment in the register.

Effect of recognition.

18. Every authority in India which grants a recognised qualification shall furnish such information as the Council may, from time to time, require as to the courses of study and examinations to be undergone in order to obtain such qualification, as to the ages at which such courses of study and examinations are required to be undergone and such qualification is conferred and generally as to the requisites for obtaining such qualification.

Power to require information as to courses of study and examinations.

19. (1) The Executive Committee shall, subject to regulations, if any, made by the Council, appoint such number of inspectors as it may deem requisite to inspect any college or institution where architectural education is given or to attend any examination held by any college or institution for the purpose of recommending to the Central Government recognition of architectural qualifications granted by that college or institution.

Inspection of examinations.

(2) The inspectors shall not interfere with the conduct of any training or examination, but shall report to the Executive Committee on the adequacy of the standards of architectural education including staff, equipment, accommodation, training and such other facilities as may be prescribed by regulations for giving such education or on the sufficiency of every examination which they attend.

(3) The Executive Committee shall forward a copy of such report to the college or institution and shall also forward copies with remarks, if any, of the college or institution thereon, to the Central Government.

With-
drawal
of recog-
nition.

20. (1) When upon report by the Executive Committee it appears to the Council—

(a) that the courses of study and examination to be undergone in, or the proficiency required from the candidates at any examination held by, any college or institution, or

(b) that the staff, equipment, accommodation, training and other facilities for staff and training provided in such college or institution,

do not conform to the standards prescribed by regulations, the Council shall make a representation to that effect to the appropriate Government.

(2) After considering such representation the appropriate Government shall forward it along with such remarks as it may choose to make to the college or institution concerned, with an intimation of the period within which the college or institution, as the case may be, may submit its explanation to the appropriate Government.

(3) On receipt of the explanation or where no explanation is submitted within the period fixed, then on the expiry of that period, the State Government, in respect of the college or institution referred to in clause (b) of sub-section (5), shall make its recommendations to the Central Government.

(4) The Central Government—

(a) after making such further enquiry, if any, as it may think fit, in respect of the college or institution referred to in sub-section (3), or

(b) on receipt of the explanation from a college or institution referred to in clause (a) of sub-section (5), or where no explanation is submitted within the period fixed, then on the expiry of that period,

may, by notification in the Official Gazette, direct that an entry shall be made in the Schedule against the architectural qualification awarded by such college or institution, as the case may be, declaring that it shall be a recognised qualification only when granted before a specified date and the Schedule shall be deemed to be amended accordingly.

(5) For the purposes of this section, "appropriate government" means—

(a) in relation to any college or institution established by an Act of Parliament or managed, controlled or financed by the Central Government, the Central Government, and

(b) in any other case, the State Government.

Minimum
standard
of archi-
tectural
educa-
tion.

21. The Council may prescribe the minimum standards of architectural education required for granting recognised qualifications by colleges or institutions in India.

22. (1) The Council may by regulations prescribe standards of professional conduct and etiquette and a code of ethics for architects. Professional conduct.

(2) Regulations made by the Council under sub-section (1) may specify which violations thereof shall constitute infamous conduct in any professional respect, that is to say, professional misconduct, and such provision shall have effect notwithstanding anything contained in any law for the time being in force.

CHAPTER III

REGISTRATION OF ARCHITECTS

23. (1) The Central Government shall, as soon as may be, cause to be prepared in the manner hereinafter provided a register of architects for India. Preparation and maintenance of register.

(2) The Council shall upon its constitution assume the duty of maintaining the register in accordance with the provisions of this Act.

(3) The register shall include the following particulars, namely:—

(a) the full name with date of birth, nationality and residential address of the architect;

(b) his qualification for registration, and the date on which he obtained that qualification and the authority which conferred it;

(c) the date of his first admission to the register;

(d) his professional address; and

(e) such further particulars as may be prescribed by rules.

24. (1) For the purposes of preparing the register of architects for the first time, the Central Government shall, by notification in the Official Gazette, constitute a Registration Tribunal consisting of three persons who have, in the opinion of the Central Government, the knowledge of, or experience in, architecture; and the Registrar appointed under section 12 shall act as Secretary of the Tribunal. First preparation of register.

(2) The Central Government shall, by the same or a like notification, appoint a date on or before which application for registration, which shall be accompanied by such fee as may be prescribed by rules, shall be made to the Registration Tribunal.

(3) The Registration Tribunal shall examine every application received on or before the appointed day and if it is satisfied that the applicant is qualified for registration under section 25, shall direct the entry of the name of the applicant in the register.

(4) The first register so prepared shall thereafter be published in such manner as the Central Government may direct and any person aggrieved by a decision of the Registration Tribunal expressed or implied in the register so published may, within thirty days from the date of such publication, appeal against such decision to an authority appointed by the Central Government in this behalf by notification in the Official Gazette.

(5) The authority appointed under sub-section (4) shall, after giving the person affected an opportunity of being heard and after calling for relevant records, make such order as it may deem fit.

↳ 27-4-1974: Vide Notifn. No. G. S. R. 129 (E), dt. 14-3-1974, Gaz. of India, Extra, Pt. II, Sec. 3 (i), p. 495.

(6) The Registrar shall amend, where necessary, the register in accordance with the decisions of the authority appointed under sub-section (4).

(7) Every person whose name is entered in the register shall be issued a certificate of registration in such form as may be prescribed by rules.

(8) Upon the constitution of the Council, the register shall be given into its custody, and the Central Government may direct that the whole or any specified part of the application fees for registration in the first register shall be paid to the credit of the Council.

Qualifi-
cation for
entry in
register.

25. A person shall be entitled on payment of such fee as may be prescribed by rules to have his name entered in the register, if he resides or carries on the profession of architect in India and—

(a) holds a recognised qualification, or

(b) does not hold such a qualification but, being a citizen of India, has been engaged in practice as an architect for a period of not less than five years prior to the date appointed under sub-section (2) of section 24, or

(c) possesses such other qualifications as may be prescribed by rules:

Provided that no person other than a citizen of India shall be entitled to registration by virtue of a qualification—

(a) recognised under sub-section (1) of section 15 unless by the law and practice of a country outside India to which such person belongs, citizens of India holding architectural qualification registrable in that country are permitted to enter and practise the profession of architect in such country, or

(b) unless the Central Government has, in pursuance of a scheme of reciprocity or otherwise, declared that qualification to be a recognised qualification under sub-section (2) of section 15.

Pro-
cedure
for
subse-
quent
registra-
tion.

26. (1) After the date appointed for the receipt of applications for registration in the first register of architects, all applications for registration shall be addressed to the Registrar of the Council and shall be accompanied by such fee as may be prescribed by rules.

(2) If upon such application the Registrar is of opinion that the applicant is entitled to have his name entered in the register he shall enter thereon the name of the applicant:

Provided that no person, whose name has under the provisions of this Act been removed from the register, shall be entitled to have his name re-entered in the register except with the approval of the Council.

(3) Any person whose application for registration is rejected by the Registrar may, within three months of the date of such rejection, appeal to the Council.

(4) Upon entry in the register of a name under this section, the Registrar shall issue a certificate of registration in such form as may be prescribed by rules.

27. (1) The Central Government may, by notification in the Official Gazette, direct that for the retention of a name in the register after the 31st day of December of the year following the year in which the name is first entered in the register, there shall be paid annually to the Council such renewal fee as may be prescribed by rules and where such direction has been made, such renewal fee shall be due to be paid before the first day of April of the year to which it relates.

Renewal fees.

(2) Where the renewal fee is not paid before the due date, the Registrar shall remove the name of the defaulter from the register:

Provided that a name so removed may be restored to the register on, such conditions as may be prescribed by rules.

(3) On payment of the renewal fee, the Registrar shall, in such manner as may be prescribed by rules, endorse the certificate of registration accordingly.

28. An architect shall, on payment of such fee as may be prescribed by rules, be entitled to have entered in the register any further recognised qualification which he may obtain.

Entry of additional qualification.

29. (1) The Council may, by order, remove from the register the name of any architect—

Removal from register.

(a) from whom a request has been received to that effect, or

(b) who has died since the last publication of the register.

(2) Subject to the provisions of this section, the Council may order that the name of any architect shall be removed from the register where it is satisfied, after giving him a reasonable opportunity of being heard and after such further inquiry, if any, as it may think fit to make,—

(a) that his name has been entered in the register by error or on account of misrepresentation or suppression of a material fact; or

(b) that he has been convicted of any offence which, in the opinion of the Council, involves moral turpitude; or

(c) that he is an undischarged insolvent; or

(d) that he has been adjudged by a competent court to be of unsound mind.

(3) An order under sub-section (2) may direct that any architect whose name is ordered to be removed from a register shall be ineligible for registration under this Act for such period as may be specified.

(4) An order under sub-section (2) shall not take effect until the expiry of three months from the date thereof.

30. (1) When on receipt of a complaint made to it, the Council is of opinion that any architect has been guilty of professional misconduct which, if proved, will render him unfit to practice as an architect, the Council may hold an inquiry in such manner as may be prescribed by rules.

Procedure in inquiries relating to misconduct.

(2) After holding the inquiry under sub-section (1) and after hearing the architect, the Council may, by order, reprimand the said architect or suspend him from practice as an architect or remove his name from the register or pass such other order as it thinks fit.

Surrender of certificates.

31. A person whose name has been removed from the register under sub-section (2) of section 27, sub-section (1) or sub-section (2) of section 29 or sub-section (2) of section 30, or where such person is dead, his legal representative, as defined in clause (11) of section 2 of the Code of Civil Procedure, 1908, shall forthwith surrender his certificate of registration to the Registrar, and the name so removed shall be published in the Official Gazette. 5 of 1908.

Restoration to register.

32. The Council may, at any time, for reasons appearing to it to be sufficient and subject to the approval of the Central Government, order that upon payment of such fee as may be prescribed by rules, the name of the person removed from the register shall be restored thereto.

Issue of duplicate certificates.

33. Where it is shown to the satisfaction of the Registrar that a certificate of registration has been lost or destroyed, the Registrar may, on payment of such fee as may be prescribed by rules, issue a duplicate certificate in the form prescribed by rules.

Printing of register.

34. As soon as may be after the 1st day of April in each year, the Registrar shall cause to be printed copies of the register as it stood on the said date and such copies shall be made available to persons applying therefor on payment of such fee as may be prescribed by rules and shall be evidence that on the said date the persons whose names are entered therein were architects.

Effect of registration.

35. (1) Any reference in any law for the time being in force to an architect shall be deemed to be a reference to an architect registered under this Act.

(2) After the expiry of two years from the date appointed under sub-section (2) of section 24, a person who is registered in the register shall get preference for appointment as an architect under the Central or State Government or in any other local body or institution which is supported or aided from the public or local funds or in any institution recognised by the Central or State Government.

CHAPTER IV

MISCELLANEOUS

Penalty for falsely claiming to be registered.

36. If any person whose name is not for the time being entered in the register falsely represents that it is so entered, or uses in connection with his name or title any words or letters reasonably calculated to suggest that his name is so entered, he shall be punishable with fine which may extend to one thousand rupees.

Prohibition against use of title.

37. (1) After the expiry of one year from the date appointed under sub-section (2) of section 24, no person other than a registered architect, or a firm of architects shall use the title and style of architect:

Provided that the provisions of this section shall not apply to—

(a) practice of the profession of an architect by a person designated as a "landscape architect" or "naval architect";

(b) a person who, carrying on the profession of an architect in any country outside India, undertakes the function as a consultant or designer in India for a specific project with the prior permission of the Central Government.

Explanation.—For the purposes of clause (a),—

(i) "landscape architect" means a person who deals with the design of open spaces relating to plants, trees and landscape;

(ii) "naval architect" means an architect who deals with design and construction of ships.

(2) If any person contravenes the provisions of sub-section (1), he shall be punishable on first conviction with fine which may extend to five hundred rupees and on any subsequent conviction with imprisonment which may extend to six months or with fine not exceeding one thousand rupees or with both.

38. If any person whose name has been removed from the register fails without sufficient cause forthwith to surrender his certificate of registration, he shall be punishable with fine which may extend to one hundred rupees, and, in the case of a continuing failure, with an additional fine which may extend to ten rupees for each day after the first during which he has persisted in the failure.

Failure to surrender certificate of registration.

39. (1) No court shall take cognizance of any offence punishable under this Act, except upon complaint made by order of the Council or a person authorised in this behalf by the Council.

Cognizance of offences.

(2) No Magistrate other than a Presidency Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

40. (1) The Council shall furnish such reports, copies of its minutes, and other information to the Central Government as that Government may require.

Information to be furnished by Council and publication thereof.

(2) The Central Government may publish, in such manner as it may think fit, any report, copy or other information furnished to it under this section.

41. No suit, prosecution or other legal proceeding shall lie against the Central Government, the Council or any member of the Council, the Executive Committee or any other committee or officers and other employees of the Council for anything which is in good faith done or intended to be done under this Act or any rule or regulation made thereunder.

Protection of action taken in good faith.

42. The members of the Council and officers and other employees of the Council shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Members of Council and officers and employees to be public servants.

45 of 1860.

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

Power to remove difficulties.

Provided that no such order shall be made under this section after the expiry of two 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 and the provisions of sub-section (3) of section 44 shall apply in respect of such order as it applies in respect of a rule made under this Act.

Power
of Cen-
tral
Govern-
ment to
make
rules.

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

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

(a) the manner in which elections under Chapter II shall be conducted, the terms and conditions of service of the member of the Tribunal appointed under sub-section (2) of section 5 and the procedure to be followed by the Tribunal;

(b) the procedure to be followed by the expert committee constituted under the proviso to sub-section (2) of section 14 in the transaction of its business and the powers and duties of the expert committee and the travelling and daily allowances payable to the members thereof;

(c) the particulars to be included in the register of architects under sub-section (3) of section 23;

(d) the form in which a certificate of registration is to be issued under sub-section (7) of section 24, sub-section (4) of section 26 and section 33;

(e) the fee to be paid under sections 24, 25, 26, 27, 28, 32 and 33;

(f) the conditions on which name may be restored to the register under the proviso to sub-section (2) of section 27;

(g) the manner of endorsement under sub-section (3) of section 27;

(h) the manner in which the Council shall hold an enquiry under section 30;

(i) the fee for supplying printed copies of the register under section 34;

(j) any other matter which is to be or may be provided by rules under this Act.

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

45. (1) The Council may, with the approval of the Central Government, make regulations not inconsistent with the provisions of this Act, or the Council to make rules made thereunder to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for—

- (a) the management of the property of the Council;
- (b) the powers and duties of the President and the Vice-President of the Council;
- (c) the summoning and holding of meetings of the Council and the Executive Committee or any other committee constituted under section 10, the times and places at which such meetings shall be held, the conduct of business thereat and the number of persons necessary to constitute a quorum;
- (d) the functions of the Executive Committee or of any other committee constituted under section 10;
- (e) the courses and periods of study and of practical training, if any, to be undertaken, the subjects of examinations and standards of proficiency therein to be obtained in any college or institution for grant of recognised qualifications;
- (f) the appointment, powers and duties of inspector;
- (g) the standards of staff, equipment, accommodation, training and other facilities for architectural education;
- (h) the conduct of professional examinations, qualifications of examiners and the conditions of admission to such examinations;
- (i) the standards of professional conduct and etiquette and code of ethics to be observed by architects;
- (j) any other matter which is to be or may be provided by regulations under this Act and in respect of which no rules have been made.

THE SCHEDULE

(See section 14)

QUALIFICATIONS

1. Bachelor Degree in Architecture awarded by Indian Universities established by an Act of the Central or State Legislature.
2. National Diploma (formerly All India Diploma) in Architecture awarded by the All India Council for Technical Education.
3. Degree of Bachelor of Architecture (B. Arch.) awarded by the Indian Institute of Technology, Kharagpur.
4. Five-Year full-time diploma in Architecture of the Sir J. J. School of Art, Bombay, awarded after 1941.
5. Diploma in Architecture awarded by the State Board of Technical Education and Training of the Government of Andhra Pradesh

with effect from 1960 (for the students trained at the Government College of Arts and Architecture, Hyderabad).

6. Diploma in Architecture awarded by the Government College of Arts and Architecture, Hyderabad till 1959, subject to the condition that the candidates concerned have subsequently passed a special final examination in architecture held by the State Board of Technical Education, Andhra Pradesh and obtained a special certificate.

7. Diploma in Architecture awarded by the University of Nagpur with effect from 1965 to the students trained at the Government Polytechnic, Nagpur.

8. Government Diploma in Architecture awarded by the Government of Maharashtra (or the former Government of Bombay).

9. Diploma in Architecture of Kalabhavan Technical Institute, Baroda.

10. Diploma in Architecture awarded by the School of Architecture, Ahmedabad.

11. Membership of the Indian Institute of Architects.

↳ [12. Diploma in Architecture awarded by the University of Nagpur during the period 1962-1964.]

↳ Ins. by Notifn. No. G.S.R. 780, dated 4-7-1973,
Gaz. of India, Pt. II, Sec. 3 (i), p. 1454.

Rep. by Act. 38 of 1978, S. 2 + Sch. I

THE MATERNITY BENEFIT (AMENDMENT) ACT, 1972

NO. 21 OF 1972

[1st June, 1972]

An Act further to amend the Maternity Benefit Act, 1961.

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

1. This Act may be called the Maternity Benefit (Amendment) Act, 1972.

53 of 1961. 2. In section 2 of the Maternity Benefit Act, 1961 (hereinafter referred to as the principal Act), in sub-section (2), for the words "Nothing contained in this Act", the words, figure and letter "Save as otherwise provided in section 5A, nothing contained in this Act" shall be substituted.

Amendment of section 2.

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

Insertion of new section 5A.

31 of 1948. "5A. Every woman entitled to the payment of maternity benefit under this Act shall, notwithstanding the application of the Employees' State Insurance Act, 1948, to the factory or other establishment in which she is employed, continue to be so entitled until she becomes qualified to claim maternity benefit under section 50 of that Act."

Continuance of payment of maternity benefit in certain cases.

Rep. by Act. 38 of 1978, s. 2 + Sch. I

THE CANTONMENTS (EXTENSION OF RENT CONTROL LAWS) AMENDMENT ACT, 1972

No. 22 OF 1972

[2nd June, 1972]

An Act to amend the Cantonments (Extension of Rent Control Laws) Act, 1957.

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

Short
title

1. This Act may be called the Cantonments (Extension of Rent Control Laws) Amendment Act, 1972.

Amend-
ment of
section 1.

2. In the Cantonments (Extension of Rent Control Laws) Act, 1957 (hereinafter referred to as the principal Act), section 1 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) It shall be deemed to have come into force on the 26th day of January, 1950.”

Amend-
ment of
section 3.

3. Section 3 of the principal Act shall be re-numbered as sub-section (1) thereof, and—

(i) in sub-section (1), as so re-numbered, the words “on the date of the notification” shall be, and shall be deemed always to have been, omitted;

(ii) after sub-section (1), as so re-numbered, the following sub-sections shall be, and shall be deemed always to have been, inserted, namely:—

Repealed

(2) The extension of any enactment under sub-section (1) may be made from such earlier or future date as the Central Government may think fit:

Provided that no such extension shall be made from a date earlier than—

- (a) the commencement of such enactment, or
- (b) the establishment of the cantonment, or
- (c) the commencement of this Act,

whichever is later.

(3) Where any enactment in force in any State relating to the control of rent and regulation of house accommodation is extended to a cantonment from a date earlier than the date on which such extension is made (hereafter referred to as the "earlier date"), such enactment, as in force on such earlier date, shall apply to such cantonment, and, where any such enactment has been amended at any time after the earlier date but before the commencement of the Cantonments (Extension of Rent Control Laws) Amendment Act, 1972, such enactment, as amended, shall apply to the cantonment on and from the date on which the enactment by which such amendment was made came into force.

22 of 1972

(4) Where, before the extension to a cantonment of any enactment relating to the control of rent and regulation of house accommodation therein (hereafter referred to as the "Rent Control Act"),—

(i) any decree or order for the regulation of, or for eviction from, any house accommodation in that cantonment, or

(ii) any order in the proceedings for the execution of such decree or order, or

(iii) any order relating to the control of rent or other incident of such house accommodation,

was made by any court, tribunal or other authority in accordance with any law for the control of rent and regulation of house accommodation for the time being in force in the State in which such cantonment is situated, such decree or order shall, on and from the date on which the Rent Control Act is extended to that cantonment, be deemed to have been made under the corresponding provisions of the Rent Control Act, as extended to that cantonment, as if the said Rent Control Act, as so extended, were in force in that cantonment, on the date on which such decree or order was made.

4. Section 4 of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1), as so re-numbered, the following sub-sections shall be inserted, namely:—

Amendment of section 4.

Repealed

"(2) Any law relating to the control of rent and regulation of house accommodation in force in the cantonment of Mhow immediately before the commencement therein of the Madhya Bharat Accommodation Control Act, 1955, shall be, and shall be deemed always to have been, extended to that cantonment under section 3 of this Act with effect from the commencement of such law in that cantonment or from the commencement of this Act, whichever is later: Madhya Bharat Act 23 of 1955.

Provided that no such law shall continue, and shall be deemed to have continued, in force in the cantonment of Mhow on and from the commencement therein of the Madhya Bharat Accommodation Control Act, 1955. Madhya Bharat Act 23 of 1955.

(3) Where, before the extension under sub-section (2) of any law to the cantonment of Mhow,—

(i) any decree or order for the regulation of, or for eviction from, any house accommodation in that cantonment, or

(ii) any order in the proceedings for the execution of such decree or order, or

(iii) any order relating to the control of rent or other incident of such house accommodation,

was made by any court, tribunal or other authority in accordance with any law for the control of rent and regulation of house accommodation for the time being in force in that cantonment, such decree or order shall, on and from the commencement of such law in that cantonment, be deemed to have been made under the corresponding provisions of the first-mentioned Act as if the said Act were in force in that cantonment on the date on which such decree or order was made."

THE SECUNDERABAD AND AURANGABAD CANTON-
MENTS HOUSE RENT CONTROL LAW (REPEAL)

ACT, 1972

No. 23 OF 1972

Rep. by Act. 38 of 1978, S. 2 + Sch. I

[2nd June, 1972]

An Act to provide for the repeal of the Secunderabad and Aurangabad Cantonments House Rent Control Law, 1949.

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

1. This Act may be called the Secunderabad and Aurangabad Cantonments House Rent Control Law (Repeal) Act, 1972. Short title.

Andhra Pradesh Act XV of 1960. 46 of 1957.

2. On and from the date on which the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 is extended by notification under section 3 of the Cantonments (Extension of Rent Control Laws) Act, 1957, to the Secunderabad Cantonment, the Secunderabad and Aurangabad Cantonments House Rent Control Law, 1949, as in force in that cantonment shall stand repealed.

Repeal of Secunderabad and Aurangabad Cantonments House Rent Control Law, 1949, as in force in the Secunderabad Cantonment.

Repealed

146

*Secunderabad and Aurangabad Cantonments House
Rent Control Law (Repeal)*

[ACT 23 OF 1972]

Repeal
of
Secundera-
bad and
Auranga-
bad
Canton-
ments
House
rent
Control
Law,
1949, as
in force
in the
Auranga-
bad
Canton-
ment.

3. On and from the date on which the Hyderabad Houses (Rent, Evic-
tion and Lease) Control Act, 1954 is extended by notification under Hyde
section 3 of the Cantonments (Extension of Rent Control Laws) Act, Act ;
1957, to the Aurangabad Cantonment, the Secunderabad and Aurangabad of 19
Cantonments House Rent Control Law, 1949, as in force in that canton- 46 of
ment shall stand repealed. 1957.

Savings

4. (1) The repeal of the Secunderabad and Aurangabad Cantonments
House Rent Control Law, 1949, by section 2 or section 3, shall not affect—

(a) the previous operation of the said Law or anything duly
done or suffered thereunder; or

(b) any right, privilege, obligation or liability acquired, accrued
or incurred under the said Law; or

(c) any penalty, forfeiture or punishment incurred in respect of
any offence committed against the said Law; or

(d) any investigation, legal proceeding or remedy in respect of
any such right, privilege, obligation, liability, penalty, forfeiture or
punishment as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted,
continued or enforced and any such penalty, forfeiture or punishment
may be imposed as if the said Law had not been repealed.

(2) Subject to the provisions contained in sub-section (1), anything
done or any action taken under the Law repealed by section 2 or section
3, shall be deemed to have been done or taken under the corresponding
provisions of the Act, extended by notification as provided in that section
to the cantonment of Secunderabad or the cantonment of Aurangabad,
as the case may be, and shall continue to be in force accordingly un-
less and until superseded by anything done or any action taken under
the Act so extended.



THE PREVENTION OF FOOD ADULTERATION (EXTENSION TO KOHIMA AND MOKOKCHUNG DISTRICTS) ACT, 1972

No. 24 OF 1972

[6th June, 1972]

An Act to extend the Prevention of Food Adulteration Act, 1954, to the Kohima and Mokokchung districts in the State of Nagaland.

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

1. This Act may be called the Prevention of Food Adulteration (Extension to Kohima and Mokokchung Districts) Act, 1972.

Short title.

2. The Prevention of Food Adulteration Act, 1954, shall, as from the commencement of this Act, extend to the Kohima and Mokokchung districts in the State of Nagaland and shall come into force therein on such date as the Central Government may, by notification in the Official Gazette, appoint.

Extension of Act 37 of 1954 to Kohima and Mokokchung districts in Nagaland.

4 1-4-1973 : Vide Notifn. No. S.O. 185 (E), dt. 30-3-1973, Gaz. of India, Exty., Pt. II, Sec. 3 (ii), p. 599.

THE TAXATION LAWS (EXTENSION TO JAMMU AND KASHMIR) ACT, 1972

No. 25 OF 1972

[6th June, 1972]

An Act to provide for the extension of certain taxation laws to the State of Jammu and Kashmir.

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

Short title and commencement.

1. (1) This Act may be called the Taxation Laws (Extension to Jammu and Kashmir) Act, 1972.

(2) It shall come into force on the 1st day of July, 1972.

Extension of certain taxation laws to Jammu and Kashmir and amendments thereto

2. (1) The provisions of Chapter VII of the Finance (No. 2) Act, 1971, and all rules made and notifications issued by the Central Government, and all regulations made by the Central Board of Excise and Customs, thereunder shall extend to, and come into force in, the State of Jammu and Kashmir.

32 of 1971.

(2) The Tax on Postal Articles Act, 1971, and the Inland Air Travel Tax Act, 1971, and all rules made and notifications issued by the Central Government thereunder shall extend to, and come into force in, the State of Jammu and Kashmir.

47 of 1971

48 of 1971

XXXX

~~(3) With effect from the commencement of this Act, Chapter VII of the Finance (No. 2) Act, 1971, the Tax on Postal Articles Act, 1971, and the Inland Air Travel Tax Act, 1971, shall be amended as specified in the Schedule.~~

32 of 1971.

47 of 1971

48 of 1971

Construction of references to Code of Criminal Procedure, 1898.

3. The reference to the Code of Criminal Procedure, 1898, in Chapter VII of the Finance (No. 2) Act, 1971, and in section 8 of the Inland Air Travel Tax Act, 1971, shall, in relation to the State of Jammu and Kashmir, be construed as a reference to the corresponding law in force in that State.

5 of 1898

32 of 1971

48 of 1971

Power to remove difficulties.

4. If, in or in relation to the State of Jammu and Kashmir, any difficulty arises in giving effect to the provisions of Chapter VII of the Finance (No. 2) Act, 1971, or of the Tax on Postal Articles Act, 1971, or of the Inland Air Travel Tax Act, 1971, now extended to the State of Jammu and Kashmir, the Central Government may, as occasion may require, by order notified in the Official Gazette, make such provisions or give such directions, not inconsistent with the provisions of that Chapter or Act, as appear to it to be necessary for the removal of the difficulty:

32 of 1971

47 of 1971

48 of 1971

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

y xxx

THE SCHEDULE

(See section 2)

THE FINANCE (No. 2) ACT, 1971

(32 OF 1971)

CHAPTER VII

FOREIGN TRAVEL TAX

Section 43.—(i) In sub-section (1), omit “except the State of Jammu and Kashmir”.

(ii) After sub-section (2), insert—

“Provided that they shall come into force in the State of Jammu and Kashmir on the 1st day of July, 1972.”.

Section 44.—In clause (e),—

(i) in sub-clause (i), for “the territories to which this Chapter extends”, substitute “India”; and

(ii) in sub-clause (ii), for “the said territories”, substitute “India”.

THE TAX ON POSTAL ARTICLES ACT, 1971

(47 OF 1971)

Section 1.—(i) In sub-section (2), omit “except the State of Jammu and Kashmir”.

(ii) After sub-section (3), insert—

“Provided that it shall come into force in the State of Jammu and Kashmir on the 1st day of July, 1972.”.

Section 3.—In sub-section (1), omit “in the territories to which this Act extends”.

THE INLAND AIR TRAVEL TAX ACT, 1971

(48 OF 1971)

Section 1.—(i) In sub-section (2), omit “except the State of Jammu and Kashmir”.

(ii) After sub-section (3), insert—

“Provided that it shall come into force in the State of Jammu and Kashmir on the 1st day of July, 1972.”.

Section 2.—For clause (d), substitute—

“(d) “inland journey”, in relation to a passenger, means his journey from any place in India to any other place in India but does not include a journey which is performed on a through international ticket and which precedes, or forms part of a series of journeys preceding, or follows, or forms part of a series of journeys following, a journey to or from a place outside India on the same ticket.”.

Section 4.—For section 4, substitute—

“4. The tax leviable under this Act shall, wherever necessary, Rounding be rounded off to the nearest rupee, fifty paise and over being count-off. ed as one rupee and less than fifty paise being disregarded.”.

y Repealed by Act 38 of 1978, S. 2 + Sch. I

THE HIRE-PURCHASE ACT, 1970

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

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

CHAPTER II

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THE HIRE-PURCHASE ACT, 1972

No. 26 OF 1972

[8th June, 1972]

An Act to define and regulate the rights and duties of parties to hire-purchase agreements and for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

Short-
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ment.

1. (1) This Act may be called the Hire-purchase Act, 1972.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Defini-
tions.

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

(a) "contract of guarantee", in relation to any hire-purchase agreement, means a contract whereby a person (in this Act referred to as the surety) guarantees the performance of all or any of the hirer's obligations under the hire-purchase agreement;

(b) "hire" means the sum payable periodically by the hirer under a hire-purchase agreement;

(c) "hire-purchase agreement" means an agreement under which goods are let on hire and under which the hirer has an option to purchase them in accordance with the terms of the agreement and includes an agreement under which—

(i) possession of goods is delivered by the owner thereof to a person on condition that such person pays the agreed amount in periodical instalments, and

(ii) the property in the goods is to pass to such person on the payment of the last of such instalments, and

(iii) such person has a right to terminate the agreement at any time before the property so passes;

(d) "hire-purchase price" means the total sum payable by the hirer under a hire-purchase agreement in order to complete the purchase of, or the acquisition of property in, the goods to which the agreement relates; and includes any sum so payable by the hirer under the hire-purchase agreement by way of a deposit or other initial payment, or credited or to be credited to him under such agreement on account of any such deposit or payment, whether that sum is to be or has been paid to the owner or to any other person or is to be or has been discharged by payment of money or by transfer or delivery of goods or by any other means; but does not include any sum payable as a penalty or as compensation or damages for a breach of the agreement;

(e) "hirer" means the person who obtains or has obtained possession of goods from an owner under a hire-purchase agreement, and includes a person to whom the hirer's rights or liabilities under the agreement have passed by assignment or by operation of law;

(f) "owner" means the person who lets or has let, delivered or has delivered possession of goods, to a hirer under a hire-purchase agreement and includes a person to whom the owner's property in the goods or any of the owner's rights or liabilities under the agreement has passed by assignment or by operation of law;

(g) each of the words and expressions used and not defined in this Act but defined in the Indian Contract Act, 1872 or the Sale of Goods Act, 1930 shall have the meaning assigned to it in that Act.

CHAPTER II

FORMS AND CONTENTS OF HIRE-PURCHASE AGREEMENTS

(1) Every hire-purchase agreement shall be—

- (a) in writing, and
- (b) signed by all the parties thereto.

(2) A hire-purchase agreement shall be void if in respect thereof any of the requirements specified in sub-section (1) has not been complied with.

(3) Where there is a contract of guarantee, the hire-purchase agreement shall be signed by the surety also, and if the hire-purchase agreement is not so signed, the hire-purchase agreement shall be voidable at the option of the owner.

Hire-purchase agreement to be in writing and signed by parties thereto.

Contents
of hire-
purchase
agree-
ments.

4. (1) Every hire-purchase agreement shall state—

(a) the hire-purchase price of the goods to which the agreement relates;

(b) the cash price of the goods, that is to say, the price at which the goods may be purchased by the hirer for cash;

(c) the date on which the agreement shall be deemed to have commenced;

(d) the number of instalments by which the hire-purchase price is to be paid, the amount of each of those instalments, and the date, or the mode of determining the date, upon which it is payable, and the person to whom and the place where it is payable; and

(e) the goods to which the agreement relates, in a manner sufficient to identify them.

(2) Where any part of the hire-purchase price is, or is to be, paid otherwise than in cash or by cheque, the hire-purchase agreement shall contain a description of that part of the hire-purchase price.

(3) Where any of the requirements specified in sub-section (1) or sub-section (2) has not been complied with, the hirer may institute a suit for getting the hire-purchase agreement rescinded; and the court may, if it is satisfied that the failure to comply with any such requirement has prejudiced the hirer, rescind the agreement on such terms as it thinks just, or pass such other order as it thinks fit in the circumstances of the case.

Two or
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5. Where by virtue of two or more agreements in writing, none of which by itself constitutes a hire-purchase agreement, there is a bailment of goods and the bailee has an option to purchase the goods and the requirements of section 3 and section 4 are satisfied in relation to such agreements, the agreements shall be treated for the purposes of this Act as a single hire-purchase agreement made at the time when the last of the agreements was made.

CHAPTER III

WARRANTIES AND CONDITIONS, LIMITATION ON HIRE-PURCHASE CHARGES AND PASSING OF PROPERTY

Warrant-
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tions to
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in hire-
purchase
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6. (1) Notwithstanding anything contained in any contract, in every hire-purchase agreement there shall be an implied warranty—

(a) that the hirer shall have and enjoy quiet possession of the goods; and

(b) that the goods shall be free from any charge or encumbrance in favour of any third party at the time when the property is to pass.

(2) Notwithstanding anything contained in any contract, in every hire-purchase agreement there shall be—

(a) an implied condition on the part of the owner that he has a right to sell the goods at the time when the property is to pass;

(b) "deposit" means any sum payable by the hirer under the hire-purchase agreement by way of deposit or other initial payment or credited or to be credited to him under the agreement on account of any such deposit or payment, whether that sum is to be or has been discharged by payment of money or by transfer or delivery of goods or by any other means;

(c) "net cash price", in relation to goods comprised in a hire-purchase agreement, means the cash price of such goods as required to be specified in the hire-purchase agreement under clause (b) of sub-section (1) of section 4, less any deposit as defined in clause (b);

(d) "net hire-purchase charges", in relation to a hire-purchase agreement for any goods, means the difference between the net hire-purchase price and the net cash price of such goods;

(e) "net hire-purchase price", in relation to goods comprised in a hire-purchase agreement, means the total amount of hire-purchase price of such goods as required to be specified in the hire-purchase agreement under clause (a) of sub-section (1) of section 4 less,—

(i) any amount which is payable to cover the expenses of delivering the goods or any of them to or to the order of the hirer and which is specified in the agreement as included in the hire-purchase price;

(ii) any amount which is payable to cover registration or other fees under any law in respect of the goods or the agreement or both and which is specified in the agreement as included in the hire-purchase price; and

(iii) any amount which is payable for insurance (other than third party insurance) in respect of the goods and which is specified in the agreement as included in the hire-purchase price;

(f) "statutory charges", in relation to a hire-purchase agreement, means the aggregate of the amounts calculated in accordance with the provisions of sub-section (2) as statutory charges in respect of each of the cash price instalments corresponding to each of the hire-purchase instalments under the agreement.

(2) The statutory charges, in respect of a cash price instalment, shall be an amount calculated at the rate of thirty *per centum* per annum, or, if a lower rate is specified under sub-section (3), at such lower rate, in accordance with the following formula:—

$$SC = \frac{CI \times R \times T}{100}$$

where,—SC,—represents the statutory charges;

CI,—represents the amount of cash price instalment expressed in rupees or fractions of rupees;

R,—represents the rate; and

T,—represents the time, expressed in years and fractions of years, that elapses between the date of the agreement and the date on which the hire-purchase instalment corresponding to the cash price instalment is payable under the agreement.

(3) The Central Government may, by notification in the Official Gazette, and after consultation with the Reserve Bank of India, specify

(b) an implied condition that the goods shall be of merchantable quality, but no such condition shall be implied by virtue of this clause—

(i) as regards defects of which the owner could not reasonably have been aware at the time when the agreement was made, or

(ii) as regards defects specified in the agreement (whether referred to in the agreement as defects or by any other description to the like effect), or

(iii) where the hirer has examined the goods, or a sample thereof, as regards defects which the examination ought to have revealed, or

(iv) if the goods are second-hand goods and the agreement contains a statement to that effect.

(3) Where the hirer, whether expressly or by implication,—

(a) has made known to the owner the particular purpose for which the goods are required, or

(b) in the course of any antecedent negotiations, has made that purpose known to any other person by whom those negotiations were conducted,

there shall be an implied condition that the goods shall be reasonably fit for such purpose.

(4) Where the goods are let under a hire-purchase agreement by reference to a sample there shall be—

(a) an implied condition on the part of the owner that the bulk will correspond with the sample in quality, and

(b) an implied condition on the part of the owner that the hirer will have a reasonable opportunity of comparing the bulk with the sample.

(5) Where the goods are let under a hire-purchase agreement by description there shall be an implied condition that the goods will correspond with the description; and if the goods are let under the agreement by reference to a sample as well as by description, it shall not be sufficient that the bulk of the goods correspond with the sample if the goods do not also correspond with the description.

(6) An owner shall not be entitled to rely on any provision in a hire-purchase agreement excluding or modifying the condition set out in subsection (3) unless he proves that before the agreement was made the provision was brought to the notice of the hirer and its effect made clear to him.

(7) Nothing in this section shall prejudice the operation of any other enactment or rule of law whereby any condition or warranty is to be implied in any hire-purchase agreement.

7. (1) In this section,—

(a) "cash price instalment", in relation to a hire-purchase instalment, means an amount which bears to the net cash price the same proportion as the amount of the hire-purchase instalment bears to the total amount of hire-purchase price;

Limitation on hire-purchase charges.

the rate *per centum* per annum, being a rate which shall not be less than ten *per centum* per annum, at which statutory charges may be calculated under sub-section (2) and different rates may be so specified in respect of hire-purchase agreements relating to different classes or sub-classes of goods.

(4) Where the net hire-purchase charges in relation to a hire-purchase agreement exceed the statutory charges in relation to such agreement calculated in accordance with the provisions of sub-section (2), the hirer may, by notice in writing to the owner, either elect to treat the agreement as void or to have his liability reduced by the amount by which the net hire-purchase charges exceed the statutory charges aforesaid.

(5) Where a hirer elects, in accordance with the provisions of sub-section (4), to treat the hire-purchase agreement as void, the agreement shall be void, and the amount paid or provided whether by cash, cheque or other consideration, by or on behalf of the hirer in relation to the agreement shall be recoverable by the hirer as a debt due to him by the owner.

(6) Where the hirer elects to have his liability reduced by the amount referred to in sub-section (4), his liability shall be reduced by that amount and that amount may be set off by the hirer against the amount that would otherwise be due under the agreement and, to the extent to which it is not so set off, may be recovered by the hirer as a debt due to him by the owner.

8. Subject to the provisions of this Act, the property in the goods to which a hire-purchase agreement relates shall pass to the hirer only on the completion of the purchase in the manner provided in the agreement. Passing of property.

CHAPTER IV

RIGHTS AND OBLIGATIONS OF THE HIRER

9. (1) The hirer may, at any time during the continuance of the hire-purchase agreement and after giving the owner not less than fourteen days' notice in writing of his intention so to do, complete the purchase of the goods by paying or tendering to the owner the hire-purchase price or the balance thereof as reduced by the rebate calculated in the manner provided in sub-section (2). Right of hirer to purchase at any time with rebate.

(2) The rebate for the purposes of sub-section (1) shall be equal to two-thirds of an amount which bears to the hire-purchase charges the same proportion as the balance of the hire-purchase price not yet due bears to the hire-purchase price.

Explanation.—In this sub-section, "hire-purchase charges" means the difference between the hire-purchase price and the cash price as stated in the hire-purchase agreement.

(3) The provisions of this section shall have effect notwithstanding anything to the contrary contained in the hire-purchase agreement, but where the terms of the agreement entitle the hirer to a rebate higher than that allowed by this section, the hirer shall be entitled to the rebate provided by the agreement.

Right of
hirer to
terminate
agree-
ment
at any
time.

10. (1) The hirer may, at any time before the final payment under the hire-purchase agreement falls due, and after giving the owner not less than fourteen days' notice in writing of his intention so to do and re-delivering or tendering the goods to the owner, terminate the hire-purchase agreement by payment or tender to the owner of the amounts which have accrued due towards the hire-purchase price and have not been paid by him, including the sum, if any, which he is liable to pay under sub-section (2).

(2) Where the hirer terminates the agreement under sub-section (1), and the agreement provides for the payment of a sum named on account of such termination, the liability of the hirer to pay that sum shall be subject to the following conditions, namely:—

(a) where the sum total of the amounts paid and the amounts due in respect of the hire-purchase price immediately before the termination exceeds one-half of the hire-purchase price, the hirer shall not be liable to pay the sum so named;

(b) where the sum total of the amounts paid and the amounts due in respect of the hire-purchase price immediately before the termination does not exceed one-half of the hire-purchase price, the hirer shall be liable to pay the difference between the said sum total and the said one-half, or the sum named in the agreement, whichever is less.

(3) Nothing in sub-section (2) shall relieve the hirer from any liability for any hire which might have accrued due before the termination.

(4) Any provision in any agreement, whereby the right conferred on a hirer by this section to terminate the hire-purchase agreement is excluded or restricted, or whereby any liability in addition to the liability imposed by this Act is imposed on a hirer by reason of the termination of the hire-purchase agreement by him under this section, shall be void.

(5) Nothing in this section shall prejudice any right of a hirer to terminate a hire-purchase agreement otherwise than by virtue of this section.

Right of
hirer to
appropri-
ate
payments
in respect
of two
or more
agree-
ments.

11. A hirer who is liable to make payments in respect of two or more hire-purchase agreements to the same owner shall, notwithstanding any agreement to the contrary, be entitled, on making any payment in respect of the agreement which is not sufficient to discharge the total amount then due under all the agreements to appropriate the sum so paid by him in or towards the satisfaction of the sum due under any one of the agreements, or in or towards the satisfaction of the sums due under any two or more of the agreements in such proportions as he thinks fit, and, if he fails to make any such appropriation as aforesaid, the sum so paid shall, by virtue of this section, stand appropriated towards the satisfaction of the sums due under the respective hire-purchase agreements in the order in which the agreements were entered into.

12. (1) The hirer may assign his right, title and interest under the hire-purchase agreement with the consent of the owner, or, if his consent is unreasonably withheld, without his consent.

Assign-
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sion of
hirer's
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(2) Except as otherwise provided in this section, no payment or other consideration shall be required by an owner for his consent to an assignment under sub-section (1), and where an owner requires any such payment or other consideration for his consent, that consent shall be deemed to be unreasonably withheld.

(3) Where on a request being made by a hirer in this behalf the owner fails or refuses to give his consent to an assignment under sub-section (1) the hirer may apply to the court for an order declaring that the consent of the owner to the assignment has been unreasonably withheld, and where such an order is made the consent shall be deemed to be unreasonably withheld.

Explanation.—In this sub-section, "court" means a court which would have jurisdiction to entertain a suit for the relief claimed in the application.

(4) As a condition of granting such consent, the owner may stipulate that all defaults under the hire-purchase agreement shall be made good and may require the hirer and the assignee to execute and deliver to the owner an assignment agreement, in a form approved by the owner, whereby, without affecting the continuing personal liability of the hirer in such respects, the assignee agrees with the owner to be personally liable to pay the instalments of hire remaining unpaid and to perform and observe all other stipulations and conditions of the hire-purchase agreement during the residue of the term thereof and whereby the assignee indemnifies the hirer in respect of such liabilities.

(5) The right, title and interest of a hirer under a hire-purchase agreement shall be capable of passing by operation of law to the legal representative of the hirer but nothing in this sub-section shall relieve the legal representative from compliance with the provisions of the hire-purchase agreement.

Explanation.—In this sub-section, the expression "legal representative" has the same meaning as in clause (11) of section 2 of the Code of Civil Procedure, 1908.

(6) The provisions of this section shall apply notwithstanding anything to the contrary contained in the hire-purchase agreement.

13. Subject to the provisions of this Act, a hirer shall be bound—

- (a) to pay the hire in accordance with the agreement, and
- (b) otherwise to comply with the terms of the agreement.

Obliga-
tions of
hirer to
comply
with
agree-
ment.

14. (1) A hirer in the absence of a contract to the contrary,—

- (a) shall be bound to take as much care of the goods to which the hire-purchase agreement relates as a man of ordinary prudence would, under similar circumstances, take of his own goods of the same bulk, quality and value;

Obliga-
tion of
hirer in
respect
of care
to be
taken of
goods.

(b) shall not be responsible for the loss, destruction or deterioration of the goods, if he has taken the amount of care thereof described in clause (a).

(2) The hirer shall be liable to make compensation to the owner for any damage caused by failure to take care of the goods in accordance with the provisions of sub-section (1).

Obligation of hirer in respect of use of goods.

15. If the hirer makes any use of the goods to which the hire-purchase agreement relates which is not according to the conditions of the agreement, the hirer shall be liable to make compensation to the owner for any damage arising to the goods from or during such use.

Obligation of hirer to give information as to whereabouts of goods.

16. (1) Where by virtue of a hire-purchase agreement a hirer is under a duty to keep in his possession or control the goods to which the agreement relates, the hirer shall, on receipt of a request in writing from the owner, inform the owner where the goods are at the time when the information is given or, if it is sent by post, at the time of posting.

(2) If the hirer fails without reasonable cause to give the said information within fourteen days of the receipt of the notice, he shall be punishable with fine which may extend to two hundred rupees.

Rights of hirer in case of seizure of goods by owner.

17. (1) Where the owner seizes under clause (c) of section 19 the goods let under a hire-purchase agreement, the hirer may recover from the owner the amount, if any, by which the hire-purchase price falls short of the aggregate of the following amounts, namely:—

(i) the amounts paid in respect of the hire-purchase price up to the date of seizure;

(ii) the value of the goods on the date of seizure.

(2) For the purposes of this section, the value of any goods on the date of seizure is the best price that can be reasonably obtained for the goods by the owner on that date less the aggregate of the following amounts, namely:—

(i) the reasonable expenses incurred by the owner for seizing the goods;

(ii) any amount reasonably expended by the owner on the storage, repairs or maintenance of the goods;

(iii) (whether or not the goods have subsequently been sold or otherwise disposed of by the owner) the reasonable expenses of selling or otherwise disposing of the goods; and

(iv) the amount spent by the owner for payment of arrears of taxes and other dues which are payable in relation to the goods under any law for the time being in force and which the hirer was liable to pay.

(3) If the owner fails to pay the amount due from him under the provisions of this section or any portion of such amount, to the hirer within a period of thirty days from the date notice for the payment of the said amount is served on him by the hirer the owner shall be liable to pay interest on such amount at the rate of twelve per cent per annum from the date of expiry of the said period of thirty days.

(4) Where the owner has sold the goods seized by him the onus of proving that the price obtained by him for the goods was the best price that could be reasonably obtained by him on the 4th date of seizure shall lie upon him.

RIGHTS AND OBLIGATIONS OF THE OWNER.

18. (1) Where a hirer makes more than one default in the payment of hire as provided in the hire-purchase agreement then, subject to the provisions of section 21 and after giving the hirer notice in writing of not less than—

(i) one week, in a case where the hire is payable at weekly or lesser intervals; and

(ii) two weeks, in any other case,
the owner shall be entitled to terminate the agreement by giving the hirer notice of termination in writing:

Provided that if the hirer pays or tenders to the owner the hire in arrears together with such interest thereon as may be payable under the terms of the agreement before the expiry of the said period of one week or, as the case may be, two weeks, the owner shall not be entitled to terminate the agreement.

(2) Where a hirer—

(a) does any act with regard to the goods to which the agreement relates which is inconsistent with any of the terms of the agreement; or

(b) breaks an express condition which provides that, on the breach thereof, the owner may terminate the agreement,

the owner shall, subject to the provisions of section 22, be entitled to terminate the agreement by giving the hirer notice of termination in writing.

19. Where a hire-purchase agreement is terminated under this Act, then the owner shall be entitled,—

(a) to retain the hire which has already been paid and to recover the arrears of hire due:

Provided that when such goods are seized by the owner, the retention of hire and recovery of the arrears of hire due shall be subject to the provisions of section 17;

(b) subject to the conditions specified in clauses (a) and (b) of sub-section (2) of section 10, to forfeit the initial deposit, if so provided in the agreement;

(c) subject to the provisions of section 17 and section 20 and subject to any contract to the contrary, to enter the premises of the hirer and seize the goods;

(d) subject to the provisions of section 21 and section 22, to recover possession of the goods by application under section 20 or by suit;

(e) without prejudice to the provisions of sub-section (2) of section 14 and of section 15, to damages for non-delivery of the goods, from the date on which termination is effective, to the date on which the goods are delivered to or seized by the owner.

Rights of owner to terminate hire-purchase agreement for default in payment of hire or unauthorised act or breach of express conditions.

Rights of owner on termination.

Restriction on owner's right to recover possession of goods otherwise than through court.

20. (1) Where goods have been let under a hire-purchase agreement and the statutory proportion of the hire-purchase price has been paid, whether in pursuance of the judgment of a court or otherwise, or tendered by or on behalf of the hirer or any surety, the owner shall not enforce any right to recover possession of the goods from the hirer otherwise than in accordance with sub-section (3) or by suit.

Explanation.—In this section, “statutory proportion” means,—

- (i) one-half, where the hire-purchase price is less than fifteen thousand rupees; and
- (ii) three-fourths, where the hire-purchase price is not less than fifteen thousand rupees:

Provided that in the case of motor vehicles as defined in the Motor Vehicles Act, 1939, “statutory proportion” shall mean,—

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- (i) one-half, where the hire-purchase price is less than five thousand rupees;
- (ii) three-fourths, where the hire-purchase price is not less than five thousand rupees but less than fifteen thousand rupees;
- (iii) three fourths or such higher proportion not exceeding nine-tenths as the Central Government may, by notification in the Official Gazette, specify, where the hire-purchase price is not less than fifteen thousand rupees.

(2) If the owner recovers possession of goods in contravention of the provisions of sub-section (1), the hire-purchase agreement, if not previously terminated, shall terminate, and—

(a) the hirer shall be released from all liability under the agreement and shall be entitled to recover from the owner all sums paid by the hirer under the agreement or under any security given by him in respect thereof; and

(b) the surety shall be entitled to recover from the owner all sums paid by him under the contract of guarantee or under any security given by him in respect thereof.

(3) Where, by virtue of the provisions of sub-section (1), the owner is precluded from enforcing a right to recover possession of the goods, he may make an application for recovery of possession of the goods to any court having jurisdiction to entertain a suit for the same relief.

(4) The provisions of this section shall not apply in any case in which the hirer has terminated the agreement by virtue of any right vested in him.

Relief against termination for non-payment of hire.

21. Where the owner, after he has terminated the hire-purchase agreement in accordance with the provisions of sub-section (1) of section 18, institutes a suit or makes an application against the hirer for the recovery of the goods, and at the hearing of the suit or application, the hirer pays or tenders to the owner the hire in arrears, together with such interest thereon as may be payable under the terms of the agreement and the costs of the suit or application incurred by the owner and complies with such other conditions, if any, as the court may think fit to impose, the court may, in lieu of making a decree or order for specific delivery, pass an order relieving the hirer against the termination; and thereupon the hirer shall continue in possession of the goods as if the agreement had not been terminated.

22. Where a hire-purchase agreement has been terminated in accordance with the provisions of clause (a) or clause (b) of sub-section (2) of section 18, no suit or application by the owner against the hirer for the recovery of the goods shall lie unless and until the owner has served on the hirer a notice in writing,—

Relief against termination for unauthorised act of breach of express condition

- (a) specifying the particular breach or act complained of; and
- (b) if the breach or act is capable of remedy, requiring the hirer to remedy it,

and the hirer fails, within a period of thirty days from the date of the service of the notice, to remedy the breach or act if it is capable of remedy.

Obligation of owner to supply copies and information.

23. (1) It shall be the duty of the owner to supply, free of cost, a true copy of the hire-purchase agreement, signed by the owner,—

- (a) to the hirer, immediately after execution of the agreement; and
- (b) where there is a contract of guarantee, to the surety, on demand made at any time before the final payment has been made under the agreement.

(2) It shall also be the duty of the owner, at any time before the final payment has been made under the hire-purchase agreement, to supply to the hirer, within fourteen days after the owner receives a request in writing from the hirer in this behalf and the hirer tenders to the owner the sum of one rupee for expenses, a statement signed by the owner or his agent showing—

- (a) the amount paid by or on behalf of the hirer;
- (b) the amount which has become due under the agreement but remains unpaid, and the date upon which each unpaid instalment became due, and the amount of each such instalment; and
- (c) the amount which is to become payable under the agreement, and the date or the mode of determining the date upon which each future instalment is to become payable, and the amount of each such instalment.

(3) Where there is a failure without reasonable cause to carry out the duties imposed by sub-section (1), or sub-section (2), then, while the default continues,—

- (a) the owner shall not be entitled to enforce the agreement against the hirer or to enforce any contract of guarantee relating to the agreement, or to enforce any right to recover the goods from the hirer; and
- (b) no security given by the hirer in respect of money payable under the agreement or given by a surety in respect of money payable under such a contract of guarantee as aforesaid shall be enforceable against the hirer or the surety by any holder thereof,

and, if the default continues for a period of two months, the owner shall be punishable with fine which may extend to two hundred rupees.

(4) Nothing in sub-section (3) shall be construed as affecting the right of a third-party to enforce against the owner or hirer or against both the owner and the hirer any charge or encumbrance to which the goods covered by the hire-purchase agreement are subject.

CHAPTER VI

MISCELLANEOUS

Dis-charge of price otherwise than by payment of money.

24. Where an owner has agreed that any part of the hire-purchase price may be discharged otherwise than by the payment of money, any such discharge shall, for the purposes of section 10, section 11, section 17, section 20 and section 23, be deemed to be a payment of that part of the hire-purchase price.

Insolvency of hirer, etc.

25. (1) Where, during the continuance of the hire-purchase agreement, the hirer is adjudged insolvent under any law with respect to insolvency for the time being in force, the Official Receiver or where the hirer is a company, then in the event of the company being wound up, the liquidator, shall have, in respect of the goods which are in the possession of the hirer under the agreement, the same rights and obligations as the hirer had in relation thereto.

(2) The Official Receiver or the liquidator, as the case may be, may, with the permission of the Insolvency Court or the court in which the winding up proceedings are pending, assign the rights of the hirer under the agreement, to any other person, and the assignee shall have all the rights and be subject to all the obligations of the hirer under the agreement.

Explanation.—In this section, "Official Receiver" means an Official Receiver appointed under the Provincial Insolvency Act, 1920, and includes any person holding a similar office under any other law with respect to insolvency for the time being in force.

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Successive hire-purchase agreements between same parties.

26. Where goods have been let under a hire-purchase agreement, and at any time thereafter the owner makes a subsequent hire-purchase agreement with the hirer, whether relating exclusively to other goods or to other goods together with the goods to which the first agreement relates, any such subsequent hire-purchase agreement shall not have effect in so far as it affects prejudicially any right which the hirer would have had by virtue of section 20 under the first agreement, if such subsequent hire-purchase agreement had not been made.

Evidence of adverse detention in suit or application to recover possession of goods.

27. (1) Where, in a suit or application by an owner of goods which have been let under a hire-purchase agreement, to enforce a right to recover possession of the goods from the hirer, the owner proves that, before the commencement of the suit or application and after the right to recover possession of the goods accrued, the owner made a request in writing to the hirer to surrender the goods, the hirer's possession of the goods shall, for the purpose of the owner's claim to recover possession thereof, be deemed to be adverse to the owner.

(2) Nothing in this section shall affect a claim for damages for conversion.

28. If, during the subsistence of any restriction to which the enforcement by an owner of a right to recover possession of goods from a hirer is subject by virtue of this Act, the hirer refuses to give up possession of the goods to the owner, the hirer shall not, by reason only of such refusal, be liable to the owner for conversion of the goods.

Hirer's refusal to surrender goods not to be conversion in certain cases.

29. Any notice required or authorised to be served on or given to an owner or a hirer under this Act may be so served or given—

Service of notice.

(a) by delivering it to him personally; or

(b) by sending it by post to him at his last known place of residence or business.

30. Where the Central Government is satisfied that, having regard to—

Power to exempt from provisions of sections 6, 9, 10, 12 and 17 in certain cases.

(a) the short supply of any goods or class of goods, or

(b) the use or intended use of any goods or class of goods and the persons by whom such goods or class of goods are used or intended to be used, or

(c) the restrictions imposed upon the trade or commerce in any goods or class of goods, or

(d) any other circumstances in relation to any goods or class of goods,

it is necessary or expedient in the public interest so to do, the Central Government may, by notification in the Official Gazette, direct that clause (b) of sub-section (2) of section 6, section 9, section 10, section 12 and section 17 or any of them shall not apply or shall apply with such modifications as may be specified in the notification, to hire-purchase agreements relating to such goods or class of goods.

31. This Act shall not apply in relation to any hire-purchase agreement made before the commencement of this Act.

Act not to apply to existing hire-purchase agreements.

32. This Act shall not apply in relation to any hire-purchase agreement made before the commencement of this Act.

Act not to apply to existing hire-purchase agreements.

33. This Act shall not apply in relation to any hire-purchase agreement made before the commencement of this Act.

Act not to apply to existing hire-purchase agreements.

THE GENERAL INSURANCE (EMERGENCY PROVISIONS) AMENDMENT ACT, 1972

No. 27 OF 1972

[9th June, 1972]

An Act to amend the General Insurance (Emergency Provisions) Act, 1971.

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

Short title and commencement.

- 1. (1)** This Act may be called the **General Insurance (Emergency Provisions) Amendment Act, 1972.**
- (2)** It shall be deemed to have come into force on the 13th day of May, 1971.

Insertion of new sections 4A and 4B in Act 17 of 1971.

2. In the General Insurance (Emergency Provisions) Act, 1971 (hereinafter referred to as the principal Act), after section 4, the following sections shall be inserted, namely:—

Application of Act 1 of 1956.

"4A. (1) Notwithstanding anything contained in the Companies Act, 1956, or in the memorandum or articles of association of any insurer or in any other instrument, no resolution passed at any meeting of the Board of directors or of the members of an insurer shall be given effect to unless approved by the Central Government.

↓ Repealed by Act 38 of 1978, s. 2 + Sch

1 of 1956.

(2) Subject to the other provisions contained in this Act and subject to such exceptions, restrictions and limitations, if any, as the Central Government may, by notification in the Official Gazette, specify in this behalf, the Companies Act, 1956 and the Insurance Act shall continue to apply to every insurer in the same manner as they applied to him before the appointed day.

(3) Every notification made by the Central Government under sub-section (2) shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification, or both Houses agree that the notification should not have been made, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

1 of 1956.

4B. Subject to such directions and instructions as the Central Government may give under this Act, the Custodian, or, where no Custodian has been appointed in relation to the undertaking of any insurer, the person in charge, under section 3, of the management of the undertaking of the insurer, shall alone be entitled to exercise all the powers of management in connection with, or incidental to, the carrying on or otherwise of the general insurance business of the insurer, whether such powers are derived from the Companies Act, 1956, or from the memorandum or articles of association of the insurer or from any other source."

Custodian or other person to be in charge of the management of the undertaking of the insurer.

3. In sub-section (2) of section 6 of the principal Act,—

Amendment of section 6.

(a) in sub-clause (i) of clause (A), for the words "dividend during at least one", the words "dividend for at least one" shall be substituted;

(b) in clause (B), for the words "net premium income of the undertaking of the insurer in India", the words "net premium income of the undertaking of the insurer in so far as it relates to business effected in India" shall be substituted.

17 of 1971.

4. The provisions of the General Insurance (Emergency Provisions) Act, 1971, as amended by this Act, shall have effect notwithstanding any judgment, decree or order of any Court or Tribunal.

Saving

THE NATIONAL SERVICE ACT, 1972

ARRANGEMENT OF SECTIONS

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THE NATIONAL SERVICE ACT, 1972

No. 28 OF 1972

[9th June, 1972]

An Act to provide for the registration of qualified persons and for the rendering of national service by such persons and for matters connected therewith.

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

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the National Service Act, 1972.

(2) It extends to the whole of India.

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

Definitions.

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

(a) "employer" means any person who employs any qualified person for doing any work in any establishment and includes any person entrusted with the supervision and control of qualified persons in such establishment;

(b) "establishment" means—

(i) any office, or

(ii) any place where any industry, trade, business or occupation is carried on, and includes any technical institution or training centre;

(c) "national service" means any service which is likely to assist the defence of India and civil defence or the efficient conduct of military operations and includes such social service as the Central Government may, if it is of opinion that it is necessary for public purposes so to do, by notification specify in this behalf;

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

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

(f) "qualified person" means a citizen of India who is ordinarily resident in India and who,—

(i) has obtained a recognised medical qualification within the meaning of the Indian Medical Council Act, 1956, or

(ii) has obtained, or has passed an examination which entitles him to obtain, a degree of a University or its equivalent qualification in any branch of engineering or technology or both.

Explanation.—For the purposes of this Act, a qualified person who is resident in India shall be deemed to be ordinarily resident there unless—

(a) he is residing there only for the purposes of attending a course of education; or

(b) the circumstances of his residence there are otherwise such as to show that he is residing there for a temporary purpose only; or

(c) he, being a person who was born or domiciled in any country outside India, has been resident in India for less than two years.

CHAPTER II

LIABILITY OF PERSONS TO RENDER NATIONAL SERVICE

3. (1) Every person who—

(a) is a qualified person at the commencement of this Act, or

(b) becomes a qualified person after such commencement,

shall, if he has not attained the age of thirty years at such commencement, or, as the case may be, on the date on which he becomes a qualified person, be liable until he attains the age of thirty years, to be called up for national service for a period of not more than four years.

(2) The period of national service for which a qualified person shall be liable to be called up under this Act shall begin from the date on which he is required by an enlistment notice served under this Act to present himself to the authority specified therein and shall end on the day when his term of national service is completed in accordance with the provisions of this Act.

Liability of persons to be called up for national service.

Voluntary service in lieu of national service.

4. (1) If a qualified person has been enlisted under any other law for the time being in force, for service in one of the Armed Forces of the Union for a period of not less than four years, he shall perform the service required of the members of that Force in lieu of the national service required under this Act.

(2) If a qualified person has rendered or is rendering service, other than service in one of the Armed Forces of the Union and such service is declared by the Central Government to be equivalent to national service, the period of such service shall be deemed to be service in lieu of the national service required under this Act and he shall (unless he has ceased to be liable under this Act to be called up for national service), be liable to be called up for national service for such term as will, together with the service completed by him, be equivalent to the term of service for which persons are liable to serve under this Act.

(3) If any qualified person has been enlisted as a member of—

(a) the Indian Reserve Forces, regulated under the Indian Reserve Forces Act, 1888,

4 of 1888.

(b) the Territorial Army constituted under the Territorial Army Act, 1948,

56 of 1948.

(c) the Air Force Reserve or the Auxiliary Air Force Reserve constituted under the Reserve and Auxiliary Air Forces Act, 1952,

62 of 1952.

(d) the Indian Naval Reserve Forces raised and maintained under the Navy Act, 1957, or

62 of 1957.

(e) any other Force of the foregoing nature,

he shall not be called up, so long as he continues to be a member of that Force, to render national service under this Act:

Provided that he shall, after he has ceased to be a member of such Force, be liable to render national service (unless he has ceased to be liable under this Act to be called up for national service), for such term as will, together with the actual service rendered by him as a member of that Force, be equivalent to the term of service for which persons are liable to serve under this Act.

Liability to complete interrupted service.

5. If any qualified person serving in the Armed Forces of the Union ceases to serve therein before he has completed four years of such service, he shall, unless he has ceased to be liable under this Act to be called up for national service, be liable to be called up to serve for such term as will, together with the service completed by him, be equivalent to the term of service for which persons are liable to serve under this Act.

Power of Central Government to direct a person to render service with the Armed Forces of Union or other national service.

6. Subject to the provisions of section 3, the Central Government may, by order, require a qualified person to render service in the Armed Forces of the Union or such other national service, as it may specify in this behalf, for such period and at such place as may be specified in the order.

7. (1) Every qualified person enlisted under this Act for national service in the Armed Forces of the Union shall, subject to such conditions as may be prescribed, be bound to serve in any branch of the Armed Forces to which he is for the time being attached, and shall be subject to all laws, rules, regulations and orders in force for the time being in relation to such branch. Discipline.

(2) Every qualified person enlisted for any national service, other than service in the Armed Forces of the Union shall, subject to such conditions as may be prescribed, be bound to serve in any position or post to which he is appointed for the time being, and shall be subject to all laws, rules, regulations and orders in force for the time being in relation to such position or post.

8. (1) The Central Government may, by order in writing, require any employer to release any qualified person for employment in national service within such time as may be specified in the order. Power of Central Government to require any employer to release qualified persons.

(2) Where an employer releases a qualified person for employment in national service, such employer shall not be liable to pay the salary, wages and other emoluments, if any, of the qualified person for the period during which national service is or has been rendered by the qualified person.

(3) No contract, subsisting between a qualified person and his employer on the date of release of the qualified person for employment in national service, shall be enforceable until such qualified person has been discharged from national service.

(4) In computing the period specified in any contract of service in relation to a qualified person who has been called upon to render national service, the period of national service actually rendered by such qualified person shall be excluded.

(5) If any employer fails without sufficient cause to comply with the order made under sub-section (1), he shall be liable to be punished with imprisonment for a term which may extend to three years and also with fine which may extend to one thousand rupees.

9. The Central Government may, by regulations, make provisions for enabling or requiring a qualified person rendering national service in any branch of the Armed Forces of the Union to be transferred to any other branch of that Force or to any other branch of national service or *vice versa*. Transfer.

10. (1) No qualified person rendering national service under this Act shall leave such service until he is discharged therefrom under section 17. Persons not to leave national service or be discharged therefrom unless permitted by Central Government.

(2) No qualified person who has been served with a notice under sub-section (1) of section 13 or an enlistment notice under section 14 shall, if he is in any employment at the date of service of such notice, leave such employment or be discharged therefrom, except in accordance with the provisions of this Act:

Provided that nothing in this sub-section shall apply where the employment of a qualified person is terminated for the reason that the said person has been guilty of gross insubordination, habitual absence from work, or serious misconduct or has been convicted of an offence.

(3) If a qualified person who has been served with a notice under sub-section (1) of section 13 or an enlistment notice under section 14 leaves any employment in which he is engaged at the date of service of such notice or is discharged therefrom otherwise than in accordance with the provisions of this Act, he or, as the case may be, the person by whom he is discharged, shall be punished with imprisonment for a term which may extend to five years and also with fine which may extend to two thousand rupees.

CHAPTER III

REGISTRATION AND ENLISTMENT FOR NATIONAL SERVICE

Persons
required
to regis-
ter.

11. (1) Every qualified person shall, if he is liable, at the commencement of this Act, to be called up for national service, make an application, within ninety days from such commencement, to be registered under this Act.

(2) Every qualified person who becomes liable after the commencement of this Act, to be called up for national service, shall, within thirty days from the date on which he becomes so liable, make an application to be registered under this Act.

Registra-
tion.

12. (1) The Central Government shall, by general order, direct qualified persons who are required to be registered under this Act,—

(a) to furnish at such place and time, in such manner and to such authority or person as may be specified therein, such particulars about themselves as the order may require; and

(b) to make at such place, in such manner and to such authority or person as may be specified in the order, an application to be registered under this Act.

(2) The order made under sub-section (1) may make different provisions in relation to different classes of qualified persons subject to registration and may provide for exempting from any requirements of the order of any class of qualified persons with respect to whom the Central Government is satisfied that particulars sufficient for the purposes of this Act can be ascertained otherwise than by virtue of those requirements.

(3) If any qualified person fails to comply with any requirement of the order made under sub-section (1), he shall be liable to be punished with imprisonment for a term which may extend to three years, or with fine which may extend to one thousand rupees, or with both.

(4) The Central Government shall ensure—

(a) that upon an application duly made for registration under this Act, the name and address of the applicant together with the particulars of the matters with respect to which information was given by the applicant in pursuance of the order made under sub-section (1) are entered in a register kept for the purposes of this Act, to be known as the "National Service Register"; and

(b) that upon the applicant being registered, a certificate of registration is issued to the applicant in the prescribed form,

(5) The information contained in the National Service Register shall not be used for any purpose other than the purposes of this Act:

Provided that nothing in this sub-section shall preclude the Central Government from disclosing, for statistical purposes, any information contained in the National Service Register.

(6) The Central Government may cause registration to be made of, and a certificate of registration to be issued to, any qualified person of a class exempted from any of the requirements of sub-section (1) as if that person had duly applied to be registered under this Act.

(7) (a) If any qualified person subject to registration under this Act communicates to the Central Government in the prescribed manner, that he has a preference for the Army, Air Force or Naval Service, that fact shall be recorded in the National Service Register.

(b) If a qualified person belonging to a class which is exempted from registration under this Act has a preference for the Army, Air Force or Naval Service, he shall intimate such preference to the Central Government in such manner as that Government may specify and, on receipt of such intimation, the Central Government shall cause such preference to be recorded in the National Service Register.

(8) (a) If any change occurs in the name or address of any qualified person while such person remains registered under this Act, or if any such person acquires any additional academic or professional qualification or distinction, he shall forthwith communicate the change of his name or address, or, as the case may be, the acquisition by him of additional academic or professional qualification or distinction to the Central Government in the prescribed manner and at the same time return to the Central Government, for correction, any certificate of registration held by him and if he fails to communicate the change of his name or address, or, as the case may be, the acquisition by him of the additional academic or professional qualification or distinction, he shall be liable to be punished with fine which may extend to five hundred rupees.

(b) Upon the receipt of a communication of the change of name or address of any qualified person registered under this Act or of acquisition by him of additional academic or professional qualification or distinction, the Central Government shall cause the necessary corrections to be made in the entries in the National Service Register and shall either cause the certificate to be corrected and returned to such person or cause a fresh certificate to be issued to him.

(9) The Central Government may, by rules made under this Act, provide for the issue, in specified circumstances, of fresh certificates of registration in place of certificates which have been lost, destroyed or defaced.

13. (1) The Central Government may from time to time cause to be served on any qualified person subject to registration under this Act, and, if he is engaged in any employment, also on his employer, a written notice in the prescribed form stating that such person is likely to be called upon, at any time within a period of twelve months next following, to render national service.

Notice of likelihood of calling up for national service.

(2) Omission to serve any notice referred to in sub-section (1) on an employer or the service of such notice on a person who is not, at the

time of service of such notice, the employer of the qualified person concerned, shall not invalidate the notice served under sub-section (1) on the qualified person and shall not affect the liability of the qualified person to be called up for national service.

(3) The Central Government may cause to be served, on any qualified person served with a notice referred to in sub-section (1), a written notice requiring that person to submit himself to an examination, by such authority, at such place and at such time, as may be specified in the notice, of his physical and mental fitness for being called up for national service.

(4) The Central Government may make regulations for the examination of the physical and mental fitness of persons subject to registration under this Act and such regulations may, in particular, enable the medical and other authority—

(a) in a case where he is unable to complete the examination on one occasion, to direct the person examined to submit himself for a further examination on a specified time and place;

(b) to direct the person examined to submit himself for examination by a specialist.

(5) The Central Government may by regulations determine the categories in which persons examined under this section are to be placed with reference to their physical and mental condition.

(6) If any qualified person fails to comply with the requirements of a notice served on him under sub-section (3) or any regulations made or directions given under sub-section (4), he shall be liable to be punished with imprisonment for a term which may extend to three years, or with fine which may extend to one thousand rupees, or with both.

(7) The court by which a qualified person is convicted of an offence under this section may, without prejudice to any penalty which may be imposed on him, order him to submit himself to an examination of his physical and mental fitness, further examination or examination by a specialist, as the case may be, at such place and at such time as may be fixed by the court and any such order may provide that such person shall be detained in custody until that time and shall be taken by a police officer to that place and at that time:

Provided that no person shall be detained in custody by virtue of any such order for more than twenty-four hours.

(8) A qualified person who, having been ordered by a court under sub-section (7) to submit himself to an examination of his physical and mental fitness and to be detained in custody, is taken by a police officer to the place and at the time at which he is to be examined, does not submit himself to an examination of his physical and mental fitness in accordance with the order, he may be arrested by that or any other police officer without a warrant.

(9) A qualified person, who fails to submit himself to an examination of his physical and mental fitness in accordance with an order made under sub-section (7), shall be liable to be punished with imprisonment for a term which may extend to three years, and also with fine which may extend to one thousand rupees.

(10) A notice served on any qualified person under this section shall cease to have effect if, before that date on which he is required to submit himself to an examination of his physical and mental fitness, he ceases to be subject to registration under this Act.

(11) The Central Government may pay to the medical or other authority, specialist, or any qualified person undergoing examination of his physical and mental fitness under this section such travelling and other allowances, including compensation for loss of remunerative time in accordance with such scales as may be prescribed.

14. (1) Subject to such priorities as may be prescribed, the Central Government may cause to be served on any qualified person for the time being liable under this Act to be called up for national service, who has been found, after an examination of his physical and mental condition, fit for such service, a written notice in the prescribed form (in this Act referred to as the "enlistment notice") stating that he is called up for national service in such one of the Armed Forces of the Union or in such other service as may be specified in the enlistment notice and requiring him to present himself at such place and at such time and to such authority, as may be specified in the notice:

Enlistment for national service.

Provided that an enlistment notice under this section shall not require the person upon whom it is served to present himself on a day earlier than the fourteenth day after the date of service of the notice or such earlier day as may be determined at his request.

(2) An enlistment notice served on any qualified person shall cease to have effect if, before the day on which he is thereby required to present himself, he ceases to be liable to be called up for national service under this Act.

(3) The Central Government may pay to persons required to present themselves in pursuance of an enlistment notice served upon them travelling and other allowances in accordance with such scales as may be prescribed.

(4) If on the day specified in the enlistment notice as the day on which the person to whom the notice relates is required to present himself for national service—

(a) a postponement certificate relating to him is in force, or

(b) any appeal or application by him for postponement of national service is pending,

the enlistment notice served on him shall be no effect.

(5) The enlistment notice shall be served in such manner as may be prescribed.

15. (1) Every qualified person who is called up for national service under this Act, or who is transferred from one form of national service to another, shall be paid such salary, wages, allowances, pension, disability and death compensations and other benefits as may be prescribed:

Salary, wages, etc., and travelling allowances to be paid to persons enlisted for national service.

Provided that such payments shall be on scales not less favourable than those admissible to persons of like qualifications, experience and length of service in similar positions under the Government.

Explanation.—For the purposes of the foregoing proviso, the length of standing of a qualified person as an engineer or medical practitioner, as the case may be, shall be construed as the length of his service.

(2) Any qualified person who is called up for national service or transferred from one form of national service, or from one place of employment in the national service, to another, shall be paid travelling allowance for journey to his place of employment under this Act at such rate as may be prescribed.

(3) A qualified person who, on the date of the service of the enlistment notice on him, is engaged in any employment, or a qualified person who is transferred from one form of national service, or from one place of employment in the national service, to another, shall be paid, for the period of his transit from the place of his former employment to the place of his employment under this Act, salary or wages (including allowances) at the rate fixed by the Central Government under sub-section (1).

(4) A qualified person who was in any employment on the date on which he was called up for national service under this Act, shall, on his discharge from such service, be paid salary or wages (including allowances) for the period of his transit from the place of his employment under this Act to the place of his former employment at the rate fixed by the Central Government under sub-section (1).

(5) A qualified person who is called up for national service under this Act shall, on the termination of his national service, be paid travelling expenses at such rate as may be prescribed, for journey to the place of his former employment, or, if he was unemployed when he was first called up for national service under this Act, to the place of his residence.

Training. 16. During his term of national service a qualified person may be required to undergo training for such period as may be prescribed.

Discharge. 17. (1) Every qualified person enlisted under this Act shall be entitled to receive his discharge from national service on the expiration of the period for which he was enlisted and such person may, prior to the expiration of that period, be discharged from national service by such authority and subject to such conditions as may be prescribed.

(2) A person receiving discharge under this section shall be given a certificate in such form as may be prescribed certifying that he has been discharged from national service.

(3) A person who has received discharge under this section shall not be required to render national service after such discharge:

Provided that a person who has received discharge under this section before he has completed four years of national service, shall, unless he has ceased to be liable to be called up for national service under this Act, be liable to be called up for national service under this Act for such term as will, together with the period of national service rendered by him, be equivalent to four years.

CHAPTER IV

POSTPONEMENT OF NATIONAL SERVICE

18. (1) The Central Government shall constitute a National Service (Hardship) Committee consisting of a Chairman and two other members appointed by it.

National
Service
(Hard-
ship)
Commit-
tee.

(2) The Chairman of the National Service (Hardship) Committee shall be a person who is, or has been, or is qualified to be, a Judge of a High Court.

(3) The members of the National Service (Hardship) Committee shall hold office for a period of three years but shall be eligible for reappointment.

(4) The proceedings of the National Service (Hardship) Committee shall not be invalid by reason of any defect in the constitution of, or any vacancy in, such Committee.

(5) Any vacancy in the National Service (Hardship) Committee shall be filled by the Central Government in such manner as it may think fit.

(6) The Central Government may constitute Regional National Service (Hardship) Committees for such regions as it may think fit and on such constitution such Regional National Service (Hardship) Committees shall have all the powers, functions and privileges of the National Service (Hardship) Committee and shall be subject to the same provisions as are applicable to that Committee.

(7) The National Service (Hardship) Committee shall have power to regulate its own procedure with regard to any investigation under this Act and shall have for the purposes of such investigation the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

5 of 1908.

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

(b) requiring the discovery and production of documents producible as evidence;

(c) receiving evidence on oath;

(d) issuing commissions for the examination of witnesses or documents;

(e) such other matters as may be prescribed.

19. (1) Any qualified person who is for the time being liable to be called up for national service under this Act and who has been served with a notice referred to in sub-section (1) of section 13, or any employer of such qualified person, may apply, in the prescribed manner to the Central Government for a certificate of postponement of liability to be called up for national service on the ground that exceptional hardship would ensue if such qualified person were called up for national service, and may, on that ground apply, in the prescribed manner, for the renewal of the postponement certificate granted to him.

Applica-
tion for
postpone-
ment on
grounds of
hardship.

(2) Where an application for a postponement certificate or for the renewal thereof is made, the Central Government shall refer the application for decision to the National Service (Hardship) Committee.

(3) No application for the grant of a postponement certificate shall be referred by the Central Government to the National Service (Hardship) Committee unless such application is made within sixty days from the date of service of the notice referred to in sub-section (1) of section 13:

Provided that the Central Government may refer an application for the grant of a postponement certificate to the National Service (Hardship) Committee made after the expiry of the said period if it is satisfied, having regard to the grounds on which the application is made, that the making thereof has not been unreasonably delayed.

(4) The Central Government may by regulations specify the principles to be applied and the circumstances to which regard is to be or not to be had for the hearing of an application for the grant or renewal of a postponement certificate and as to the period for which the postponement certificate may be granted or renewed.

(5) The National Service (Hardship) Committee may, after consideration of the application for a postponement certificate or renewal thereof, grant or reject the same.

(6) The period within which the postponement certificate is in force shall be added to the period during which the person to whom the certificate was granted is liable under this Act to be called up for national service and accordingly this Act shall in relation to that person have effect as if for reference therein to the age of thirty years, there were substituted, an age being the sum of thirty years and the period during which—

(i) the postponement certificate is in force, and

(ii) the enlistment notice was of no effect by reason of the provisions of clause (b) of sub-section (4) of section 14.

(7) If any qualified person or an employer makes an application for a postponement certificate on a ground which he knows to be false or does not believe to be true or on a ground which, in the opinion of the National Service (Hardship) Committee, is frivolous, he shall be liable to be punished with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Appeal
from
decision
of the
National
Service
(Hard-
ship)
Commit-
tee.

20. (1) Subject to the provisions of sub-section (2), an appeal shall lie against the decision of the National Service (Hardship) Committee to the High Court exercising jurisdiction in relation to the territory in which the applicant for the postponement certificate voluntarily resides, carries on business or personally works for gain.

(2) No appeal referred to in sub-section (1) shall lie unless—

(i) it is preferred within thirty days from the date of the decision of the National Service (Hardship) Committee, and

(ii) the National Service (Hardship) Committee certifies that the case involves a substantial question of law.

(3) Where the National Service (Hardship) Committee has refused to give a certificate referred to in sub-section (2), the High Court may, if it is satisfied that the case involves a substantial question of law, grant

special leave to appeal against the decision of the National Service (Hardship) Committee.

(4) The High Court may, after hearing the appeal, confirm, modify or reverse the decision of the National Service (Hardship) Committee.

21. (1) If, at any time, while a postponement certificate is in force, it appears to the Central Government that, by reason of any change in the circumstances of the qualified person to whom the certificate was granted or of his employer, where such certificate was granted on the application of such employer, the certificate ought to be revoked or the period for which it was granted or last renewed ought to be shortened, the Central Government may apply to the National Service (Hardship) Committee, and that Committee may either reject the application or cancel the certificate or vary it by shortening the period.

(2) Where an application is made under sub-section (1), the person to whom the postponement certificate in question was granted, and where such certificate was granted on the application of an employer, such employer, shall be entitled to be heard on the application and the provisions as to appeals contained in section 20 shall apply in relation to the application as if it were an application for the grant of a postponement certificate.

22. (1) The Central Government may, if it is satisfied at any time that by reason of the gravity of the situation it is necessary so to do, by order—

(a) cancel, either generally or in relation to a specified class of qualified persons, all postponement certificates in force at the date of the order, and

(b) abrogate, either generally or in relation to a specified class of qualified persons, any right to apply for the grant of a postponement certificate and any right to appeal from the refusal to grant such a certificate, and may, by order, vary or revoke any order in force under this section, without prejudice however to the previous effect of that order.

(2) Where, on the day on which an order comes into force under this section abrogating any right to appeal from the refusal to grant a postponement certificate, an appeal preferred by a person to whom the order applies or the time for preferring such appeal by such person has not expired, the appeal shall be deemed to be dismissed or the time shall be deemed to expire on the expiry of that day.

CHAPTER V

REINSTATEMENT OF QUALIFIED PERSONS CALLED UP FOR NATIONAL SERVICE

23. (1) In this section,—

(a) "former employee" means a qualified person who was released by an employer for employment in national service;

(b) "former employer" means the employer by whom a former employee was employed in an establishment immediately before the enlistment of such employee for national service;

Reinstatement.

(c) "former employment" means the employment in which the former employee was employed immediately before his enlistment for national service.

(2) (a) A former employee may, on the termination of his national service, make an application in such manner and within such period as may be prescribed to his former employer for reinstatement in his former employment.

(b) On receipt of an application referred to in clause (a), the former employer shall be under an obligation (unless the employment of the former employee in the national service was terminated by dismissal for misconduct) to reinstate such employee before the expiry of a period of fifteen days from the date of receipt of such application.

(3) (a) If, on receipt of an application referred to in sub-section (2), the former employer refuses to reinstate the applicant on the ground that his circumstances have so changed as to make it impossible or unreasonable for him to do so, or denies his liability to reinstate such former employee, or represents that the reinstatement by him of the former employee is impracticable, he shall, before the expiry of a period of fifteen days from the date of receipt of such application, make an application to the National Service (Hardship) Committee for relieving him from the obligation referred to in sub-section (2).

(b) A former employee, who is not reinstated in his former employment within fifteen days from the date of delivery of the application made under sub-section (2), may, within a further period of fifteen days (computed from the date on which the first-mentioned period of fifteen days expires), represent to the National Service (Hardship) Committee that his former employer has not discharged the obligation imposed on him by sub-section (2).

(c) On receipt of the application referred to in clause (a) or the representation referred to in clause (b), the National Service (Hardship) Committee shall, after considering all matters placed before it and after making such inquiry in the matter as it may think fit, make an order—

(i) relieving the former employer from the obligation referred to in sub-section (2), or

(ii) requiring the former employer to reinstate the former employee in his former employment, or

(iii) requiring the former employer to pay to the former employee by way of compensation, for failure or inability to reinstate him, a sum not exceeding an amount equal to six months' remuneration at the rate at which remuneration was last payable by the former employer to the former employee.

(d) Where the National Service (Hardship) Committee has directed the reinstatement of any person in his former employment, the former employer shall be under an obligation to pay to such person salary and allowances at the rates specified by the National Service (Hardship) Committee from the date of receipt of the application referred to in sub-section (2).

(4) (a) A former employer, who has refused to reinstate his former employee on any of the grounds specified in sub-section (3) and who has

omitted or failed, without any reasonable excuse, to make an application to the National Service (Hardship) Committee within the time specified in sub-section (3), shall be punished, without any prejudice to the provisions of clause (b) of this sub-section, with imprisonment for a term which may extend to one month, or with fine which may extend to five thousand rupees, or with both.

(b) If any former employer fails to obey any order made by the National Service (Hardship) Committee under sub-section (3), he shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to five thousand rupees, or with both, and the court by which such former employer is convicted under this sub-section shall order him to pay to the person whom he has failed to re-employ, a sum not exceeding an amount equal to six months' remuneration at the rate at which his last remuneration was payable to him by the former employer and any amount so required to be paid shall be recoverable as if it were a fine imposed by such court.

(5) Where in pursuance of the provisions of sub-section (2) a former employer reinstates his former employee and thereafter terminates the employment of such former employee at any time within a period of six months from the date of such reinstatement, the former employer shall, notwithstanding anything to the contrary contained in the conditions of employment of the former employee, be liable to pay to the former employee, at the time of terminating his employment as aforesaid, a sum equal to the remuneration which the former employee would have earned under the terms and conditions of his re-employment for the unexpired portion of the said period of six months:

Provided that a former employer shall not be liable to make such payment as aforesaid where the employment of the former employee is terminated for the reason that the former employee has been guilty of gross insubordination, habitual absence from work or any serious misconduct or has been convicted of any offence:

Provided further that a former employee whose employment is terminated within the said period for any such reason as aforesaid may refer the matter to the National Service (Hardship) Committee and that Committee shall, after due consideration, decide whether or not the employer is liable as aforesaid under this sub-section; and any such decision shall be final and binding on the parties.

Explanation.—Any sum required to be paid under this sub-section shall be in addition to the amount, if any, which the employer may, under the conditions of employment be liable to pay in respect of the termination of the employment of the former employee without notice.

(6) No change in the name, constitution or character of the former employer shall affect the right of reinstatement of a former employee who has been released from employment in national service.

(7) (a) The occupation in which and the terms and conditions under which a qualified person may be reinstated after completion of national service shall not be less favourable to him than those which would have been applicable to him had his employment not been interrupted by reason of his being called up for national service.

(b) In determining the terms and conditions of reinstatement of the former employee, regard shall be had to the additional skill and

experience acquired by such employee in the course of his employment in the national service.

Preservation of certain rights of qualified persons required to render national service.

24. While any qualified person, required to render national service under this Act, has any rights under any provident fund or other scheme for the benefit of employees maintained in connection with the employment he relinquishes, he shall continue, so long as he is engaged in national service and if he is reinstated, until such reinstatement under the provisions of this Act, to have in respect of such fund or scheme such rights as may be prescribed.

CHAPTER VI

OTHER OFFENCES AND PENALTIES

False statement and forgery.

25. (1) If any qualified person—

(a) on whom an enlistment notice has been served under this Act and in respect of whom no postponement certificate is in force or no application or appeal for postponement of national service is pending, fails or omits to render the service which he is required by such notice to render, or

(b) having commenced to render national service, leaves that service without obtaining a discharge under section 17,

he shall be punished with imprisonment for a term which may extend to five years and also with fine which may extend to two thousand rupees.

(2) Any person who—

(a) in giving any information for the purposes of this Act, knowingly or recklessly makes a statement which is false in material particulars or which he does not believe to be true, or

(b) (i) with the intention of deceiving, forges or uses or lends or allows to be used for any person any certificate issued under this Act, or

(ii) makes, or has in his possession, any document so closely resembling any certificate so issued as to be calculated to deceive,

shall be punished with imprisonment for a term not exceeding three years, or with fine not exceeding one thousand rupees, or with both.

General provision as to offences.

26. Any qualified person who contravenes any provision of this Act for the contravention of which no penalty is separately specified in this Act, shall be punished with fine which may extend to five hundred rupees:

Provided that in any proceedings for an offence punishable under this section, it shall be a defence for the accused to prove that he was prevented from complying with the provisions of this Act by circumstances beyond his control.

Offences by companies.

27. (1) Where any provision of this Act or of any order made thereunder is contravened by a company, every person who at the time the contravention was made 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 contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any such offence has been committed and it is proved that the offence has been committed with the consent or connivance, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

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

CHAPTER VII

MISCELLANEOUS

28. It shall be the duty of every University or other persons having the management of any University, school or other educational institution, to give to the Central Government, at its request, such information in their possession, or reasonably available to them, about persons receiving, or who have received education in engineering, technology, medical sciences or surgery as the Central Government may, by notification, specify in this behalf.

Information to be furnished by Universities, etc.

29. It shall be the duty of every District Magistrate to give to the State Government such information in his possession about qualified persons within the local limits of his jurisdiction as may be prescribed, and it shall be the duty of every State Government to give to the Central Government all information in its possession about qualified persons in the State.

Information to be furnished by District Magistrate.

30. Notwithstanding anything contained in the Presidency Towns Insolvency Act, 1909, the Provincial Insolvency Act, 1920, the Companies Act, 1956, or the Partnership Act, 1932, any compensation payable under this Act shall have priority over all other unsecured debts.

Priority of debts.

3 of 1909.
5 of 1920.
1 of 1956.
9 of 1932.

31. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, every offence punishable under this Act shall be tried summarily.

Summary trial of offences.

5 of 1898.

32. No court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

Jurisdiction to try offences.

33. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules, regulations or orders made thereunder.

Protection of action taken in good faith.

(2) No suit or other legal proceeding shall lie against the Central Government for any damage caused or likely to be caused for anything which is in good faith done or intended to be done in pursuance of this Act or any rules, regulations or orders made thereunder.

Removal
of diffi-
culties.

34. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may make such order, not inconsistent with the provisions of this Act as may appear to it to be necessary for the purpose of removing the difficulty:

Provided that no order shall be made under this sub-section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under sub-section (1) shall be laid before both Houses of Parliament as soon as may be after it is made and the provisions of section 38 shall apply to such order as if it were a rule made under this Act.

Power
to
delegate.

35. The Central Government may, by notification, direct that all or any of the powers which may be exercised by it under this Act shall, in such circumstances and under such conditions, if any, as may be specified in the notification, be exercised also by any State Government or any other authority owned or controlled by the Central Government.

Power
to
make
rules.

36. (1) The Central Government may, by notification, 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 principles governing the calling up of persons for national service;

(b) the form and contents of the National Service Register;

(c) the form in which the certificate of registration is to be issued;

(d) the manner of notification of preference for any branch of the Armed Forces of the Union;

(e) the manner of notification of change of name or address of, or acquisition of academic or professional qualification or distinctions by, a qualified person registered under this Act;

(f) the circumstances under which fresh certificates of registration in place of certificates which have been lost, destroyed or defaced may be issued;

(g) the form and contents of the notice for examination of physical and mental fitness;

(h) the scale in accordance with which travelling and other allowances may be paid to medical or other authority or specialist or to any qualified person undergoing any examination of physical and mental fitness and the scale according to which compensation may be paid for loss of remunerative time;

(i) the priorities in accordance with which qualified persons may be enlisted for national service;

(j) the form and contents of the enlistment notice and the manner of service thereof;

(k) the scales of salary, wages, allowances, pensions, disability and death compensations and other financial benefits admissible to those performing national service;

(l) the scales of travelling allowances required to be paid under this Act;

(m) the authority by which and conditions subject to which prior discharge from national service may be made;

(n) the form of discharge certificate;

(o) the manner of application for a certificate of postponement of liability to be called up for national service or for renewal thereof and the time within which such application for renewal should be made;

(p) the conditions of reinstatement of persons released from employment in the national service and matters connected therewith;

(q) further inquiry which may be made by the National Service (Hardship) Committee where reinstatement of qualified persons released from employment in the national service is refused or denied or where such reinstatement is represented to be impracticable;

(r) the preservation of rights of provident fund, etc., of qualified persons rendering national service;

(s) the information relating to qualified persons which every District Magistrate shall furnish to the State Government;

(t) any other matter which is required to be, or may be, prescribed under this Act.

(3) Any rule made under this Act may provide that a contravention of the rule shall be punished with imprisonment for a term not exceeding six months, or with fine not exceeding one thousand rupees, or with both.

37. The Central Government may make regulations not inconsistent with this Act, to provide for all or any of the following matters, namely:—

Power to
make
regu-
lations.

(a) enabling or requiring a qualified person to be transferred to any branch of the Armed Forces of the Union or to any other branch of national service;

(b) examination of physical and mental fitness of qualified persons subject to registration under this Act;

(c) determination of the categories in which qualified persons whose physical and mental fitness has been examined shall be placed by reference to their physical or mental conditions or both;

(d) specification of the principles to be applied and the circumstances to be considered while hearing an application for the grant or renewal of a postponement certificate;

(e) specification of the period for which a postponement certificate may be granted or renewed;

(f) any other matter for which regulations are required to be, or may be, made under this Act.

Rules and regulations to be laid before Parliament.

38. Every rule and every regulation made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification to 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.

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THE SALARIES AND ALLOWANCES OF MEMBERS OF
PARLIAMENT (AMENDMENT) ACT, 1972

No. 29 OF 1972

[9th June, 1972]

An Act further to amend the Salaries and Allowances of Members of
Parliament Act, 1954

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

- 1. This Act may be called the Salaries and Allowances of Members of Parliament (Amendment) Act, 1972. Short title.
- 2. In section 4 of the Salaries and Allowances of Members of Parliament Act, 1954 (hereinafter referred to as the principal Act), in sub-clause (ii) of clause (c) of sub-section (1), for the words "eight annas per mile", the words "thirty-two paise per kilometer" shall be substituted. Amendment of section 4.
- 3. In section 6 of the principal Act, in the *Explanation* to sub-section (1), for the words, figure and letter "For the purposes of this sub-section and section 6A", the words, figures and letters "For the purposes of this sub-section and sections 6A and 6B" shall be substituted. Amendment of section 6.
- 4. In the principal Act, section 6A shall be re-numbered as section 6B thereof and before that section as so re-numbered, the following section shall be inserted, namely:— Insertion of new section 6A.

"6A. (1) 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 the Laccadive, Minicoy and Amindivi Islands shall 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 fro any part of his constituency and any other part of his constituency or the nearest port in the mainland of India: Free transit by steamer.

Provided that nothing in this sub-section shall be construed as absolving the member from payment of any diet charges payable by him during such travel.

(2) A free steamer pass issued to a member under sub-section (1) shall be valid for the term of his office and on the expiration of his term, the pass shall be surrendered to the Secretary of the House of the People:

Provided that where any such pass is issued to a new member before he takes his seat in the House of the People, he shall be entitled to use the pass for attending a session of that House for taking his seat therein.

(3) Until a member is provided with a free steamer pass under sub-section (1), he shall be entitled to an amount equal to one fare (without diet) for the highest class for any journey of the nature referred to in sub-section (1) of section 4 performed by him by steamer.

(4) A member who on ceasing to be a member surrenders the steamer pass issued to him under sub-section (1) shall, if he performs any return journey by steamer of the nature referred to in sub-section (1) of section 4, be entitled in respect of that journey to an amount equal to one fare (without diet) for the highest class.

(5) Nothing in this section shall be construed as disentitling a member to any travelling allowances to which he is otherwise entitled under the provisions of this Act.

(6) In addition to a free steamer pass issued to a member under sub-section (1), he shall also be entitled—

(i) to one free pass for one person to accompany the member and travel by the lowest class by steamer to and fro any part of the constituency of the member and any other part of his constituency or the nearest port in the mainland of India; and

(ii) to one free non-transferable pass for the spouse, if any, of the member to travel by the highest class by steamer to and fro the usual place of residence of the member in his constituency and the nearest port in the mainland of India, once during every session;

Provided that nothing in this sub-section shall be construed as absolving the person accompanying the member or the spouse of the member from payment of any diet charges payable by such person or spouse during such travel."

THE DELHI LANDS (RESTRICTIONS ON TRANSFER)
ACT, 1972

No. 30 OF 1972

[14th June, 1972.]

An Act to impose certain restrictions on transfer of lands which have been acquired by the Central Government or in respect of which acquisition proceedings have been initiated by that Government, with a view to preventing large-scale transactions of purported transfers or, as the case may be, transfers of such lands to unwary public.

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

1. (1) This Act may be called the Delhi Lands (Restrictions on Transfer) Act, 1972. **Short title, extent and commencement.**
- (2) It extends to the whole of the Union territory of Delhi.
- (3) It shall come into force at once.
2. In this Act, unless the context otherwise requires,— **Definitions.**
- (a) "Administrator" means the administrator of the Union territory of Delhi appointed by the President under article 239 of the Constitution;
- (b) "competent authority" means any person or authority authorised by the Administrator, by notification in the Official Gazette, to perform the functions of the competent authority under this Act for such areas as may be specified in the notification;

(c) "Development Act" means the Delhi Development Act, 1957; 61 of 1957.

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

(e) "Scheme" means the scheme of acquisition of land for the planned development of Delhi and includes any scheme, project or work to be implemented in pursuance of the provisions of the Delhi Master Plan as approved by the Central Government under sub-section (2) of section 9 of the Development Act.

Prohibition on transfer of lands acquired by Central Government.

3. No person shall purport to transfer by sale, mortgage, gift, lease or otherwise any land or part thereof situated in the Union territory of Delhi, which has been acquired by the Central Government under the Land Acquisition Act, 1894, or under any other law providing for acquisition of land for a public purpose. 1 of 1894.

Regulation on transfer of lands in relation to which acquisition proceedings have been initiated.

4. No person shall, except with the previous permission in writing of the competent authority, transfer or purport to transfer by sale, mortgage, gift, lease or otherwise any land or part thereof situated in the Union territory of Delhi, which is proposed to be acquired in connection with the Scheme and in relation to which a declaration to the effect that such land or part thereof is needed for a public purpose having been made by the Central Government under section 6 of the Land Acquisition Act, 1894, the Central Government has not withdrawn from the acquisition under section 48 of that Act. 1 of 1894

Application for grant of permission for transfer under section 4.

5. (1) Any person desiring to transfer any land referred to in section 4 by sale, mortgage, gift, lease or otherwise may make an application in writing to the competent authority containing such particulars as may be prescribed.

(2) On receipt of an application under sub-section (1), the competent authority shall, after making such inquiries as it deems fit, may, by order in writing, grant or refuse to grant the permission applied for.

(3) The competent authority shall not refuse to grant the permission applied for under this section except on one or more of the following grounds, namely:—

(i) that the land is needed or is likely to be needed for the effective implementation of the Scheme;

(ii) that the land is needed or is likely to be needed for securing the objects of the Delhi Development Authority referred to in section 6 of the Development Act;

(iii) that the land is needed or is likely to be needed for any development within the meaning of clause (d) of section 2 of the Development Act or for such things as public buildings and other public works and utilities, roads, housing, recreation, industry, business, markets, schools and other educational institutions, hospitals and public open spaces and other categories of public uses.

(4) Where the competent authority refuses to grant the permission applied for, it shall record in writing the reasons for doing so and a copy of the same shall be communicated to the applicant.

(5) Where within a period of thirty days of the date of receipt of an application under this section the competent authority does not refuse to grant the permission applied for or does not communicate the refusal to the applicant, the competent authority shall be deemed to have granted the permission applied for.

6. (1) Any person aggrieved by an order of the competent authority under section 5 may, within thirty days of the date of receipt of the order by him, file an appeal to the prescribed authority in such form and containing such particulars as may be prescribed.

Appeals
against
orders
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petent
authority.

(2) On receipt of an appeal under sub-section (1), the prescribed authority shall, after giving the appellant an opportunity of being heard in the matter, dispose of the appeal as expeditiously as possible.

(3) Every order made by the prescribed authority in appeal under this section shall be final.

7. Where the competent authority has made any order under section 5 refusing to grant permission to transfer any land or where, an appeal having been filed against such order, the prescribed authority has made an order under section 6 confirming such order, then, the order refusing to grant permission to transfer such land shall be in operation only for a period of three years from the date of the order made by the competent authority or the prescribed authority, as the case may be, and thereafter, but subject to the provisions of section 3, it shall be lawful for the person who has applied for permission, or his successor-in-interest, to transfer such land by sale, mortgage, gift, lease or otherwise.

Period
of opera-
tion of
orders
of refusal
to grant
permis-
sion to
transfer
land.

Explanation.—In computing the period of three years, under this section, in relation to any land, the period during which the acquisition proceedings in relation to such land have been stayed by any court shall be excluded.

8. Notwithstanding anything contained in any other law for the time being in force, where any document required to be registered under the provisions of clause (a) to clause (e) of sub-section (1) of section 17 of the Registration Act, 1908, purports to transfer by sale, mortgage, gift, lease or otherwise any land or part thereof referred to in section 4, no registering officer appointed under that Act shall register any such document unless the transferor produces before such registering officer a permission in writing of the competent authority for such transfer.

Restric-
tions on
registra-
tion of
transfers
of land.

16 of 1908.

9. If any person contravenes the provisions of section 3 or section 4, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

Penalty.

10. (1) If the person committing an offence under this Act 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:

Offences
by com-
panies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), when an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

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

Power to
make
rules.

11. (1) The Administrator may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing provision, such rules may provide for all or any of the following matters, namely:—

(a) the particulars which an application to be made under sub-section (1) of section 5 shall contain;

(b) the authority to which an appeal may be filed under sub-section (1) of section 6, the form in which such appeal may be filed and the particulars which such appeal shall contain;

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

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

Rep. by Act. 38 of 1978, S. 2 & Sch. I

THE CRIMINAL LAW (AMENDMENT) ACT, 1972

No. 31 OF 1972

[14th June, 1972]

An Act further to amend the Indian Penal Code, the Code of Criminal Procedure, 1898 and the Unlawful Activities (Prevention) Act, 1967.

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

1. This Act may be called the Criminal Law (Amendment) Act, 1972. Short title.

In the Indian Penal Code,—

Amend.
ment of
Act 45 of
1860.

(a) in sub-section (1) of section 153A,—

(i) in clause (b), the word "or" shall be inserted at the end;

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

"(c) organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such

activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community,";

(b) after section 153A, the following section shall be inserted, namely:—

Imputations, assertions prejudicial to national integration.

"153B. (1) Whoever, by words either spoken or written or by signs or by visible representations or otherwise,—

(a) makes or publishes any imputation that any class of persons cannot, by reason of their being members of any religious, racial, language or regional group or caste or community, bear true faith and allegiance to the Constitution of India as by law established or uphold the sovereignty and integrity of India, or

(b) asserts, counsels, advises, propagates or publishes that any class of persons shall, by reason of their being members of any religious, racial, language or regional group or caste or community, be denied or deprived of their rights as citizens of India, or

(c) makes or publishes any assertion, counsel, plea or appeal concerning the obligation of any class of persons, by reason of their being members of any religious, racial, language or regional group or caste or community, and such assertion, counsel, plea or appeal causes or is likely to cause disharmony or feelings of enmity or hatred or ill-will between such members and other persons,

shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(2) Whoever commits an offence specified in sub-section (1), in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine."

Amendment of Act 5 of 1898.

3. In the Code of Criminal Procedure, 1898,—

(a) in sub-section (1) of section 99A,—

(i) after the words "seditious or obscene matter", the words "or any matter which is prejudicial to national integration" shall be inserted;

(ii) after the words, figures and letter "or section 153A", the words, figures and letter "or section 153B" shall be inserted;

(b) in sub-section (1) of section 106, after the word, figures and letter "section 153A", the word, figures and letter, "section 153B" shall be inserted;

(c) in sub-clause (b) of clause (i) of section 108, after the word, figures and letter "section 153A", the words, figures and letter "or section 153B" shall be inserted;

Repealed

(d) in section 196, after the words, figures and letter "or section 153A," the words, figures and letter "or section 153B," shall be inserted;

(e) in Schedule II, after the entries relating to section 153A, the following entries shall be inserted, namely:—

1	2	3	4	5	6	7	8
153B(1)	Imputations, assertions prejudicial to national integration.	May arrest] without warrant.	Warrant	Not bail-able.	Not com-pound-able.	Imprison-ment of either descrip-tion for three years or fine or both.	Presi-dency Magis-trate or Magis-trate of the first class.
153B(2)	Imputations, assertions prejudicial to national integration in place of pub-lic worship, etc.	Ditto	Ditto	Ditto	Ditto	Impri-son-ment of either descrip-tion for five years and fine.	Ditto".

4. In the Unlawful Activities (Prevention) Act, 1967, for clause (g) of section 2. the following clause shall be substituted, namely:—

Amend-ment of Act 37 of 1967.

'(g) "unlawful association" means any association—

(i) which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity; or

(ii) which has for its object any activity which is punish-able under section 153A or section 153B of the Indian Penal Code, or which encourages or aids persons to undertake any such activity, or of which the members undertake any such activity;

Provided that nothing contained in sub-clause (ii) shall apply to the State of Jammu and Kashmir.'

Rep. by Act. 38 of 1978, S. 2 + Sch. I

THE INDUSTRIAL DISPUTES (AMENDMENT) ACT, 1972
No. 32 OF 1972.

Section 1
to insert
to 25FFA
1972

[14th June, 1972.]

An Act further to amend the Industrial Disputes Act, 1947.

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

Short title.
Insertion of new section 25FFA
Sixty days' notice to be given of intention to close down any undertaking.

1. This Act may be called the Industrial Disputes (Amendment) Act, 1972.
2. After section 25FF of the Industrial Disputes Act, 1947 (hereinafter referred to as the principal Act), the following section shall be inserted, 14 of 1947. namely:—

“25FFA. (1) An employer who intends to close down an undertaking shall serve, at least sixty days before the date on which the intended closure is to become effective, a notice, in the prescribed manner, on the appropriate Government stating clearly the reasons for the intended closure of the undertaking:

Provided that nothing in this section shall apply to—

- (a) an undertaking in which—
 - (i) less than fifty workmen are employed, or
 - (ii) less than fifty workmen were employed on an average per working day in the preceding twelve months,
- (b) an undertaking set up for the construction of buildings, bridges, roads, canals, dams or for other construction work or project.

Repealed

(2) Notwithstanding anything contained in sub-section (1), the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the undertaking or death of the employer or the like it is necessary so to do, by order, direct that provisions of sub-section (1) shall not apply in relation to such undertaking for such period as may be specified in the order.”.

3. After section 30 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 30A.

“30A. Any employer who closes down any undertaking without complying with the provisions of section 25FFA shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.”.

Penalty for closure without notice.

THE UNIVERSITY GRANTS COMMISSION (AMENDMENT)
ACT, 1972

No. 33 OF 1972

[14th June, 1972]

An Act further to amend the University Grants Commission Act, 1956.

Enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the University Grants Commission (Amendment) Act, 1972.

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

Amendment of section 2.

~~2. In section 2 of the University Grants Commission Act, 1956 (herein- 3 of 1956.~~
after referred to as the principal Act), in clause (d), after the words "the Chairman", the words "and Vice-Chairman" shall be inserted.

Substitution of new section for section 5.

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

Composition of the Commission.

"5. (1) The Commission shall consist of—
(i) a Chairman,
(ii) a Vice-Chairman, and
(iii) ten other members,

to be appointed by the Central Government.

(2) The Chairman shall be chosen from among persons who are not officers of the Central Government or of any State Government.

4 17-6-1972 : Vide Motifu. No. S.O. 1682, dated 17-6-1972
Gaz. of India, Pt. II, sec. 3(ii), p. 2640
2 Ss. 2 to 8 Repealed by Act. 38 of 1978, S. 2 + Sch.

(3) Of the other members referred to in clause (iii) of sub-section (1)—

(a) two shall be chosen from among the officers of the Central Government, to represent that Government;

(b) not less than four shall be chosen from among persons who are, at the time when they are so chosen, teachers of Universities; and

(c) the remainder shall be chosen from among persons—

(i) who have knowledge of, or experience in, agriculture, commerce, forestry or industry;

(ii) who are members of the engineering, legal, medical or any other learned profession; or

(iii) who are Vice-Chancellors of Universities or who, not being teachers of Universities, are, in the opinion of the Central Government, educationists of repute or have obtained high academic distinctions:

Provided that not less than one-half of the number chosen under this clause shall be from among persons who are not officers of the Central Government or of any State Government.

(4) The Vice-Chairman shall exercise such of the powers, and discharge such of the duties, of the Chairman as may be prescribed.

(5) Every appointment under this section shall take effect from the date on which it is notified by the Central Government in the Official Gazette.”

4. In section 6 of the principal Act,—

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

“(1) A person appointed as Chairman, Vice-Chairman or other member shall, unless he becomes disqualified for continuing as such under the rules that may be made under this Act,—

(a) in the case of Chairman, hold office for a term of five years; and

(b) in the case of Vice-Chairman or any other member, hold office for a term of three years:

Provided that—

(i) a person who has held office as Chairman or Vice-Chairman shall be eligible for further appointment as Chairman, Vice-Chairman or other member, and

(ii) a person who has held office as any other member shall be eligible for further appointment as Chairman, Vice-Chairman or other member:

Provided further that a person who has held office for two terms, in any capacity, whether as Chairman, Vice-

Amend-
ment of
section 6.

Amend-
ment of
section 6.

Chairman or other member, shall not be eligible for any further appointment as Chairman, Vice-Chairman or other member.”;

(ii) for sub-sections (3) and (4), the following sub-sections shall be substituted, namely:—

“(3) If a casual vacancy occurs in the office of the Chairman, whether by reason of his death, resignation or inability to discharge his functions owing to illness or other incapacity, the Vice-Chairman holding office as such for the time being shall, notwithstanding anything contained in sub-section (2) of section 5, act as the Chairman and shall, unless any other person is appointed earlier as the Chairman, hold the office of the Chairman for the remainder of the term of office of the person in whose place he is to so act:

Provided that where no Vice-Chairman is holding office at the time when the vacancy in the office of the Chairman occurs, the Central Government shall, notwithstanding anything contained in sub-section (2) of section 5, appoint any other member to act as the Chairman and the person so appointed shall not hold the office of the Chairman for a period exceeding six months.

(4) If a casual vacancy occurs in the office of the Vice-Chairman or any other member, whether by reason of his death, resignation or inability to discharge his functions owing to illness or other incapacity, such vacancy shall be filled up by the Central Government by making a fresh appointment and the member so appointed shall hold office for a term of three years.

(5) The office of the Chairman and the Vice-Chairman shall be whole-time and salaried and subject thereto, the terms and conditions of service of the Chairman, Vice-Chairman and other members shall be such as may be prescribed.”.

Amend-
ment of
section 12.

5. In section 12 of the principal Act,—

(i) in clause (c), for the words “necessary for the development of such Universities”, the words “necessary or appropriate for the development of such Universities or for the maintenance, or development, or both, of any specified activities of such Universities” shall be substituted;

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

“(cc) allocate and disburse out of the Fund of the Commission, such grants to institutions deemed to be Universities in pursuance of a declaration made by the Central Government under section 3, as it may deem necessary, for one or more of the following purposes, namely:—

- (i) for maintenance in special cases,
- (ii) for development,
- (iii) for any other general or specified purpose;”.

6. After section 12 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 12A.

“12A. No grant shall be given by the Central Government, the Commission, or any other organisation receiving any funds from the Central Government, to a University which is established after the commencement of the University Grants Commission (Amendment) Act, 1972, unless the Commission has, after satisfying itself as to such matters as may be prescribed, declared such University to be fit for receiving such grant.”.

Prohibition regarding giving of any grant to a University not declared by the Commission fit to receive such grant.

7. In section 14 of the principal Act,—

(i) after the words and figures “or section 13”, the words, brackets, letters and figures “or contravenes the provisions of any rule made under clause (f) or clause (g) of sub-section (2) of section 25, or of any regulation made under clause (e) or clause (f) or clause (g) of section 26,” shall be inserted;

Amendment of section 14.

(ii) for the words “for its failure to comply with such recommendation”, the words “for such failure or contravention,” shall be substituted.

8. After section 26 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 27.

“27. (1) The Commission may, by regulations made under this Act, delegate to its Chairman, Vice-Chairman or any of its officers, its power of general superintendence and direction over the business transacted by, or in, the Commission, including the powers with regard to the expenditure incurred in connection with the maintenance of the office and internal administration of the Commission.

Power to delegate.

(2) No regulation shall be made under this section except with the previous approval of the Central Government.”.

9. Every member of the Commission holding office as such immediately before the commencement of this Act, shall continue to hold such office after such commencement until the reconstitution of the Commission in accordance with the provisions of the principal Act, as amended by this Act:

Transitional provisions.

Provided that the person holding, immediately before the commencement of this Act, the office of the Chairman, shall continue to hold that office by the same tenure and upon the same terms and conditions as he held it immediately before such commencement.

10. ~~The University Grants Commission (Amendment) Act, 1970, is Repealed hereby repealed.~~ xxx

27 of 1970

↓ Repealed by Act 38 of 1978, S. 2 + Sch. I

THE ALIGARH MUSLIM UNIVERSITY (AMENDMENT)
ACT, 1972

No. 34 OF 1972

[15th June, 1972]

An Act further to amend the Aligarh Muslim University Act, 1920.

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

Short title and commencement.

1. (1) This Act may be called the Aligarh Muslim University (Amendment) Act, 1972.

(2) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

3 xxx
Substitution of new section for section 2.

2. For section 2 of the Aligarh Muslim University Act, 1920 (herein- 40 of 1920 after referred to as the principal Act), the following section shall be substituted, namely:—

Definitions.

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

(a) "Academic Council" means the Academic Council of the University;

¹ 17.6.1972 : Vide Notification No. S.O. 1683, dated the 17th June, 1972. See Gazette of India, Part II sec. 3 (ii), p.p. 2640.

Repealed

(b) "Board of Studies" means the Board of Studies of the University;

(c) "Chancellor", "Pro-Chancellor" and "Vice-Chancellor", mean respectively, the Chancellor, Pro-Chancellor and Vice-Chancellor of the University;

(d) "Court" means the Court of the University;

(e) "Department" means a Department of Studies and includes a Centre of Studies established by the Ordinances;

(f) "Executive Council" means the Executive Council of the University;

(g) "Faculty" means a Faculty of the University;

(h) "hall" means a unit of residence or of corporate life maintained by the University for its students;

(i) "Statutes", "Ordinances" and "Regulations" mean respectively, the Statutes, Ordinances and Regulations of the University for the time being in force;

(j) "Students' Council" means the Students' Council of the University;

(k) "teachers" means professors, readers, lecturers and such other persons as may be appointed for imparting instruction in the University or a hall and are designated as teachers by the Ordinances;

(l) "University" means the Aligarh Muslim University.

3. For section 3 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 3.

"3. The Chancellor, the Pro-Chancellor and the Vice-Chancellor and the members of the Court, the Executive Council and the Academic Council, for the time being, shall be a body corporate by the name of the Aligarh Muslim University and shall have perpetual succession and a common seal and shall sue and be sued by that name."

Incorporation.

4. In section 5 of the principal Act,—

Amendment of section 5.

(i) clause (2) shall be re-lettered as sub-clause (a) thereof and after sub-clause (a) as so re-lettered, the following sub-clause shall be inserted, namely:—

"(b) to promote the study of the religions, civilisation and culture of India.";

(ii) for clause (3), the following clause shall be substituted, namely:—

"(3) to hold examinations and to grant diplomas or certificates to, and confer degrees and other academic distinctions on,

Repealed

persons subject to such conditions as the University may determine and to withdraw any such diplomas, certificates, degrees or other academic distinctions for good and sufficient cause;”;

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

“(5) to provide instruction for such persons who are not members of the University, as the University may determine;”;

(iv) in clause (6), after the word “co-operate”, the words “or collaborate” shall be inserted;

(v) in clause (7), for the words “teaching posts”, the words “teaching or academic posts” shall be substituted;

(vi) after clause (7), the following clause shall be inserted, namely:—

“(7A) to appoint persons working in any other University, institution or organisation as teachers of the University for a specified period;”;

(vii) for clause (9), the following clause shall be substituted, namely:—

“(9) to institute and maintain, within a radius of twenty-five kilometres of the University Mosque, halls and hostels and to recognise places of residence for the students of the University within the said limits and to withdraw such recognition accorded to any such place of residence;”;

(viii) after clause (9), the following clause shall be inserted, namely:—

“(9A) to establish within a radius of twenty-five kilometres of the University Mosque such Special Centres, Specialised Laboratories or other units for research and instruction as are, in the opinion of the University, necessary for the furtherance of its objects;”;

(ix) in clause (11B), the word “necessary”, and the word “and” occurring at the end, shall be omitted;

(x) after clause (11B), the following clauses shall be inserted, namely:—

“(11C) to regulate and enforce discipline among the employees of the University and to take such disciplinary measures as may be deemed necessary;

(11D) to acquire, hold, manage and dispose of property, movable or immovable, including trust or endowed property for the purposes of the University;

(11E) 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;

(11F) to declare a Department of Studies to be an autonomous Department; and”.

5. In section 8 of the principal Act, after the words “by the University”, the words, brackets and figures “before the commencement of the Aligarh Muslim University (Amendment) Act, 1972,” shall be inserted. Amendment of section 8.

6. In section 10 of the principal Act, after the word “hall”, the words “or a hostel” shall be inserted. Amendment of section 10.

7. In section 11 of the principal Act, for the portion beginning with the words “in the name of the University” and ending with the words “in the field”, the words “under the supervision of the Academic Council and in accordance with the Statutes and Ordinances” shall be substituted. Amendment of section 11.

8. In sub-section (2) of section 12 of the principal Act, for the words and figure “establish and maintain within the aforementioned limits any other institution whose objects fall within the powers of the University as described in section 5”, the words “establish and maintain such Special Centres, Specialised Laboratories or such other institutions for research or instruction as are necessary for the furtherance of its objects either on its own or in co-operation or collaboration with any other institution” shall be substituted. Amendment of section 12.

9. Section 12A of the principal Act shall be omitted. Omission of section 12A.

10. In section 13 of the principal Act,—

Amendment of section 13.

(i) in sub-section (2), after the words “any matter connected with”, the words “the administration or finances of” shall be inserted;

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

“(2A) The Visitor shall, in every case, give notice to the University of his intention to cause an inspection or inquiry to be made and on receipt of such notice, the University shall have the right to make such representation to the Visitor as it may consider necessary.

(2B) After considering the representation, 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).

(2C) Where any inspection or inquiry has been caused to be made by the Visitor, the University shall be entitled to appoint a representative who shall have the right to be present and be heard at such inspection or inquiry.”;

Repealed

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

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

Substitution of new section for section 15.

11. For section 15 of the principal Act, and the heading to that section, the following heading and section shall be substituted, namely:—

“Chief Rector

Chief Rector.

15. The Governor of the State of Uttar Pradesh shall be Chief Rector of the University.”.

Amendment of section 16.

12. In section 16 of the principal Act for clauses (3B) and (3C), the following clauses shall be substituted, namely:—

“(3B) The Registrar;

(3C) The Finance Officer;”.

Substitution of new section for section 17.

13. For section 17 of the principal Act, the following section shall be substituted, namely:—

The Chancellor.

“17. (1) The Chancellor of the University shall be appointed by the Visitor in such manner as may be prescribed by the Statutes.

(2) The Chancellor shall, by virtue of his office, be the Head of the University.

(3) The Chancellor shall, if present, preside at the convocations of the University held for conferring degrees.”.

Substitution of new section for section 18.

14. For section 18 of the principal Act, the following section shall be substituted, namely:—

The Pro-Chancellor.

“18. (1) The Pro-Chancellor shall be appointed by the Visitor in such manner as may be prescribed by the Statutes.

(2) The Pro-Chancellor shall, in the absence of the Chancellor, preside over the convocations of the University held for conferring degrees.”.

Substitution of new section for section 19.

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

The Vice-Chancellor.

“19. (1) The Vice-Chancellor shall be appointed by the Visitor in such manner as may be prescribed by the Statutes.

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

(3) The Vice-Chancellor may, if he is of opinion that immediate action is necessary on any matter, exercise any power conferred on any authority of the University by or under this Act and shall report to such authority the action taken by him on such matter:

Provided that if the authority concerned is of opinion that such action ought not to have been taken, it may refer the matter to the Visitor whose decision thereon shall be final:

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

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

16. After section 19 of the principal Act, as substituted by this Act, the following sections shall be inserted, namely:—

Insertion of new sections 20, 20A and 20B.

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

The Pro-Vice-Chancellor.

20A. (1) The Registrar shall be appointed in such manner as may be prescribed by the Statutes.

The Registrar.

(2) The Registrar shall have the power to enter into 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.

20B. 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.

17. For section 21 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 21.

"21. The powers of officers other than the Chancellor, the Pro-Chancellor, the Vice-Chancellor, the Pro-Vice-Chancellor, the Registrar and the Finance Officer shall be prescribed by the Statutes."

Powers of other officers.

18. In section 22 of the principal Act,—

Amendment of section 22.

(i) clause (3A) shall be omitted;

(ii) in clause (3B), the word "and" shall be omitted;

(iii) after clause (3B), the following clause shall be inserted, namely:—

"(3C) The Students' Council; and"

19. For section 23 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 23.

"23. (1) The constitution of the Court and the term of office of its members shall be such as may be prescribed by the Statutes.

The Court.

Repealed

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

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

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

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

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

Amendment of section 24.

20. In section 24 of the principal Act, for the words “the executive body”, the words “the principal executive body” shall be substituted.

Amendment of section 25.

21. In sub-section (1) of section 25 of the principal Act,—

(i) for the words “the academic body”, the words “the principal academic body” shall be substituted;

(ii) for the portion beginning with the words “have the control” and ending with the brackets and words “(other than honorary)”, the words “co-ordinate and exercise general supervision over the academic policies of the University” shall be substituted.

Amendment of section 26.

22. In section 26 of the principal Act, for the words “and duties of the Finance Committee and the Faculties”, the words “and functions of the Faculties and of the Students’ Council” shall be substituted.

Substitution of new section for section 27.

23. For section 27 of the principal Act, the following section shall be substituted, namely:—

Power to make Statutes.

“27. 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 of the University, the Finance Committee and such other authorities as may be constituted from time to time;

(b) the election and continuance in office of the members of the said authorities, the filling of vacancies of members, and all other matters relative to those authorities for which it may be necessary or desirable to provide;

(c) the manner of appointment of the Chancellor, Vice-Chancellor, and other officers of the University;

(d) the manner of appointment of teachers and other academic staff and their emoluments;

(e) the manner of appointment of employees other than teachers and other academic staff of the University and the emoluments;

(f) the manner of appointment of teachers and other academic staff working in any other University or institution for a specified period for undertaking a joint project;

(g) the conditions of service of employees including the provision for pension, insurance and provident fund, the manner of termination of service and disciplinary action;

Repealed

(h) the principles governing seniority of service of employees;

(i) the procedure for arbitration in cases of dispute between employees or students and the University;

(j) the procedure for appeal to the Executive Council by any employee or student against the action of any officer or authority of the University;

(k) the establishment and recognition of Students Union or associations of teachers, academic staff or other employees of the University;

(l) all other matters which by this Act are to be, or may be, provided by the Statutes."

24. For section 28 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 28.

"28. (1) On and from the commencement of the Aligarh Muslim University (Amendment) Act, 1972, the Statutes, as set out in the Schedule, shall be the Statutes of the University:

Provided that the provisions of Statutes 29 to 45, both inclusive, of the University (relating to provident fund, pension and gratuity for the employees of the University), as in force immediately before such commencement, shall be deemed to be included in the Statutes set out in the Schedule and shall, until new Statutes are made under sub-section (2), continue in force subject to such modifications [being modifications necessary for bringing them into accord with the provisions of this Act as amended by the Aligarh Muslim University (Amendment) Act, 1972] as the executive Council may, with the approval of the Visitor, make.

(2) After the commencement of the Aligarh Muslim University (Amendment) Act, 1972, the Executive Council may, notwithstanding anything contained in sub-section (1), make new or additional Statutes or may amend or repeal the Statutes referred to in sub-section (1):

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

(3) Every new Statute or addition to the Statutes or any amendment or repeal of a Statute shall require the previous approval of the Visitor who may sanction or disallow it or return it to the Executive Council for further consideration."

25. In section 29 of the principal Act,—

(a) in sub-section (1),—

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

"(g) the remuneration to be paid to the examiner, moderator, invigilator and tabulator;"

Amendment of section 29.

Repealed

(ii) in clause (k), for the words "teachers of the University", the words "the academic and other staff of the University" shall be substituted;

(iii) for clauses (m) and (n), the following clauses shall be substituted, namely:—

"(m) the establishment of Centres of Study, Boards of Study, Inter-Disciplinary Committees, Special Centres, Specialised Laboratories, Committees on Advanced Study and Research, Committees of Department and Centres, Admission Committees, Examination Committee, Boards of Residence and Halls, Discipline Committee, Cultural Committee, Social Service Committee, Games Committee and Students' Advisory Committees;

(n) the manner of co-operation and collaboration with other Universities and authorities including learned bodies or associations;

(o) the creation, composition and functions of any other body which is considered necessary for improving the academic life of the University;

(p) such other terms and conditions of teachers as are not prescribed by the Statutes; and

(q) all other matters which by this Act or the Statutes may be provided for by the Ordinances.";

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

"(2) The Ordinances in force immediately before the commencement of the Aligarh Muslim University (Amendment) Act, 1972, may be amended, repealed or added to at any time by the Executive Council, provided that—

(i) in making the Ordinances in respect of the matters enumerated in sub-section (1) other than those enumerated in clauses (k) and (p), the Executive Council shall act on the recommendation of the Academic Council;

(ii) before proposing the draft of the Ordinance in respect of the constitution of the Students' Union, Students' Advisory Committees, Cultural Committee, Social Service Committee and Games Committee and in respect of matters contained in clauses (a), (e), (h) and (i) of sub-section (1), the Academic Council shall consult the Students' Council.";

(c) for sub-sections (4), (5) and (6), the following sub-sections shall be substituted, namely:—

"(4) Where the Executive Council has rejected or returned the draft of an Ordinance proposed by the Academic Council, the Academic Council may consider the question afresh and in case the original draft is re-affirmed by a majority of not less than two-thirds of the members present and voting and more than half the total number of members of the Academic Council, the draft may be sent back to the Executive Council which shall either adopt it or refer it to the Visitor whose decision shall be final.

(5) Every Ordinance made by the Executive Council shall come into effect immediately.

Repealed

(6) Every Ordinance made by the Executive Council shall be submitted to the Visitor within two weeks. The Visitor shall have the power to direct the University within four weeks of the receipt of the Ordinance to suspend the operation of any such Ordinance and he shall, as soon as possible inform the Executive Council about his objection to the proposed Ordinance. The Visitor may, after receiving the comments of the University, either withdraw the order suspending the Ordinance or disallow the Ordinance, and his decision shall be final."

26. For section 34 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 34.

"34. (1) The Annual Report of the University shall be prepared under the direction of the Executive Council and shall be submitted to the Court on or after such date as may be prescribed by the Statutes and the Court shall consider the Report in its annual meeting.

Annual Report.

(2) The Court shall submit the Annual Report to the Visitor and also to the Chancellor along with its comments, if any."

27. In section 35 of the principal Act,—

Amendment of section 35.

(i) in sub-section (2), for the words "submitted to the Visitor", the words "submitted to the Court, the Visitor and the Chancellor along with the observations of the Executive Council" shall be substituted;

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

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

28. In section 36 of the principal Act,—

Amendment of section 36.

(i) in sub-section (1),—

(a) for the words "salaried officer and teacher", the word "employee" shall be substituted;

(b) for the words "officer or teacher", the word "employee" shall be substituted;

(ii) in sub-section (2), for the words "officer or teacher" together with its grammatical variation, wherever they occur, the word "employee" shall be substituted.

29. After section 36 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 36A and 36B.

"36A. (1) Any student or candidate for an examination whose name has been removed from the rolls of the University by the orders or resolution of the Vice-Chancellor, Discipline Committee or Examination Committee, as the case may be, and who has been debarred from appearing at the examinations of the University for more than a year, may, within ten days of the date of receipt of such order or copy of such resolution by him, appeal to the Executive Council and the Executive Council may confirm, modify or reverse

Procedure of appeal and arbitration in disciplinary cases against students.

Repealed

the decision of the Vice-Chancellor or the Committee, as the case may be.

(2) Any dispute arising out of any disciplinary action taken by the University against a student shall at the request of such student, be referred to a Tribunal of Arbitration and the provisions of sub-section (2) of section 36 shall, as far as may be, apply to the reference made under this sub-section.

Right to appeal.

36B. Every employee or student of the University shall, notwithstanding anything contained in this Act, have a right to appeal, within such time as may be prescribed by the Statutes, to the Executive Council against the decision of any officer or authority of the University and thereupon the Executive Council may confirm, modify or reverse the decision appealed against."

Amendment of section 38.

30. In sub-section (2) of section 38 of the principal Act, the words, brackets and figures "Subject to the provisions of sub-section (3) of section 18" shall be omitted.

Insertion of new sections 40 and 41.

31. After section 39 of the principal Act, the following sections shall be inserted, namely:—

Protection of action taken in good faith.

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

Mode of proof of University record.

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

Substitution of new Schedule for the Schedule.

32. For the Schedule to the principal Act, the following Schedule shall be substituted, namely:—

"THE SCHEDULE

[See section 28(1)]

The Statutes of the University

The Chancellor.

1. (1) The Chancellor shall be appointed by the Visitor from a panel of not less than three persons recommended by the Executive Council:

Provided that if the Visitor does not approve of the persons so recommended, he may call for fresh recommendations from the Executive Council.

(2) The Chancellor shall hold office for a term of five years and shall be eligible for re-appointment.

Repealed

1A. (1) The Pro-Chancellor shall be appointed by the Visitor from a panel of not less than three persons recommended by the Executive Council.

The pro-Chancellor.

Provided that if the Visitor does not approve of the persons so recommended, he may call for fresh recommendations from the Executive Council.

(2) The Pro-Chancellor shall hold office for a term of five years and shall be eligible for re-appointment.

(1) The Vice-Chancellor shall be appointed by the Visitor from a panel of not less than three persons selected by a Committee as constituted under clause (2) and the panel shall be prepared in the alphabetical order and will not indicate any order of preference.

The Vice-Chancellor.

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

(2) The Committee referred to in clause (1) shall consist of three persons, none of whom are employees of the University or members of the Court, Executive Council or Academic Council. Out of the three persons, two shall be nominated by the Executive Council and one by the Visitor and the Visitor shall appoint one of the three persons so nominated to be the Chairman of the Committee.

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

(4) The Vice-Chancellor shall hold office for a term of five years from the date on which he enters upon his office 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:

Provided further that the Visitor may direct that a Vice-Chancellor, whose term of office has expired, shall continue in office for such period, not exceeding a total period of one year, as may be specified in the direction.

(5) Notwithstanding anything contained in clause (4), a person appointed as Vice-Chancellor shall, if he completes the age of sixty-five years during the term of his office or any extension thereof, retire from office.

(6) The emoluments and other terms and conditions of service of the Vice-Chancellor shall be such as may be prescribed by the Ordinances.

(7) If the office of the 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 Pro-Vice-Chancellor shall discharge the duties of the Vice-Chancellor until a new Vice-Chancellor assumes office.

Provided that if the Pro-Vice-Chancellor is not available, the senior-most Professor shall discharge the duties of the Vice-Chancellor until a new Vice-Chancellor assumes office.

3. (1) The Vice-Chancellor shall be the ex officio Chairman of the Court, the Executive Council, the Academic Council and the Finance Committee, and shall, in the absence of the Chancellor and the Pro-Chancellor, preside at the Convocation held for conferring degrees. He shall be entitled to be present at, and to address, any meeting of any

Powers and duties of the Vice-Chancellor.

Repealed

authority or other body of the University, but shall not be entitled to vote thereat unless he is a member of such authority or body.

(2) It shall be the duty of the Vice-Chancellor to see that 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 Vice-Chancellor shall have the power to convene or cause to be convened meetings of the Court, the Executive Council, the Academic Council and the Finance Committee.

Pro-Vice-Chancellor.

4. (1) The Pro-Vice-Chancellor shall be appointed by the Executive Council on the recommendation of the Vice-Chancellor on such terms and conditions as may be laid down in the Ordinances:

Provided that where the recommendation of the Vice-Chancellor is not accepted by the Executive Council, the matter shall be referred to the Visitor who may either appoint the person recommended by the Vice-Chancellor or ask the Vice-Chancellor to recommend another person to the Executive Council:

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

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

Provided that the Pro-Vice-Chancellor shall retire on attaining the age of sixty-five years.

(3) The emoluments and other terms and conditions of services of the Pro-Vice-Chancellor shall be such as may be prescribed by the Ordinances.

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

Registrar.

5. (1) The Registrar shall be a whole-time salaried employee of the University and shall be appointed on the recommendation of a Selection Committee constituted for the purpose.

(2) The emoluments and other terms and conditions of service of the Registrar shall be such as may be prescribed by the Ordinances:

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

Provided further that notwithstanding his attaining the age of sixty years, he shall continue in office until his successor is appointed and enters upon his office.

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

Repealed

(4) (a) The Registrar shall have power to take disciplinary action against such of the employees of the University as may be specified in the orders of the Executive Council and to suspend them pending inquiry, to administer warnings to them or to impose on them the penalty of censure or the withholding of increment:

Provided that no such penalty shall be imposed unless the person concerned has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(b) An appeal shall lie to the Vice-Chancellor against any order of the Registrar imposing any of the penalties specified in item (a).

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

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

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

(6) It shall be the duty of the Registrar,—

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

(b) to issue all notices convening meetings of the Court, Executive Council, Academic Council and Faculties, the Boards of Studies, the Boards of Examiners and of any committees appointed by the authorities of the University;

(c) to keep the minutes of all the meetings of the Court, Executive Council, Academic Council, Faculties and of any committees appointed by the authorities of the University;

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

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

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

(g) 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

(h) 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 Executive Council or the Vice-Chancellor.

Repealed

6. (1) The Finance Officer shall be a whole-time salaried employée of the University and shall be appointed on the recommendations of a Selection Committee constituted for the purpose on such terms and conditions as may be prescribed by the Ordinances:

Finance Officer.

Provided that a person appointed as a Finance Officer shall retire from office when he attains the age of 60 years:

Provided further that notwithstanding his attaining the age of 60 years, he shall continue in office until his successor is appointed and enters upon his office or for a period of one year whichever is earlier.

(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 Vice-Chancellor may appoint for the purpose.

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

(4) The Finance Officer shall—
(a) exercise general supervision over the funds of the University and shall advise it as regards its financial policy; and

(b) perform such other financial functions as may be assigned to him by the Executive Council or as may be prescribed by these Statutes or the Ordinances:

Provided that the Finance Officer shall not incur any expenditure or make any investment exceeding Rs. 10,000 without the previous approval of the Executive Council.

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

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

(b) ensure that the limits fixed by the Finance Committee for recurring and non-recurring expenditure for a year are not exceeded and that all moneys are expended on the purposes for which they are granted or allotted;

(c) be responsible for the preparation of annual accounts and the budget of the University for the next financial year and for their presentation to the Executive Council;

(d) keep a constant watch on the state of the cash and bank balances and on the state of investment;

(e) watch the progress of the collection of revenue and advise on the methods of collection employed;

(f) have the accounts of the University regularly audited by an internal audit party;

(g) 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, Special Centres, Specialised Laboratories, colleges and institutions maintained by the University;

Repealed

Aligarh Muslim University (Amendment) Act, 1972

(b) call for explanation for unauthorised expenditure and for other financial irregularities and suggest disciplinary action against the persons at fault, and

(i) call for from any office, college or institution under the University, any information or returns that he may consider necessary for the performance of his duties.

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

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

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

Provided further that the persons holding office as Principal of the Jawaharlal Nehru Medical College and the Zakir Husain Engineering College on the commencement of the Aligarh Muslim University (Amendment) Act, 1972, shall continue to hold the office of the Deans of their respective Faculties until the expiry of their term of office.

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

(3) The Dean shall be the Head of the 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.

(4) 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. In the case of Departments which have more than one Professor the Head of the Department shall be appointed by the Executive Council on the recommendation of the Vice-Chancellor from among the Professors. In the case of Departments where there is only one Professor, the Executive Council shall have the option to appoint on the recommendation the Vice-Chancellor either the Professor or a Reader as the Head of the Department. 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. A Head of a Department may resign his office at any time during his tenure or also to decline the offer of appointment as the Head of the Department.

9. (1) The Chairman, Students' Council shall be appointed by the Vice-Chancellor from amongst the teachers of the University.

(2) The Chairman so appointed under clause (1) shall hold office for such term as the Vice-Chancellor may specify. He shall be paid such honorarium and provided with such facilities as the Executive Council may determine.

Dean of Studies Welfare

Deans of Faculties

Process

Professor

Heads of Departments

Chairman, Students' Council

Dean
of Stu-
dents'
Welfare.

10. (1) The Dean of Students' Welfare shall be appointed from amongst the teachers of the University not below the rank of a Reader, by the Executive Council on the recommendation of the Vice-Chancellor.

(2) The Dean so appointed under clause (1) shall be a whole-time officer and shall hold office for a term of three years and shall be eligible for re-appointment:

Provided that the Executive Council may, if it is considered necessary, appoint, on the recommendation of the Vice-Chancellor, a teacher, not below the rank of a Reader to discharge the duties of the Dean of Students' Welfare in addition to his duties and in such a case the Executive Council may sanction a suitable allowance.

(3) The 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 Vice-Chancellor may appoint for the purpose.

(5) The duties and powers of the Dean of Students' Welfare shall be prescribed by the Ordinances.

Provost.

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

(2) A Provost shall hold office for a term of two years and shall be eligible for re-appointment.

Proctor.

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

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

Librarian.

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

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

Court.

14. (1) The Court shall consist of the following members, namely:—

Ex officio members

- (i) Vice-Chancellor,
- (ii) All Ex-Vice-Chancellors,
- (iii) Pro-Vice-Chancellor,
- (iv) All Deans of Faculties,
- (v) Chairman, Students' Council,
- (vi) Dean of Students' Welfare,
- (vii) Librarian,
- (viii) Registrar,

Repealed

- (ix) Three Provosts, by rotation according to seniority,
(x) Proctor;

Representatives of Departments and Colleges

(xi) The Principals of each of the following colleges, namely, Women's College, Tibbya College and Polytechnic by rotation according to seniority *inter se* as Principal,

(xii) Heads of Departments of Studies by rotation according to seniority in each Faculty as shown below:—

Faculty of Arts	..	4
Faculty of Engineering and Technology	..	1
Faculty of Medicine	..	5
Faculty of Science	..	5
Faculty of Social Science	..	4

Representatives of University Teachers other than Heads of Departments and Principals

- (xiii) (a) Five Professors by rotation according to seniority,
(b) Five Readers by rotation according to seniority,
(c) Five Lecturers by rotation according to seniority;

Representatives of students

- (xiv) (a) President and Secretary of the Students' Union,
(b) Secretary, Students' Council,
(c) Two persons to be elected by the Students' Council from its own members, provided that one of them shall be a Secretary of the Students Advisory Committee of a Faculty,
(d) Five members to be elected by an electoral college consisting of students who have shown their academic merit in the manner prescribed by the Ordinances,
(e) Five members to be elected by an electoral college or colleges consisting of the student members of the Cultural Committee, Social Service Committee, and the Games Committee in the manner prescribed by the Ordinances;

Representatives of Ex-students

- (xv) Fifteen representatives to be elected by the Alumni (Old Boys) Association;

Representatives of Parliament

(xvi) Ten representatives of Parliament, six to be nominated by the Speaker of the Lok Sabha from among the members thereof and four to be nominated by the Chairman of the Rajya Sabha from among the members thereof;

Persons representing learned professions and special interests

(xvii) Twenty members from learned professions and special interests including representatives of Industry, Commerce, Trade Unions, Banking and Agriculture to be nominated by the Visitor:

Provided that out of the twenty members aforesaid, not less than five shall be representatives of cultural and educational institutions of India;

Nominated members

- (xviii) A person nominated by the Chief Rector;

Repealed

(xix) Three persons nominated by the Chancellor;

Remaining members of the Executive Council (xi)

(xx) The members of the Executive Council not specified above:

Provided that persons under item (xiii) shall be appointed from the following groups by rotation according to seniority determined on the basis of their appointment in that category:

Group I

(a) Faculty of Arts,

(b) Faculty of Social Sciences

Group II

(a) Faculty of Science,

(b) Faculty of Medicine,

(c) Faculty of Engineering and Technology

Group III

(a) Faculty of Theology,

(b) Faculty of Commerce,

(c) Faculty of Law

5:

Provided further that election under items (xv) and (xv) shall be by the system of proportional representation.

(2) (i) All the members of the Court other than ex-officio members and members representing the students shall hold office for a term of three years.

(ii) An ex-officio member shall cease to be a member of the Court as soon as he vacates the office by virtue of which he is such member.

(iii) Members representing students will hold office for a period of one year or till such time as they continue to be students, whichever is earlier.

(3) No student, who has passed the High School or an equivalent examination more than eight years earlier of the pre-University or an equivalent examination more than seven years earlier or has taken more than one year in excess of the period prescribed for the course for which he is a student shall be eligible to become a member under item (xiv):

Provided that no student shall be eligible to become a member of the Court unless he has been on the rolls of the University for at least one year before he enters upon his office as such member.

(4) No employee of the University or of a recognised institution shall be eligible to be a member of the Court under any of the items (xv) to (xviii).

15. (1) An annual meeting of the Court shall be held on a date to be fixed by the Executive Council unless some other date has been fixed by the Court in respect of any year. At an annual meeting, a report of the working of the University during the previous year, together with a statement of the receipts and expenditure and the balance sheet, as audited, and the financial estimates for the next year shall be presented and any vacancies among the members of the Executive Council which are to be filled up by the Court shall be filled.

Meetings of the Court

Repealed

(2) A copy of the statement of receipts and expenditure, the balance-sheet and the financial estimates referred to in clause (1) shall be sent to every member of the Court at least seven days before the date of the annual meeting.

(3) Thirty-five members of the Court shall form a quorum.

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

Provided that a special meeting of the Court shall also be called if thirty-five members of the Court make a requisition in writing in this behalf.

16. (1) The Executive Council shall consist of the following members, Executive Council.
namely:—

- | | |
|---|----|
| (i) Vice-Chancellor | 1; |
| (ii) Pro-Vice-Chancellor | 1; |
| (iii) (a) Dean, Faculty of Arts; | |
| (b) Dean, Faculty of Social Sciences; | |
| (c) Dean, Faculty of Science; | |
| (d) one Dean, by rotation from among the Deans of the Faculties of Medicine and Engineering; | |
| (e) one Dean, by rotation from among the Deans of the Faculties of Law, Commerce and Theology | 5; |
| (iv) one Principal from the Principals of Women's College, Zakir Husain Engineering College and Jawaharlal Nehru Medical College by rotation according to seniority as principal | 1; |
| (v) one Professor by rotation according to seniority | 1; |
| (vi) three teachers of whom at least one shall be a lecturer to be elected by the Academic Council from amongst its members by a system of proportional representation | 3; |
| (vii) five persons to be elected by the Court from among its members by a system of proportional representation, none of whom shall be an employee or a student of the University or a college maintained by the University | 5; |
| (viii) four persons to be nominated by the Visitor | 4; |

21.

(2) All the members of the Executive Council, other than *ex-officio* members shall hold office for a term of three years.

Repealed

Powers
and
functions
of Execu-
tive
Council.

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

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

(i) to appoint the Registrar, Finance Officer, Librarian, Principals of Colleges and institutions established by the University and such Professors, Readers, Lecturers and other members of the teaching and academic staff as may be necessary, on the recommendation of the Selection Committee constituted for the purpose;

Provided that no action shall be taken by the Executive Council in respect of the number, qualifications and the emoluments of teachers, without consideration of the recommendations of the Academic Council;

(ii) to appoint members of the administrative staff;

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

(iv) 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;

(v) to manage and regulate the finances, accounts, investments, property, business and all other administrative affairs of the University, and for that purpose, to appoint such agents as it may think fit;

(vi) to invest any money belonging to the University, including any applied income, in such stocks, funds, shares or securities as it shall, from time to time, think fit, or in the purchase of immovable property in India, with the like power of varying such investments from time to time;

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

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

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

(x) to entertain, adjudicate upon, and, if thought fit, to redress any grievances of the offices of the University, the teaching staff, the students and the University's servants, who may, for any reason feel aggrieved;

(xi) to appoint examiners and moderators and, if necessary to remove them, and to fix their fees, emoluments, and travelling and other allowances, after consulting the Academic Council;

(xii) to maintain a register of donors to the University;

Repealed

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

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

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

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

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

18. (1) The Academic Council shall consist of the following members, Academic Council.
namely:—

(i) Vice-Chancellor;

(ii) Pro-Vice Chancellor;

(iii) Deans of Faculties;

(iv) Heads of Departments of Studies;

(v) Principals and Heads of Institutions;

(vi) Dean of Students Welfare;

(vii) Chairman, Students' Council;

(viii) Librarian;

(ix) Five professors other than the Heads of Departments;

(x) Five readers other than the Heads of Departments;

(xi) Five lecturers;

(xii) Five persons not being in the service of the University, co-opted by the Academic Council for their special knowledge, provided that not more than two persons shall be co-opted from subjects assigned to any one faculty;

(xiii) One Provost to be nominated by the Vice-Chancellor;

(xiv) Proctor;

Provided that the persons under categories (ix), (x) and (xi) shall be appointed from the following groups by rotation according to seniority determined on the basis of their appointments in that category:—

Group I 2

(a) Faculty of Arts,

(b) Faculty of Social Sciences;

Group II 2

(a) Faculty of Science,

(b) Faculty of Medicine,

(c) Faculty of Engineering and Technology;

Group III 1

(a) Faculty of Theology,

(b) Faculty of Commerce,

(c) Faculty of Law.

Repealed

(2) The members of the Academic Council, other than *ex-officio* members shall hold office for a term of two years.

Powers
of the
Academic
Council.

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

(a) to exercise general supervision over the academic policies of the University and to give directions regarding methods of instruction, co-operative teaching among colleges, evaluation of research or improvements in academic standards;

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

(c) to consider matters of general academic interest either at its own initiative or referred to by a Faculty, or the Executive Council and to take appropriate action thereon; and

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

Facul-
ties and
Depart-
ments.

20. (1) The University shall have the following Faculties, namely:—

(i) Faculty of Theology;

(ii) Faculty of Arts;

(iii) Faculty of Science;

(iv) Faculty of Social Sciences;

(v) Faculty of Engineering and Technology;

(vi) Faculty of Medicine;

(vii) Faculty of Law;

(viii) Faculty of Commerce; and

(ix) Such other Faculties as may be prescribed by these Statutes.

(2) (a) Each Faculty shall consist of such Departments as may be assigned to it by the Ordinances.

(b) No Department shall be established or abolished except by the Statutes.

(c) The Departments of Studies in existence in the University at the commencement of the Aligarh Muslim University (Amendment) Act, 1972 and the Faculties relating thereto are set out in the Annexure to these Statutes.

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

(i) Teachers;

(ii) Persons conducting research in the Faculties concerned;

(iii) Dean of the Faculty or Deans of the Faculties concerned;

(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.

Repealed

(e) Each Department shall have a Head who shall be appointed in accordance with these Statutes and shall perform such functions as may be prescribed by the Ordinances.

(3) Every Faculty, other than the Faculty of Engineering and Technology, may comprise the following members, namely:—

- (i) Dean of 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) Principal, Women's College;
- (v) One Reader from each Department;
- (vi) Two Lecturers from each Department (one above ten years of service and one below ten years);
- (vii) Four persons nominated by the Academic Council from other Faculties of the University; and
- (viii) Five persons not in the service of the University 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:

Provided that the Principal, Women's College shall be on the Faculties of the subjects for which instruction is provided in that College:

Provided further that the Readers and Lecturers of categories (v) and (vi) shall serve on the Faculties by rotation, according to seniority.

(4) The Faculty of the 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 or Section 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) Persons not connected with the University having expert knowledge of the subject or subjects concerned, co-opted by the Faculty, one for each Department of the Faculty; and
- (viii) Three members elected by the Academic Council for their special knowledge of any subject assigned to the Faculty or of any allied branches of knowledge.

(5) All members of a Faculty, other than the *ex-officio* members shall hold office for a term of two years.

(6) The conduct of the meetings of a Faculty and the quorum required for each Faculty shall be prescribed by the Ordinances.

Repealed

Powers and functions of the faculties.

21. In addition to the powers and functions of the Faculties prescribed under the Ordinances, they shall have power—

(a) to co-ordinate teaching and research activities of Departments and Centres assigned to the Faculty, and to promote and provide for inter-disciplinary teaching and research; and to arrange for examinations and periodical tests in subjects falling within the purview of the Faculty;

(b) to appoint Boards of Studies or committees or to undertake research projects common to more than one Department;

(c) to approve courses of study proposed by the Departments;

(d) to forward to the Executive Council the recommendations of the Boards of Studies or Committee for Advanced Studies and Research;

(e) to propose the draft of Ordinances for the examinations for courses conducted by the Faculty;

(f) to recommend proposals for the creation and abolition of teaching posts; and

(g) to perform such other functions as the Executive Council and Academic Council may prescribe.

Boards of Studies.

22. (1) Each Department shall have a Board of Studies which shall consist of:

(i) the Head of the Department—*Chairman*;

(ii) Dean of the Faculty concerned;

(iii) the Professors in the Department;

(iv) Four Readers in the Department by rotation according to seniority;

(v) four Lecturers in the Department, at least two of whom shall be with less than seven years of service by rotation according to seniority;

(vi) two persons teaching allied or cognate subjects in the University assigned by the Academic Council; and

(vii) two experts not in the service of the University co-opted by the Board of Studies.

(2) The term of appointment of members other than the *ex-officio* members of the Boards of Studies shall be for a period of two years.

(3) The functions of the Board of Studies shall be to recommend to the Faculty in the manner provided in the Ordinances—

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

(b) approve subjects for research for various degrees and other requirements of research degrees;

(c) appointment of supervisors of research; and

(d) measures for the improvement of the standard of post-graduate teaching and research:

Provided that where the number of teachers in a Department does not exceed twenty, the aforesaid functions shall be performed by the Department.

Repealed

23. (1) Each teaching department, where the number of teachers exceeds twenty shall have a Departmental Committee consisting of the following members, namely:—

Dept.
mental
Com-
mittees.

- (i) Head of the Department—Chairman;
- (ii) Dean of the Faculty concerned;
- (iii) the Professors in the Department;
- (iv) Four Readers in the Department by rotation according to seniority; and
- (v) Four Lecturers in the Department by rotation according to seniority.

(2) The Readers and Lecturers shall hold office as members of the Departmental Committee for a period of two years.

(3) The functions of the Departmental Committee shall be to allocate teaching work, recommend the creation or abolition of teaching posts or their upgrading, make recommendations regarding the field of study of each post at the time of recruitment and consider matters of general and academic interest to the Department and of its functioning.

(4) Where the number of teachers in a teaching Department does not exceed twenty, the functions of the Departmental Committee shall be performed by that Department.

24. (1) The composition of the Students' Council may be as follows:—

Students'
Council.

- (i) Chairman;
- (ii) President, Vice-President and Secretary of the University Students' Union;
- (iii) The Secretary of the Students' Advisory Committee of each Faculty;
- (iv) Fifteen persons elected by an electoral college consisting of the students advisory Committees of Faculties and halls in accordance with the system of proportional representation; and
- (v) Five students nominated by the Vice-Chancellor from amongst outstanding students or sportsmen or those who have distinguished themselves in any field of student activity, giving due consideration to the representation of special interests:

Provided that no student who has passed the High School or an equivalent examination more than eight years earlier or the Pre-University or an equivalent examination more than seven years earlier or has taken more than one year in excess of the period prescribed for the course for which he is a student, shall be eligible to become a member of the Students' Council.

(2) The Secretary of the Students' Council shall be elected by it from amongst its members through the system of proportional representation by means of single transferable vote.

25. (1) The powers and functions of the Students' Council shall be as follows:—

Powers
and
functions
of Stu-
dents'
Council.

- (i) to make recommendations to the Executive and Academic Councils in matters affecting the academic work of the students such as the structure of courses, pattern of instruction, the corporate life of the University in so far as it concerns the students, and the co-curricular and extra-curricular activities in the University;

Repealed

(ii) all rules affecting discipline, welfare, sports, literary and departmental societies, management of hostels, student homes, non-resident student centres, extension work, social work, students health, National Service Scheme, National Cadet Corps, etc., shall ordinarily be placed before the Students' Council for obtaining its views, which will then be communicated to the Academic and Executive Councils for decision;

(iii) the Council shall have the right to communicate its views, observations and recommendations to the Vice-Chancellor or any authority of the University, in respect of any matter which concerns the students. The Chairman of the Students' Council will be the authority to decide whether a matter does or does not concern the students.

(2) The meetings of the Students' Council shall be held at least three times every year, and not more than six months shall elapse between two meetings. Extraordinary meetings may be held either at the instance of the Chairman, or at the request of not less than half of the members of the Council. Ten members of the Council shall form the quorum for a meeting of the Students' Council.

Finance
Com-
mittee.

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

- (i) Vice-Chancellor;
- (ii) Pro-Vice-Chancellor;
- (iii) Two Deans of the Faculties, to be nominated by the Executive Council;

(iv) One person nominated by the Executive Council from amongst its members other than those in the service of the University;

(v) Three persons nominated by the Visitor.

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

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

(4) The Vice-Chancellor shall preside at the meetings of the Finance Committee.

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

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

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

(8) The Finance Committee shall 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). No expenditure shall be incurred by the University in excess of the limits so fixed.

(9) No expenditure other than that provided for in the budget shall be incurred by the University without the approval of the Finance Committee.

Repealed

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

Selection Committee

Provided that where the appointment of a teacher is to be made in a College or the University Polytechnic, the Principal of that College or the University Polytechnic, as the case may be, shall also be an *ex-officio* member of the Selection Committee constituted for such appointment:

Provided further that the Selection Committee for teaching posts in the Faculty of Engineering and Technology shall include a nominee of the All India Council of Technical Education.

TABLE

(1)	(2)
Professor	(i) The Head of the Department concerned, if he is a Professor. (ii) One Professor of the Department to be nominated by the Vice-Chancellor. (iii) Three persons not in the service of the University, nominated by the Executive Council, out of a panel of names recommended by the Academic Council for their special knowledge of or interest in the subject with which the Professor will be concerned.
Reader/Lecturer	(i) The Head of the Department concerned. (ii) One Professor of the Department to be nominated by the Vice-Chancellor. (iii) Two persons not in the service of the University, nominated by the Executive Council, out of a panel of names recommended by the Academic Council for their special knowledge of or interest in the subject with which the Reader or Lecturer will be concerned.
Registrar/Finance Officer	(i) Two members of the Executive Council nominated by it. (ii) One person, not connected with the University, nominated by the Executive Council.
Librarian	(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 Executive Council. (ii) One person, not in the service of the University, nominated by the Executive Council.
Principal of College or Institution maintained by the University	Three persons not in the service of the University of whom two shall be nominated by the Executive Council and one by the Academic Council for their special knowledge of or interest in a subject in which instruction is being provided by the College or Institution.

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

(3) The meetings of the Selection Committee shall be convened by the Vice-Chancellor or in his absence, by the Pro-Vice-Chancellor.

Repealed

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

(5) If the 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.

(6) Notwithstanding anything contained in the foregoing clauses of this Statute or Statute 29, the Executive Council may invite a person of high academic distinction and professional attainment to accept a post of Professor or Reader in the University, as the case may be, on such terms and conditions as it deems fit, and on the person agreeing to do so, appoint him to the post.

(7) The 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 inter-disciplinary project, the Head of the project shall be deemed to be the Head of the Department concerned.

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

Com-
mittees.

28. Any authority of the University may appoint as many standing or special committees as it may deem fit, and may appoint, to such committees persons who are not members of such authority. Any such committee may deal with any subject delegated to it subject to subsequent confirmation by the authority appointing it.

Terms
and
condi-
tions of
service of
teachers.

29. (1) All the teachers of the University or any of its Institutions shall, in the absence of any agreement to the contrary, be governed by the terms and conditions of service as specified in the Statutes, Ordinances and Regulations of the University:

Provided that no alteration in the salary, the rate of contribution to the Provident Fund and the age of superannuation of a teacher in the service of the University shall be made to his disadvantage except with the previous approval of the Visitor.

(2) (a) All appointments to permanent posts of teachers in the University shall be made by the Executive Council on the recommendation of a Selection Committee in accordance with the provisions of these Statutes after such posts have been duly advertised and the candidates concerned have been interviewed by the Selection Committee, except in cases where such Committee decides to consider the case of a candidate otherwise than by an interview. Except as otherwise provided for in his contract of service, every teacher thus selected shall be placed on probation for a period of one year, on the expiry of which period he may be confirmed in his post. If he is not so confirmed, the Executive Council, may, if it deems fit, dispense with his services after the expiry of his probationary period as may be practicable or extend the period of his probation for one year at the end of which, if he is not confirmed in his post, his services shall be dispensed with after the expiry of the period of extension of his probation:

Repealed

Provided that, if a person in the permanent service of the University is appointed on probation to a higher post in the same department, he shall not lose his lien on his substantive post, nor shall he be deprived of the benefits of leave rules and of the Provident Fund Statutes to which he was entitled at the time of his appointment to the higher post during the period of his probation:

Provided further that the service of a teacher appointed on probation may be terminated at any time during the probationary period by giving two months' notice without assigning any reason.

(b) In making temporary appointments to posts of teachers—

(i) if the temporary vacancy is for a duration longer than one academic session, it shall be filled on the advice of the Selection Committee in accordance with the procedure indicated in the preceding item (a); and

(ii) if the temporary vacancy is for a period less than a year, an appointment to such vacancy shall be made on the recommendation of a local Selection Committee consisting of:—

(A) The Dean of the Faculty;

(B) The Head of the Department; and

(C) A nominee of the Vice-Chancellor:

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

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

(c) 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.

(3) Every teacher of the University shall be ordinarily appointed on a written contract, the form of which shall be prescribed by Regulations. A copy of the contract shall be deposited with the Registrar.

(4) No teacher of the University shall be confirmed in his post unless he has fulfilled the conditions laid down in the contract of his appointment and unless the Vice-Chancellor, on the recommendation of the Dean of the Faculty and Head of the Department concerned, and in the case of the Head of Department, on the recommendation of the Dean concerned, testifies to his fitness for confirmation.

(5) All temporary teachers whose total service in the University exceeds one year shall be required within two months of the completion of one year to produce a physical fitness certificate signed by a registered Medical Graduate, not below the status of a Civil Surgeon, provided that if the physical fitness examination is conducted at the University Health Service, the certificate signed by the Chief Medical Officer shall be deemed to be sufficient.

Repealed

(6) Teachers appointed on probation and those in whose case probation has been waived, shall be required to produce a physical fitness certificate of the nature prescribed in clause (5) before joining their appointment:

Provided that nothing in this clause shall apply to such teachers who are already holding a permanent post in the University.

(7) Teachers holding temporary appointments shall not be confirmed in their posts unless they produce a physical fitness certificate as required in the foregoing clauses.

(8) No fee shall be charged if the physical fitness examination is conducted at the University Health Service.

(9) All the teachers of the University shall, if they are not employed for a fixed period, retire at the age of sixty. The Executive Council may, however, in the interests of the University grant extension of service up to the age of sixty-three, subject to the condition that such extension shall not be for more than one year at a time:

Provided that the teachers whose retirement is due on the 1st of September or a later date in any academic year inclusive of such leave preparatory to retirement as may be due to them may be retained at their option in the service of the University till the end of the academic year.

(10) (a) A teacher due for retirement shall apply well before the date of retirement for such leave as may be due to him before retirement, and if he fails to so apply, he shall not be entitled to avail of the leave after retirement. Leave so applied for may be sanctioned, or refused in the interests of the University. If leave is so refused, the leave due shall be availed of after retirement.

(b) All recommendations for extension of service beyond sixty years shall be sent to the Registrar by the Head of the Department through the Dean of the Faculty concerned or by the Dean of the Faculty if such recommendation is concerning the Head of a Department, at least six months before the date of retirement.

(11) Notwithstanding anything contained in the foregoing clauses of this Statute, the University may permit any Professor or Reader to accept, concurrently on a part-time basis, appointment in any University or institution on such terms and conditions as may be prescribed in the Ordinances.

Senio-
rity
lists.

30. (1) Whenever, in accordance with these Statutes, any person is to hold an office or be a member of an authority of the University by rotation according to seniority, such seniority shall be determined according to the length of continuous service of such person in his grade, and, in accordance with such other principles as the Executive Council may from time to time prescribe.

(2) It shall be the duty of the Registrar to prepare and maintain, in respect of each class of persons to whom the provisions of these Statutes apply, a complete and up-to-date seniority list in accordance with the provisions of the foregoing clause.

Repealed

(3) If two or more persons have equal length of continuous service in a particular grade or the relative seniority of any person or persons is otherwise in doubt, the Registrar may, on his own motion and shall, at the request of any such person, submit the matter to the Executive Council whose decision thereon shall be final.

31. (1) The Executive Council may, by resolution passed by a majority of not less than two-thirds of the members present and voting:—

Powers in respect of granting and withdrawing degrees.

(a) on the recommendation of Academic Council, make proposals to the Chancellor for the conferment of honorary degrees;

(b) withdraw any ordinary degree or diploma conferred by the University; and

(c) with the sanction of the Chancellor, withdraw any honorary degree.

(2) Notwithstanding anything contained in clause (1), in cases of urgency, the Chancellor, may, on the recommendations of the Executive Council alone, confer an honorary degree.

32. (1) There shall be a Students' Union for the University.

Students' Union.

(2) Every student of the University shall be deemed to be a member of the Students' Union.

(3) There shall be a General Council of the Students' Union which shall consist of such number of students, and shall be constituted in such manner as may be prescribed by the Ordinances.

(4) The University may, after ascertaining the views of the Students' Council, in such manner as may be prescribed by the Ordinances, fix such fees as the students may be required to pay for their membership of the Students' Union.

(5) The powers and functions of the Students' Union and of the General Council shall be such as may be prescribed by the Ordinances.

33. (1) There shall be a Teachers' Association for the University.

Teachers' Association.

(2) The constitution of the Association shall be such as may be prescribed in the Ordinances.

34. (1) There shall be a Staff Association for the staff of the University other than academic staff.

Non-academic Staff Association.

(2) The constitution of the Staff Association referred to in clause (1) shall be such as may be prescribed in the Ordinances.

35. (1) All powers relating to discipline and disciplinary action in relation to students shall vest in the Vice-Chancellor.

Maintenance of discipline among students of the University.

(2) The Vice-Chancellor may delegate all or any of his powers as he deems proper to the Proctor and to such other officers as he may specify in this behalf.

(3) Without prejudice to the generality of his powers relating to the maintenance of discipline and taking such action in the interest of maintaining discipline as may seem to him appropriate, the Vice-Chancellor may, in the exercise of his powers, by order, direct that any student or students be expelled, or rusticated, for a specified period, or be not admitted to a course or courses of study in a College, Department or 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 a University or College or Departmental Examination or Examinations for one or more years, or that the results of the student or students concerned in the Examination or Examinations in which he or they have appeared be cancelled.

(4) The Principals of Colleges, Heads of Special Centres, Deans of Faculties and Heads of Teaching Departments in the University shall have the authority to exercise all such disciplinary powers over the students in their respective Colleges, Special Centres, Institutions, Faculties and Teaching Departments in the University as may be necessary for the proper conduct of the Institutions, Special Centres and teaching in the concerned Departments.

(5) Without prejudice to the powers of the Vice-Chancellor and the Proctor as aforesaid, detailed rules of discipline and proper conduct shall be framed by the University. The Principals of Colleges, Heads of Special Centres, Deans of Faculties and Heads of Teaching Departments in the University may frame such supplementary rules, as they deem necessary for the aforesaid purposes. Every student shall be supplied with a copy of rules so made.

(6) At the time of the admission, every student shall be required to sign a declaration to the effect that he submits himself to the disciplinary jurisdiction of the Vice-Chancellor and the other authorities of the University.

Establishment of Colleges and Institutions.

36. The establishment of Colleges and Institutions and the abolition thereof shall be governed by these Statutes:

Provided that the Colleges and Institutions which have been established in accordance with the Act, the Statutes or the Ordinances in force immediately before the commencement of the Aligarh Muslim University (Amendment) Act, 1972, shall be deemed to be the Colleges and Institutions established by these Statutes.

Convocation.

37. Convocations of the University for the conferring of degrees or for other purposes shall be held in such manner as may be prescribed by the Ordinances.

Acting Chairman of meetings.

38. 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.

Resignation.

39. (1) Any member, other than an *ex-officio* member of the Court, Executive Council, Academic Council or any other authority of the University or any committee of such authority may resign by letter

Repealed

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, other than a Dean, 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.

40. (1) A member of the Court, Executive Council or Academic Council may be removed by a resolution of the Court, Executive Council or Academic Council, as the case may be, passed by a majority of not less than two-thirds of its members on either of the following grounds, namely:—

Removal
of mem-
bers and
employees.

(i) such member has become incapable of performing his duties;

(ii) such member has been convicted by a court of an offence which, in the opinion of the Court of the University, Executive Council or Academic Council, as the case may be, involves moral turpitude.

(2) Notwithstanding anything contained to the contrary in the terms of his contract of service or of his appointment, any officer of the University, salaried or otherwise, may be removed from that office by the authority which is competent to fill the vacancy on either of the following grounds, namely:—

(i) the officer has become incapable of performing his duties;

(ii) the officer has been convicted by a court of an offence which, in the opinion of the Court of the University, Executive Council or Academic Council, as the case may be, involves moral turpitude:

Provided that nothing in this clause shall be deemed to affect any rights accruing to an officer appointed on contract in accordance with the terms of such contract.

(3) (a) Notwithstanding anything contained in the terms of the contract of service of a teacher, the Executive Council shall be entitled to dismiss a teacher on grounds of misconduct after following the procedure specified in clause (c), but save as aforesaid, the Executive Council shall not be entitled to determine the employment of a teacher save for good cause and after giving three months' notice in writing or payment of three months' salary in lieu of such notice.

(b) The determination of a teacher's employment shall require a two-thirds majority of the members of the Executive Council present and voting.

(c) The Vice-Chancellor may suspend a teacher against whom any misconduct is alleged and shall report the case to the next meeting of the Executive Council, but before any orders for dismissal are passed, the teacher shall be informed of the allegations made against him and shall be given a reasonable opportunity to make such representation to the Executive Council or to any Committee thereof appointed for the purpose, as he may desire to make; and, further, he shall be entitled to claim the benefit of due enquiry, with full opportunity to inspect evidence and cross-examine witnesses, and offer his own evidence and witnesses, before the Executive Council or before a person or persons appointed by it to conduct the enquiry.

Repealed

(d) Any dismissal on the ground of misconduct shall take effect on the date on which the teacher was first suspended.

(e) Before a notice is given or payment is made to the teacher under sub-clause (a), he shall be informed by the Executive Council of the cause of the action proposed to be taken against him and shall be given a reasonable opportunity of making such representations to the Executive Council or to any Committee thereof appointed for the purpose, as he may desire to make.

(f) Notwithstanding anything contained in the Statutes, the teacher may at any time require his employment to be terminated by giving the Executive Council three months' notice in writing.

Residence condition for membership and office.

41. Notwithstanding anything contained in these Statutes, no person who is not ordinarily resident in India shall be eligible to be an officer of the University or a member of any authority of the University.

Membership of authorities by virtue of membership of other bodies.

42. 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.

Alumni (Old Boys) Association.

43. No member of the Alumni (Old Boys) Association shall be entitled to vote or stand for the election to the Court unless—

(i) he has been a member of the Association for at least five years continuously prior to the date of election;

(ii) he pays such subscription and satisfies other conditions, as may be prescribed by the Ordinances; and

(iii) he is a graduate of the Aligarh Muslim University or an ex-student of the Muhammedan Anglo-Oriental College or the Muhammedan Anglo-Oriental Collegiate School, Aligarh:

Provided that if he is not a graduate, he should have been a member of the Association for at least ten years continuously prior to the date of election.

Explanation.—The word "graduate" in this Statute shall include a graduate of the Muhammedan Anglo-Oriental College, Aligarh.

Delegation of powers.

44. Subject to the provisions of the Act and these Statutes, any officer or authority of the University may delegate his or its powers to any other officer or authority or person under their 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.

ANNEXURE

(a) Faculty of Arts:

(i) Department of Arabic,

(ii) Department of English,

Repealed

- (iii) Department of Hindi,
- (iv) Department of Linguistics,
- (v) Department of Persian,
- (vi) Department of Philosophy,
- (vii) Department of Sanskrit,
- (viii) Department of Urdu;

(b) Faculty of Social Sciences:

- (i) Department of Economics,
- (ii) Department of Education,
- (iii) Department of History,
- (iv) Department of Islamic Studies,
- (v) Department of Library Science,
- (vi) Department of Political Science,
- (vii) Department of Psychology,
- (viii) Department of Sociology,
- (ix) Centre of West Asian Studies;

(c) Faculty of Commerce:

- (i) Department of Commerce;

(d) Faculty of Law:

- (i) Department of Law;

(e) Faculty of Theology:

- (i) Department of Sunni Theology,
- (ii) Department of Shia Theology;

(f) Faculty of Science:

- (i) Department of Botany,
- (ii) Department of Chemistry,
- (iii) Department of Geography,
- (iv) Department of Geology,
- (v) Department of Mathematics and Statistics,
- (vi) Department of Physics,
- (vii) Department of Zoology,
- (viii) Department of Military Science;

(g) Faculty of Medicine:

- (i) Department of Anatomy,
- (ii) Department of Physiology,
- (iii) Department of Bio-Chemistry,
- (iv) Department of Pharmacology,
- (v) Department of Pathology,
- (vi) Department of Micro-Biology,
- (vii) Department of Surgery,
- (viii) Department of Radiology and Electro-Therapeutics,

Repealed

- (ix) Department of Forensic Medicine,
 - (x) Department of Medicine,
 - (xi) Department of Paediatrics,
 - (xii) Department of Social and Preventive Medicine,
 - (xiii) Department of Obstetrics and Gynaecology,
 - (xiv) Department of Ophthalmology;
 - (xv) Department of Unani Tib and Surgery;
- (h) Faculty of Engineering and Technology:
- (i) Department of Electrical Engineering,
 - (ii) Department of Mechanical Engineering,
 - (iii) Department of Civil Engineering,
 - ~~(iv) Department of Technology.~~

Transitional provisions

33. (1) Every authority of the University shall, as soon as may be, after the commencement of this Act, be constituted in accordance with the provisions of the principal Act as amended by this Act and of the Statutes set out in the Schedule and until any such authority is constituted, the authority functioning immediately before such commencement, shall continue to exercise all the powers and perform all the duties under the principal Act, so amended.

(2) The Vice-Chancellor, the Pro-Vice-Chancellor, the Treasurer and the Registrar, holding office immediately before the commencement of this Act shall, on and from such commencement, hold their respective offices by the same tenure and upon the same terms and conditions as they held it immediately before such commencement.

(3) The Chancellor, and the Deans of Faculties shall, as soon as may be, after the commencement of this Act, be appointed in accordance with the provisions of the principal Act as amended by this Act and of the Statutes set out in the Schedule and the person holding any such office immediately before such commencement shall continue to hold that office until his successor enters upon his office.

Power of Visitor to make appointments in certain cases.

34. If any difficulty arises with respect to the establishment of any authority of the University or in connection with the first meeting of any authority of the University, the Visitor may, in consultation with the Vice-Chancellor, by order, make any appointment or do anything which appears to him necessary or expedient for the proper establishment of any authority of the University or for the first meeting of any authority of the University.

Saving.

35. Anything done, any action taken or any degree or other academic distinction conferred by the University before the commencement of this Act shall, notwithstanding any change made by this Act in the constitution of the Court, Executive Council, Academic Council, or any other authority of the University, be valid as if such thing were done, action were taken or degree or other academic distinction were conferred under the provisions of the principal Act as amended by this Act.

THE DELHI CO-OPERATIVE SOCIETIES ACT, 1972

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- 113. Power of Registrar to require production of documents and books and papers and to examine them and to report thereon and to forward a copy of the report to the society.
- 114. Power of Registrar to require production of documents and books and papers and to examine them and to report thereon and to forward a copy of the report to the society and to take such steps as may be necessary to give effect to the provisions of this section.
- 115. Power of Registrar to require production of documents and books and papers and to examine them and to report thereon and to forward a copy of the report to the society and to take such steps as may be necessary to give effect to the provisions of this section and to call for such information as may be necessary to enable him to do so.
- 116. Power of Registrar to require production of documents and books and papers and to examine them and to report thereon and to forward a copy of the report to the society and to take such steps as may be necessary to give effect to the provisions of this section and to call for such information as may be necessary to enable him to do so and to require the society to furnish such information.
- 117. Power of Registrar to require production of documents and books and papers and to examine them and to report thereon and to forward a copy of the report to the society and to take such steps as may be necessary to give effect to the provisions of this section and to call for such information as may be necessary to enable him to do so and to require the society to furnish such information and to require the society to produce such documents and books and papers as may be necessary to enable him to do so.
- 118. Power of Registrar to require production of documents and books and papers and to examine them and to report thereon and to forward a copy of the report to the society and to take such steps as may be necessary to give effect to the provisions of this section and to call for such information as may be necessary to enable him to do so and to require the society to furnish such information and to require the society to produce such documents and books and papers as may be necessary to enable him to do so and to require the society to produce such documents and books and papers as may be necessary to enable him to do so and to require the society to produce such documents and books and papers as may be necessary to enable him to do so.
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co-operative societies, means a society registered or deemed to be registered under this Act.

"co-operative society" means a society in which the liability of its members is limited and its property is held for its members to the extent of their individual contributions to the society in the form of its share.

THE DELHI CO-OPERATIVE SOCIETIES ACT, 1972

No. 35 OF 1972

"deposit insurance corporation" means the Deposit Insurance and Credit Guarantee Corporation established under section 3 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961.

[17th June, 1972.]

An Act to consolidate and amend the law relating to co-operative societies in the Union territory of Delhi)

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the **Delhi Co-operative Societies Act, 1972**.

Short title, extent and commencement.

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

(3) It shall come into force on such date as the Lieutenant-Governor may, by notification in the Delhi Gazette, appoint.

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

Definitions.

(a) "bye-laws" means the registered bye-laws for the time being in force, and includes registered amendments of such bye-laws;

(b) "committee" means the governing body of a co-operative society, by whatever name called, to which the management of the affairs of the society is entrusted;

(c) "co-operative bank" shall have the same meaning as is assigned to it in the Deposit Insurance Corporation Act, 1961;

of 1961.

4 2-4-1973 (as per 'Indian Express' dated 2-4-1973).

(d) "co-operative society" means a society registered or deemed to be registered under this Act;

(e) "co-operative society with limited liability" means a co-operative society the liability of whose members is limited by its bye-laws to the amount, if any, unpaid on the shares individually held by them or to such amount as they may individually undertake to contribute to the assets of the society, in the event of its being wound up;

(f) "co-operative society with unlimited liability" means a co-operative society the liability of whose members is unlimited for the purpose of contributing jointly and severally to any deficiency in the assets of the society in the event of its being wound up;

(g) "Deposit Insurance Corporation" means the Deposit Insurance Corporation established under section 3 of the Deposit Insurance Corporation Act, 1961;

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(h) "federal society" means a society—

(a) not less than five members of which are themselves societies; and

(b) in which the voting rights are so regulated that the members which are societies have not less than four-fifth of the total number of votes in the general meeting of such society;

(i) "financing bank" means a co-operative society, the objects of which include the creation of funds to be lent to other co-operative societies;

(j) "Lieutenant-Governor" means the administrator of the Union territory of Delhi appointed by the President under article 239 of the Constitution;

(k) "member" means a person joining in the application for the registration of a co-operative society and a person admitted to membership after such registration in accordance with this Act, the rules and the bye-laws, and includes a nominal and an associate member and the Central Government when it subscribes to the share capital of a society;

(l) "officer" means the president, vice-president, chairman, vice-chairman, managing director, secretary, manager, member of committee, treasurer, liquidator, administrator and includes any other person empowered under the rules or the bye-laws to give directions in regard to the business of a co-operative society;

(m) "prescribed" means prescribed by rules;

(n) "Registrar" means a person appointed to perform the functions of the Registrar of Co-operative Societies under this Act, and includes any person appointed to assist the Registrar when exercising all or any of the powers of the Registrar;

(o) "Reserve Bank" means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934;

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(p) "rules" means the rules made under this Act;

(q) "Tribunal" means the Delhi Co-operative Tribunal constituted under section 78.

CHAPTER II

REGISTRATION OF CO-OPERATIVE SOCIETIES

3. (1) The Lieutenant-Governor may appoint a person to be the Registrar of Co-operative Societies for the Union territory of Delhi and may appoint other persons to assist him. Registrar.

(2) The Lieutenant-Governor may, by general or special order, confer on any person appointed to assist the Registrar all or any of the powers of the Registrar under this Act.

(3) Every person appointed to assist the Registrar shall exercise the powers conferred on him under sub-section (2) subject to the general guidance, superintendence and control of the Registrar.

(4) The Lieutenant-Governor may, by notification in the Delhi Gazette and subject to such conditions as he may think fit to impose, confer all or any of the powers of the Registrar under this Act on any federal society, or an officer of such federal society; and every such federal society or officer on whom the powers of the Registrar are so conferred shall exercise such powers under the general guidance, superintendence and control of the Registrar.

4. (1) Subject to the provisions hereinafter contained, a society which has as its object the promotion of the economic interests of its members in accordance with co-operative principles, or a society established with the object of facilitating the operations of such a society, may be registered under this Act with or without limited liability: Societies which may be registered.

Provided that no society shall be registered if it is likely to be economically unsound or the registration of which may have an adverse effect on development of co-operative movement:

Provided further that, unless the Lieutenant-Governor by general or special order otherwise directs, the liability of the society of which a member is a co-operative society shall be limited.

(2) The word "limited" or its equivalent in any Indian language shall be the last word in the name of every society registered under this Act with limited liability.

5. No society other than a federal society shall be registered under this Act unless it consists of at least ten persons (each of such persons being a member of different family), who are qualified to be members under this Act and who reside in the area of operation of the society. Restrictions on registration.

Explanation.—For the purposes of this section the expression "member of a family" means wife, husband, father, mother, grand-father, grand-mother, step-father, step-mother, son, un-married daughter, un-married step-daughter, step-son, grand-son, un-married grand-daughter, un-married sister, un-married half-sister, brother, half-brother and wife of brother or half-brother.

Restrictions on holding of shares.

6. No member other than the Central Government or a co-operative society shall hold more than such portion of the share-capital of a co-operative society, subject to a maximum of one-fifth, as may be prescribed or have or claim any interest in the shares of such society exceeding ten thousand rupees, whichever is less.

Application for registration.

7. (1) For the purposes of registration, an application shall be made to the Registrar.

(2) The application shall be signed,—

(a) in the case of a society of which no member is a co-operative society, by at least ten persons qualified in accordance with the requirements of section 5; and

(b) in the case of a society of which a member is a co-operative society, by a duly authorised person on behalf of every such society and where all the members of the society are not co-operative societies, by ten other members, or, when there are less than ten other members, by all of them.

Power of the Registrar to decide certain questions.

8. Where any question arises whether for the purpose of this Act a person resides in the area of operation of a society or not, or whether a society is of same type as another society or of different type, the question shall be decided by the Registrar whose decision shall be final.

Registration.

9. (1) If the Registrar is satisfied—

(a) that the application complies with the provisions of this Act and the rules;

(b) that the objects of the proposed society are in accordance with section 4;

(c) that the proposed bye-laws are not contrary to the provisions of this Act and the rules; and

(d) that the proposed society has reasonable chances of success, the Registrar may register the society and its bye-laws.

(2) When the Registrar refuses to register a society, he shall communicate the order of refusal, together with the reasons therefor, to such of the applicants as may be prescribed.

(3) The application for registration shall be disposed of by the Registrar within a period of three months from the date of receipt thereof by him:

Provided that if the Registrar is unable to dispose of the application within the aforesaid period, he shall make a report to the Lieutenant-Governor stating therein the reasons for his inability to do so, and the Lieutenant-Governor may allow him further time not exceeding three months to dispose of such application.

Registration certificate.

10. Where a society is registered under this Act, the Registrar shall issue a certificate of registration signed by him, which shall be conclusive evidence that the co-operative society therein mentioned is duly registered under this Act.

Amendment of bye-laws of a co-operative society.

11. (1) No amendment of any bye-laws of a co-operative society shall be valid unless such amendment has been registered under this Act.

(2) Every proposal for such amendment shall be forwarded to the Registrar and if the Registrar is satisfied that the proposed amendment—

(a) is not contrary to the provisions of this Act and the rules;

(b) does not conflict with co-operative principles; and

(c) will promote the economic interests of the members of the society,

he may register the amendment.

(3) The Registrar shall forward to the society a copy of the registered amendment together with a certificate signed by him and such certificate shall be conclusive evidence that the amendment has been duly registered.

(4) Where the Registrar refuses to register an amendment of the bye-laws of a co-operative society, he shall communicate the order of refusal together with the reasons therefor, to the society in the manner prescribed.

12. An amendment of the bye-laws of a co-operative society shall, unless it is expressed to come into operation on a particular day, come into force on the day on which it is registered.

When amendments of bye-laws come into force.

13. (1) A co-operative society may, by an amendment of its bye-laws, change its name but such change shall not affect any right or obligation of the society or of any of its members or past members, and any legal proceedings pending may be continued by or against the society under its new name.

Change of name.

(2) Where a co-operative society changes its name, the Registrar shall enter the new name on the register of co-operative societies in place of the former name and shall amend the certificate of registration accordingly.

14. (1) Subject to the provisions of this Act and the rules, a co-operative society may, by an amendment of its bye-laws, change the form or extent of its liability.

Change of liability.

(2) When a co-operative society has passed a resolution to change the form or extent of its liability, it shall give notice thereof in writing to all its members and creditors and, notwithstanding any bye-law or contract to the contrary, any member or creditor shall, during a period of one month from the date of service of the notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.

(3) Any member or creditor who does not exercise his option within the period specified in sub-section (2) shall be deemed to have assented to the change.

(4) An amendment of a bye-law of a co-operative society changing the form or extent of its liability shall not be registered or take effect until either—

(a) the assent thereto of all members and creditors has been obtained; or

(b) all claims of members and creditors who exercise the option referred to in sub-section (2) within the period specified therein have been met in full.

Amalgamation, transfer of assets and liabilities and division of co-operative societies.

15. (1) A co-operative society may, with the previous approval of the Registrar and by a resolution passed by a two-thirds majority of the members present and voting at a general meeting of the society,—

(a) transfer its assets and liabilities in whole or in part to any other co-operative society;

(b) divide itself into two or more co-operative societies.

(2) Any two or more co-operative societies may, with the previous approval of the Registrar and by a resolution passed by a two-thirds majority of the members present and voting at a general meeting of each such society, amalgamate themselves and form a new co-operative society.

(3) The resolution of a co-operative society under sub-section (1) or sub-section (2) shall contain all particulars of the transfer, division or amalgamation, as the case may be:

Provided that in the case of a co-operative bank, the Registrar shall not accord approval to any such resolution without the previous sanction in writing of the Reserve Bank.

(4) When a co-operative society has passed any such resolution, it shall give notice thereof in writing to all its members and creditors and, notwithstanding any bye-laws or contract to the contrary, any member or creditor shall, during the period of one month of the date of service of the notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.

(5) Any member or creditor who does not exercise his opinion within the period specified in sub-section (4) shall be deemed to have assented to the proposals contained in the resolution.

(6) A resolution passed by a co-operative society under this section shall not take effect until, either—

(a) the assent thereto of all the members and creditors has been obtained; or

(b) all claims of members and creditors who exercise the option referred to in sub-section (4) within the period specified therein have been met in full.

(7) Where a resolution passed by a co-operative society under this section involves the transfer of any assets and liabilities, the resolution shall, notwithstanding anything contained in any law for the time being in force, be a sufficient conveyance to vest the assets and liabilities in the transferee without any further assurance.

Power to direct amalgamation, division and re-organisation in public interest etc.

16. (1) Where the Registrar is satisfied that it is essential in the public interest, or in the interest of the co-operative movement, or for the purpose of securing the proper management of any co-operative society that two or more co-operative societies should be amalgamated or any co-operative society should be divided to form two or more co-operative societies or should be reorganised, then, notwithstanding anything contained in section 15, but subject to the provisions of this section, the Registrar may, by order, provide for the amalgamation, division or re-organisation of these co-operative societies into a single society or into societies with such constitution, property rights, interests and authorities

and such liabilities, duties and obligations as may be specified in the order:

Provided that no such order of amalgamation, division or reorganisation in respect of a co-operative bank shall be made without the previous sanction in writing of the Reserve Bank.

(2) No order shall be made under this section, unless—

(a) a copy of the proposed order has been sent in draft to the co-operative society or each of the co-operative societies concerned; and

(b) the Registrar has considered and made such modifications in the draft order as may seem to him desirable in the light of any suggestions and objections which may be received by him within such period (not being less than two months from the date on which a copy of the order aforesaid is received by the society or societies, as the case may be), as the Registrar may fix in that behalf, either from the society or from any of the societies concerned or from any member or class of members thereof or from any creditor or class of creditors thereof.

(3) The order referred to in sub-section (1) may contain such incidental, consequential and supplemental provisions as may, in the opinion of the Registrar, be necessary to give effect to the amalgamation, division or reorganisation, as the case may be.

(4) Every member or creditor of each of the co-operative societies to be amalgamated, divided or reorganised, who has objected to the scheme of amalgamation, division or reorganisation, within the period specified, shall be entitled to receive, on the issue of the order of amalgamation, division or reorganisation, his share or interest, if he be a member, and the amount in satisfaction of his dues, if he be a creditor.

(5) On the issue of an order under sub-section (1), the provisions of sub-sections (2), (3) and (4) of section 19 shall apply to the co-operative societies so amalgamated, divided or reorganised as if the amalgamation, division or reorganisation had been made under section 15.

19. 17. When an order of moratorium has been made by the Central Government under sub-section (2) of section 45 of the Banking Regulation Act, 1949, in respect of a co-operative bank, the Registrar, with the previous approval of the Reserve Bank in writing, may, during the period of moratorium, prepare a scheme—

(a) for the reorganisation of the co-operative bank; or

(b) for the amalgamation of the co-operative bank with any other co-operative bank.

Registrar to prepare scheme of amalgamation of co-operative bank in certain cases.

1. 18. Notwithstanding anything contained in sections 15 and 16 or any other provision of this Act, where a co-operative bank, being an insured bank within the meaning of the Deposit Insurance Corporation Act, 1961, is amalgamated or reorganised and the Deposit Insurance Corporation has become liable to pay to the depositors of the insured bank under sub-section (2) of section 16 of that Act, the bank with which such insured bank is amalgamated, or the new co-operative bank formed after such amalgamation, or as the case may be, the insured bank or transferee

Liability of a co-operative bank to the Deposit Insurance Corporation.

bank shall be under an obligation to repay to the Deposit Insurance Corporation in the circumstances, to the extent of and in the manner referred to in section 21 of the Deposit Insurance Corporation Act, 1961.

Cancel-
lation of
registra-
tion certi-
ficates of
co-opera-
tive so-
cieties in
certain
cases.

19. (1) Where the whole of the assets and liabilities of a co-operative society are transferred to another co-operative society in accordance with the provisions of section 15 or section 16, the registration of the first mentioned co-operative society shall stand cancelled and the society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(2) Where two or more co-operative societies are amalgamated into a new co-operative society in accordance with the provisions of section 15 or section 16, the registration of each of the amalgamating societies shall stand cancelled on the registration of the new society, and each society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(3) Where a co-operative society divides itself into two or more co-operative societies in accordance with the provisions of section 15 or is divided by the Registrar in accordance with the provisions of section 16, the registration of that society shall stand cancelled on the registration of the new societies, and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(4) The amalgamation and splitting of co-operative societies shall not in any manner whatsoever affect any right or obligation of the resulting co-operative society or societies or render defective any legal proceeding by or against the co-operative society or societies, and any legal proceedings that might have been continued or commenced by or against the co-operative society or societies, as the case may be, before the amalgamation or splitting, may be continued or commenced by or against the resulting co-operative society or societies.

(5) Where a co-operative society has not commenced business within a reasonable time of its registration or has ceased to function or if the Registrar is satisfied, after making such inquiry as he thinks fit, that the society no longer has genuinely as its objects one or more of the objects specified in section 4 and that its registration ought in the interests of the general public be cancelled, he shall make an order cancelling the registration of the co-operative society. The co-operative society shall, from the date of such order of cancellation, be deemed to be dissolved and shall cease to exist as a corporate body.

CHAPTER III

MEMBERS OF CO-OPERATIVE SOCIETIES AND THEIR RIGHTS AND LIABILITIES

Persons
who may
become
members.

20. (1) No person shall be admitted as member of a co-operative society except the following, namely:—

(a) an individual competent to contract under section 11 of the Indian Contract Act, 1872;

(b) any other co-operative society;

(c) the Central Government; and

(d) such class or classes of persons or association of persons may be notified by the Lieutenant-Governor in this behalf;

Provided that the provisions of clause (a) shall not apply to an individual seeking admission to a society exclusively formed for the benefit of students of a school or college.

(2) Notwithstanding anything contained in sub-section (1), the Lieutenant-Governor may, having regard to the fact that the interest of any person or class of persons conflicts or is likely to conflict with the objects of any society or class of societies, by general or special order, published in the Delhi Gazette, declare that any person or class of persons engaged in or carrying on any profession, business or employment shall be disqualified from being admitted, or for continuing, as members or shall be eligible for membership only to a limited extent of any specified society or class of societies, so long as such person is or such persons are engaged in or carrying on that profession, business or employment, as the case may be.

21. (1) Notwithstanding anything contained in clause (d) of section 20, a co-operative society may admit any person as a nominal or associate member in accordance with its bye-laws.

Nominal or associate members.

(2) A nominal or associate member shall not be entitled to any share in any form whatsoever, in the assets or profits of the co-operative society.

(3) Save as provided in this section, a nominal or associate member shall have such privileges and rights of a member and be subject to such liabilities of a member, as may be specified in the bye-laws of the society.

22. No member of a co-operative society shall exercise the rights of a member unless he has made such payment to the society in respect of membership or has acquired such interest in the society as may be specified in the bye-laws.

Member not to exercise rights till due payment made.

23. Every member of a co-operative society shall have one vote in the affairs of the society:

Votes of members.

Provided that—

(a) in the case of an equality of votes, the chairman shall have a second or casting vote;

(b) a nominal or associate member shall not have the right of vote;

(c) where the Central Government is a member of the co-operative society, each person nominated by the Central Government on the committee shall have one vote.

24. (1) Every member of a co-operative society shall exercise his vote in person and no member shall be permitted to vote by proxy.

Manner of exercising vote.

(2) Notwithstanding anything contained in sub-section (1), a co-operative society which is a member of another co-operative society, may, subject to the rules, appoint one of its members to vote on its behalf in the affairs of that other society.

Restriction on transfer of shares or interest.

25. The transfer of the share or interest of a member in the capital of a co-operative society shall be subject to such conditions as to maximum holding as are specified in section 6.

Transfer of interest on death of members.

26. (1) On the death of a member a co-operative society may transfer the share or interest of the deceased member to the person nominated in accordance with the rules made in this behalf, or, if there is no person so nominated, to such person as may appear to the committee to be the heir or legal representative of the deceased member, or pay to such nominee, heir or legal representative, as the case may be, a sum representing the value of such member's share or interest as ascertained in accordance with the rules or bye-laws:

Provided that—

(i) in the case of a co-operative society with unlimited liability, such nominee, heir or legal representative, as the case may be, may require payment by the society of the value of the share or interest of the deceased member ascertained as aforesaid;

(ii) in the case of a co-operative society with limited liability, the society shall transfer the share or interest of the deceased member to such nominee, heir or legal representative, as the case may be, being qualified in accordance with the rules and bye-laws for membership of the society, or on his application within one month of the death of the deceased member to any person specified in the application who is so qualified;

(iii) no such transfer or payment shall be made except with the consent of the nominee, heir or legal representative, as the case may be.

(2) A co-operative society shall, subject to the provisions of section 36 and unless within six months of the death of member prevented by an order of a competent court, pay to such nominee, heir or legal representative, as the case may be, all other moneys due to the deceased member from the society.

(3) All transfers and payments made by a co-operative society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

Liability of past member and estate of deceased member.

27. (1) Subject to the provisions of sub-section (2), the liability of a past member or of the estate of a deceased member of a co-operative society for the debts of the society as they existed,—

(a) in the case of a past member, on the date on which he ceased to be a member;

(b) in the case of a deceased member, on the date of his death, shall continue for a period of two years from such date.

(2) Where a co-operative society is ordered to be wound up under section 63, the liability of a past member or of the estate of a deceased member who ceased to be a member or died within two years immediately preceding the date of the order of winding up, shall continue until the entire liquidation proceedings are completed, but such liability shall extend only to the debts of the society as they existed on the date of his ceasing to be a member or death, as the case may be.

CHAPTER IV

MANAGEMENT OF CO-OPERATIVE SOCIETIES

28. (1) The final authority in a co-operative society shall vest in the general body of members: Final authority in a co-operative society.

Provided that where the bye-laws of a co-operative society provide for the constitution of a smaller body consisting of delegates of members of the society elected or selected in accordance with such bye-laws the smaller body shall exercise such powers of the general body as may be prescribed or as may be specified in the bye-laws of the society.

(2) Notwithstanding anything contained in sub-section (2) of section 24 each delegate shall have one vote in the affairs of the society.

29. (1) Every co-operative society shall, within a period of six months next after the date fixed for making-up its accounts for the year under the rules for the time being in force, call a general meeting of its members for the purpose of— Annual general meeting.

(a) approval of the programme of the activities of the society prepared by the committee for the ensuing year;

(b) election, if any, of the members of the committee other than nominated members subject to the provisions of section 31;

(c) consideration of the audit report and the annual report;

(d) disposal of the net profits; and

(e) consideration of any other matter which may be brought forward in accordance with bye-laws:

Provided that the Registrar may, by general or special order, extend the period for holding such meeting for a further period not exceeding three months:

Provided further that, if in the opinion of the Registrar no such extension is necessary, or such meeting is not called by the society within the extended period, if any, granted by him, the Registrar or any person authorised by him may call such meeting in the manner prescribed, and that meeting shall be deemed to be a general meeting duly called by the society; and the Registrar may order that the expenditure incurred in calling such a meeting shall be paid out of the funds of the society or by such person or persons who, in the opinion of the Registrar, were responsible for the refusal or failure to convene the general meeting.

(2) At every annual general meeting of a co-operative society, the committee shall lay before the society a statement showing the details of the loans, if any, given to any of the members of the committee during the preceding year.

30. (1) The committee of a co-operative society may, at any time, call a special general meeting of the society and shall call such meeting within one month after the receipt of a requisition in writing from the Registrar or from such number of members or a proportion of the total number of members, as may be provided in the bye-laws. Special general meeting.

(2) If a special general meeting of a co-operative society is not called in accordance with the requisition referred to in sub-section (1), the Registrar or any person authorised by him in this behalf shall have the power to call such meeting and that meeting shall be deemed to be a meeting called by the committee, and the Registrar may order that the expenditure incurred in calling such a meeting shall be paid out of the funds of the society or by any such person or persons who, in the opinion of the Registrar, were responsible for the refusal or failure to convene the special general meeting.

Election and nomination of members of committees.

31. (1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, elections of the members of the committees of such co-operative societies or class of co-operative societies as may be prescribed shall be vested in such returning officers not below the rank of gazetted officers as may be appointed by the Lieutenant-Governor in this behalf.

(2) The vote at such elections shall be by secret ballot.

(3) The term of office of the elected members of the committee shall be such, not exceeding three co-operative years including the co-operative year of their election, as may be specified in the bye-laws of the society:

Provided that the elected members shall continue to hold office till their successors are elected or nominated under the provisions of the Act or the rules or bye-laws.

(4) No person shall be eligible to be elected as a member of the committee of a co-operative society unless he is a shareholder of that co-operative society.

(5) Notwithstanding anything contained in this Act, a person shall be disqualified for election as, or for being, the president, vice-president, chairman, vice-chairman, managing director, secretary, joint secretary or treasurer of a committee,—

(a) if he has held any such office on that committee during two consecutive terms, whether full or part;

(b) if he holds any such office on a committee of another co-operative society of the same type;

(c) if he holds any such office on the committees of three or more co-operative societies of a different type or different types:

Provided that nothing contained in this sub-section shall be deemed to disqualify any such person for election as, or for being, a delegate of a society or a member of another committee.

Explanation 1.—Where any person holding any office as aforesaid at the commencement of this Act is again elected to any such office after such commencement, he shall for the purpose of this sub-section be deemed to have held that office for one term before such election.

Explanation 2.—A person who has ceased to hold any such office as aforesaid continuously for one full term shall again be qualified for election to any of those offices.

(6) On the committee of such co-operative societies or class of co-operative societies as may be prescribed, two seats shall be reserved, one for the members who belong to the Scheduled Castes and one for economically weaker sections of the members who as land-owners or tenants or as both do not hold more than the prescribed area of agricultural land

or fulfil the prescribed conditions, and if no such persons are elected, the committee shall co-opt the required number of members from amongst the persons entitled to such representation:

Provided that in the case of a primary agricultural credit society such number of seats, being not less than one-half of the total number of members of the Committee, shall be reserved for members belonging to the Scheduled Castes and the aforesaid economically weaker sections of the members as may be prescribed, and if no such persons are elected, the Committee shall co-opt the required number of members from amongst the persons entitled to such representation.

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

(i) "Scheduled Castes" means any of the Scheduled Castes specified in Part I of the Schedule to the Constitution (Scheduled Castes) (Union Territories) Order, 1951;

(ii) "primary agricultural credit society" has the meaning assigned to it in clause (cii) of section 2 of the Reserve Bank of India Act, 1934.

2 of 1934.

(7) Notwithstanding anything contained in this Act, any dispute relating to election of members of any committee of a co-operative society mentioned in sub-section (1) shall be referred to the Lieutenant-Governor whose decision thereon shall be final.

(8) The Lieutenant-Governor may make rules generally to provide for or to regulate matters in respect of elections of members of the committees.

(9) Notwithstanding anything contained in sub-sections (1) to (8),—

(a) where the Central Government has subscribed to the share capital of a co-operative society, the Central Government or any person authorised by it in this behalf shall have the right to nominate on the committee such number of persons not exceeding three or one-third of the total number of members thereof, whichever is less, as the Central Government may determine;

(b) where the Industrial Finance Corporation, the State Finance Corporation or any other financing institution notified in this behalf by the Central Government has provided finance to a co-operative society, the Industrial Finance Corporation, State Finance Corporation or other financing institution, as the case may be, shall have the right to nominate one person on the committee.

(10) A person nominated under sub-section (9) shall hold office during the pleasure of the Central Government or the Corporation or other financing institution, as the case may be.

32. (1) If, in the opinion of the Registrar, the committee of any co-operative society persistently makes default or is negligent in the performance of the duties imposed on it by this Act or the rules or the bye-laws, or commits any act which is prejudicial to the interest of the society, or its members, the Registrar may, after giving the committee an opportunity to state its objections, if any, by order in writing, remove the committee; and

Super-session of committee.

(a) order fresh election of the committee, or

(b) appoint one or more administrators who need not be members of the society,

to manage the affairs of the society for a period not exceeding one year specified in the order, which period may, at the discretion of the Registrar

be extended from time to time, so, however, that the aggregate period does not exceed three years.

(2) The Registrar may fix any remuneration for the administrator, as he may think fit. Such remuneration shall be paid out of the funds of the society.

(3) The administrator shall, subject to the control of the Registrar and to such instructions as he may from time to time give, have power to exercise all or any of the functions of the committee or of any officer of the society and take all such actions as may be required in the interest of the society.

(4) The administrator shall, at the expiry of his term of office, arrange for the constitution of a new committee in accordance with the bye-laws of the society.

(5) Before taking any action under sub-section (1) in respect of a co-operative society, the Registrar shall consult the financing institution to which it is indebted.

(6) Notwithstanding anything contained in this Act, the Registrar shall in the case of a co-operative bank, if so required in writing by the Reserve Bank in the public interest or for preventing the affairs of the co-operative bank being conducted in a manner detrimental to the interests of the depositors or for securing the proper management of a co-operative bank pass an order for the supersession of the committee of that co-operative bank and appointment of an administrator therefor for such period or periods not exceeding five years in the aggregate, as may from time to time be specified by the Reserve Bank.

Securing
possession of
records,
etc.

33. (1) (a) If the record, registers or the books of accounts of a co-operative society are likely to be tampered with or destroyed and the fund and property of a society are likely to be misappropriated or misapplied; or

(b) if the committee of a co-operative society is reconstituted at a general meeting of the society or the committee of a society is removed by the Registrar under section 32 or if the society is ordered to be wound up under section 63 and the outgoing members of the committee refuse to hand over charge of the records and property of the society to those having or entitled to receive such charge,

the Registrar may apply to the magistrate, within whose jurisdiction the society functions, for securing the records and property of the society.

(2) On receipt of an application under sub-section (1), the magistrate may, by a warrant, authorise any police officer, not below the rank of sub-inspector to enter and search any place where the records and the property are kept or are believed to be kept and to seize such records and property; and the records and property so seized shall be handed over to the new committee or administrator of the society or the liquidator, as the case may be.

Acts of
co-operative
societies not
to be in-
validated by
certain
defects.

34. No act of a co-operative society or of any committee or of any officer shall be deemed to be invalid by reason only of the existence of any defect in procedure or in the constitution of the society or of the committee or in the appointment or election of an officer or on the ground that such officer was disqualified for his appointment.

CHAPTER V

PRIVILEGES OF CO-OPERATIVE SOCIETIES

35. The registration of a co-operative society shall render it a body corporate by the name under which it is registered having perpetual succession and a common seal, and with power to hold property, enter into contract, institute and defend suits and other legal proceedings and to do all things necessary for the purposes for which it is constituted.

Co-operative societies to be bodies corporate.

36. (1) Notwithstanding anything contained in any law for the time being in force, but subject to any prior claim of the Government in respect of land revenue or any money recoverable as land revenue, any debt or outstanding demand owing to a co-operative society by any member or past member or deceased member shall be a first charge upon the crops and other agricultural produce, cattle, fodder for cattle, agricultural or industrial implements or machinery, raw materials for manufacture and any finished products manufactured from such raw materials, belonging to such member, past member or forming part of the estate of the deceased member, as the case may be.

First charge of co-operative society on certain assets.

(2) No person shall transfer any property which is subject to a charge under sub-section (1) except with the previous permission in writing of the co-operative society which holds the charge.

(3) Notwithstanding anything contained in any law for the time being in force, any transfer of property made in contravention of the provisions of sub-section (2) shall be void.

(4) The charge created under sub-section (1) shall be available against any claim of the Government arising from a loan granted under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, after the grant of the loan by the society.

19 of 1883.
12 of 1884.

37. Notwithstanding anything contained in this Act or in any other law for the time being in force,—

Charge on immovable property of members borrowing loans from certain societies.

(i) any person who makes an application to a society of which he is a member for a loan shall, if he owns any land or has interest in any land as a tenant, make a declaration in the prescribed form which shall state that the applicant thereby creates a charge on such land or interest specified in the declaration for the payment of the amount of the loan which the society may make to the member in pursuance of the application and for all future advances, if any, required by him which the society may make to him as such member subject to such maximum as may be determined by the society together with interest on such amount of the loan and advances;

(ii) any person who has borrowed a loan from a society of which he is a member before the date of the coming into force of this Act, and who owns any land or has any interest in land as a tenant shall, as soon as possible, make a declaration in the form and to the effect referred to in clause (i);

(iii) a declaration made under clause (i) or clause (ii) may be varied at any time by a member with the consent of the society in favour of which such charge is created;

(iv) no member shall alienate the whole or any part of the land or interest therein specified in the declaration made under clause (i) or clause (ii) until the whole amount borrowed by the member together with interest thereon is paid in full:

Provided that for the purpose of paying in full to the society the whole amount borrowed by the member together with interest thereon, the member may, with the previous permission in writing of the society and subject to such conditions as the society may impose, alienate the whole or any part of such land or interest thereon:

Provided further that standing crops on any such land may be alienated with the previous permission of the society;

(v) any alienation made in contravention of the provisions of clause (iv) shall be void;

(vi) subject to the prior claims of the Government in respect of land revenue or any money recoverable as land revenue, there shall be a first charge in favour of the society on the land or interest specified in the declaration made under clause (i) or clause (ii) for and to the extent of the dues owing by him on account of the loans and advances;

(vii) the record of rights shall also include the particulars of every charge on land or interest created under a declaration under clause (i) or clause (ii) notwithstanding anything contained in any law relating to land revenue for the time being in force;

(viii) any sum due to a society in consequence of charge created under a declaration under clause (i) or clause (ii) shall, on application for its recovery being made by such society accompanied by a certificate signed by the Registrar, be recoverable by the Collector, according to the law and under the rules for the time being in force for the recovery of land revenue.

Explanation.—For the purposes of this section, "society" shall mean any co-operative society or class of co-operative societies specified in this behalf by the Lieutenant-Governor by a general or special order.

Charge and set-off in respect of share or contribution or interest of members. 38. A co-operative society shall have a charge upon the share or contribution or interest in the capital and on the deposits of a member or past member, or deceased member and upon any dividend, bonus or profits payable to a member or past member or the estate of a deceased member in respect of any debt due from such member or past member or the estate of such deceased member to the society, and may set-off any sum credited or payable to a member or past member or the estate of deceased member in or towards payment of any such debt.

Share or contribution or interest not liable to attachment. 39. Subject to the provisions of section 38, the share or contribution or interest of a member or past member or deceased member in the capital of a co-operative society shall not be liable to attachment or sale under any decree or order of any court in respect of any debt or liability incurred by such member, and a receiver under the Provincial Insolvency Act, 1920 shall not be entitled to or have any claim on such share or contribution or interest.

40. Any register or list of members or shares kept by any co-operative society shall be *prima facie* evidence of any of the following particulars entered therein:—

(a) the date on which any person entered in such register or list became a member;

(b) the date on which any such person ceased to be a member.

41. (1) A copy of any entry in a book of a co-operative society regularly kept in the course of its business shall, if certified in such manner as may be prescribed, be received in any suit or legal proceedings as *prima facie* evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is admissible.

Admissibility of copy of entry as evidence.

(2) No officer of a co-operative society and no officer in whose office the books of a co-operative society are deposited after liquidation shall, in any legal proceedings to which the society or the liquidator is not a party, be compelled to produce any of the society's books or documents the contents of which can be proved under this section, or to appear as a witness to prove the matters, transactions and accounts therein recorded, except under order of the court or the arbitrator made for special cause.

16 of 1908. 42. Nothing in clauses (b) and (c) of sub-section (1) of section 17 of the Indian Registration Act, 1908 shall apply to—

Exemption from compulsory registration of instruments.

(1) any instrument relating to shares in a co-operative society notwithstanding that the assets of the society consist in whole or in part of immovable property; or

(2) any debenture issued by any such society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property, except in so far as it entitles the holder thereof to the security afforded by a registered instrument whereby the society has mortgaged, conveyed, or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures; or

(3) an endorsement upon or transfer of any debenture issued by any such society.

43. (1) The Central Government may, by notification in the Official Gazette, remit the income-tax payable in respect of the profits of any class of co-operative societies or the dividends or other payments received by members of any class of such societies on account of profits.

Exemption from certain taxes, fees and duties.

(2) The Central Government may, by notification in the Official Gazette, remit in respect of any class of co-operative societies—

(a) the stamp duty chargeable under any law for the time being in force in respect of any instrument executed by or on behalf of a co-operative society or by an officer or member thereof and relating to the business of such society or any class of such instruments or in respect of any award or order made under this Act, in cases, where,

but for such remission the co-operative society, officer or member, as the case may be, would be liable to pay such stamp duty;

(b) any fee payable under any law for the time being in force relating to the registration of documents or court-fee.

(3) The Central Government may, by notification, exempt any class of co-operative societies from—

- (a) land revenue;
- (b) taxes on agricultural income;
- (c) taxes on sale or purchase of goods; and
- (d) taxes on professions, trades, callings and employments.

Deduction from salary to meet co-operative society's claim in certain cases.

44. (1) Notwithstanding anything contained in any law for the time being in force, a member of a co-operative society may execute an agreement in favour of the society providing that his employer shall be competent to deduct from the salary or wages payable to him by the employer, such amount as may be specified in the agreement and to pay the amount so deducted to the society in satisfaction of any debt or other demand owing by the member to the society.

(2) On the execution of such agreement, the employer shall, if so required by the co-operative society by a requisition in writing and so long as the society does not intimate that the whole of such debt or demand has been paid, make the deduction in accordance with the agreement and pay the amount so deducted to the society, as if it were a part of the salary or wages payable on the day as required under the Payment of Wages Act, 1936. Such payment shall be valid discharge of the employer for his liability to pay the amount deducted.

4 of 1936.

(3) Where a requisition in writing from any society registered or deemed to be registered in any reciprocating State in respect of a member of that society, who has executed any such agreement as is referred to in sub-section (1) and who for the time being is employed in the Union territory of Delhi, is received by his employer, the requisition shall be acted upon as if it had been made by a society in Delhi and the provisions of this section shall have effect accordingly.

Explanation.—For the purpose of this sub-section, “reciprocating State” means any State or Union territory which the Lieutenant-Governor may, by notification in the Delhi Gazette, declare to be a reciprocating State.

(4) If after the receipt of a requisition made under sub-section (2) or sub-section (3), the employer at any time fails to deduct the amount specified in the requisition from the salary or wages payable to the member concerned or makes default in remitting the amount deducted to the society, the society shall be entitled to recover any such amount from the employer as arrears of land revenue and the amount so due from the employer shall rank in priority in respect of the liability of the employer equal to that of the wages in arrears.

(5) Nothing contained in this section shall apply to establishment under a railway administration operating any railway as defined in clause (20) of article 366 of the Constitution.

45. Notwithstanding anything contained in any law for the time being in force, the Central Government may—

- (a) subscribe to the share capital of a co-operative society;
- (b) give loans or make advances to co-operative societies;
- (c) guarantee the repayment of principal and payment of interest on debentures issued by a co-operative society;
- (d) guarantee the repayment of share capital of a co-operative society and dividends thereon at such rates as may be specified by the Central Government;
- (e) guarantee the repayment of principal and payment of interest on loans and advances to a co-operative society; and
- (f) give financial assistance in any other form, including subsidies, to any co-operative society.

Other forms of State aid to co-operative societies.

CHAPTER VI

PROPERTIES AND FUNDS OF CO-OPERATIVE SOCIETIES

46. No part of the funds of a co-operative society shall be divided by way of bonus or dividend or otherwise among its members:

Funds not to be divided by way of profit.

Provided that after at least one-fourth of the net profits in any year has been carried to the reserve fund, payments from the remainder of such profits and from any profits of past years available for distribution may be made to the members to such extent and under such conditions as may be prescribed by the rules or bye-laws.

47. Any co-operative society may, with the sanction of the Registrar, after one-fourth of the net profits in any year has been carried to the reserve fund, contribute an amount not exceeding five per cent. of the remaining net profits to any purpose connected with the development of co-operative movement or charitable purpose as defined in section 20 of the Charitable Endowments Act, 1890.

Contribution to charitable purpose.

1890.

48. A co-operative society shall out of its net profits in any year credit such portion of the profits not exceeding five per cent. as may be prescribed to the Co-operative Education Fund constituted under the rules.

Contribution to Co-operative Education Fund.

49. (1) A co-operative society may invest or deposit its fund—

Investment of funds.

- (a) in the post office savings bank; or
- (b) in any of the securities specified in section 20 of the Indian Trusts Act, 1882; or
- (c) in the shares or securities of any other co-operative society; or
- (d) with any bank carrying on the business of banking approved for this purpose by the Registrar; or
- (e) in any other mode permitted by the rules.

(2) Any investments or deposits made before the commencement of this Act which would have been valid if this Act had been in force are hereby ratified and confirmed.

1882.

Restric-
tions
on loans.

50. (1) A co-operative society shall not make a loan to any person other than a member:

Provided that with the general or special sanction of the Registrar a co-operative society may make loan to another co-operative society.

(2) Notwithstanding anything contained in sub-section (1), a co-operative society may make a loan to a depositor within his deposit on its security.

Restric-
tions on
borrow-
ings.

51. A co-operative society shall receive deposits and loans only to such extent and under such conditions as may be prescribed or as may be specified in the bye-laws.

Restric-
tions on
other
transac-
tions
with
non-
members.

52. Save as provided in sections 50 and 51, the transactions of a co-operative society with any person other than a member shall be subject to such prohibitions and restrictions, if any, as may be prescribed.

CHAPTER VII

AUDIT, INQUIRY, INSPECTION AND SURCHARGE

Audit.

53. (1) The Registrar shall audit or cause to be audited by a person authorised by him by general or special order in writing in this behalf, the accounts of every co-operative society at least once in each year.

(2) The audit under sub-section (1) shall include an examination of overdue debts, if any, the verification of the cash balance and securities, and a valuation of the assets and liabilities of the society.

(3) The person auditing the accounts of a co-operative society shall have free access to the books, accounts, papers, vouchers, stock and other property of such society and shall be allowed to verify its cash balance and securities.

(4) The directors, managers, administrators and other officers of the society shall furnish to the person auditing the accounts of a co-operative society all such information as to its transactions and working as such person may require.

(5) The Registrar or the person authorised by him under sub-section (1) to audit the accounts of a co-operative society shall have power where necessary—

(a) to summon at the time of his audit any officer, agent, servant or member of the society, past or present, who he has reason to believe can give valuable information in regard to transactions of the society or the management of its affairs; and

(b) to require the production of any book or document relating to the affairs of, or any cash or securities belonging to, the society by any officer, agent, servant, or member in possession of such books, documents, cash or securities and in the event of serious irregularities discovered during audit, to take them into custody.

(6) If at the time of audit the accounts of a society are not complete, the Registrar or the person authorised by him under sub-section (1) to audit, may cause the accounts to be written up at the expense of the society.

(7) Audit fee, if any, due from any co-operative society shall be recoverable in the same manner as is provided in section 75.

54. The Registrar, or any person authorised by general or special order in this behalf by him, may inspect a co-operative society. For the purpose of inspection, the Registrar or the person so authorised by him shall at all times have access to all books, accounts, papers, vouchers, securities, stock and other property of the society and may in the event of serious irregularities discovered during inspection take them into custody and shall have power to verify the cash balance of the society and subject to the general or special order of the Registrar to call a committee meeting and a general meeting. Every officer or member of the society shall furnish such information with regard to the working of the society as the Registrar or the person making such inspection may require.

55. (1) The Registrar may of his own motion or on the application of a majority of the committee or of not less than one-third of the members, hold an inquiry or direct some person authorised by him by order in writing in this behalf to hold an inquiry into the constitution, working and financial condition of a co-operative society.

(2) The Registrar or the person authorised by him under sub-section (1) shall have the following powers, namely:—

(a) he shall at all times have, for purpose of examination, free access to the books, accounts, cash and other properties belonging to or in the custody of the society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, securities, cash or other properties to produce the same, at any place specified by him;

(b) he may, notwithstanding any rule or bye-law specifying the period of notice for a general meeting of the society, require the officers of the society to call a general meeting at such time and place at the headquarters of the society to consider such matters, as may be directed by him; and where the officers of the society refuse or fail to call such a meeting he shall have power to call it himself;

(c) he may summon any person who is reasonably believed by him to have any knowledge of the affairs of the society to appear before him at any place at the headquarters of the society or any branch thereof and may examine such person on oath.

(3) Any meeting called under clause (b) of sub-section (2) shall have all the powers of a general meeting called under the bye-laws of the society and its proceedings shall be regulated by such bye-laws.

(4) The Registrar shall communicate a brief summary of the report of the inquiry to the society, the financing institutions, if any, to which the society is affiliated, and to the person or authority, if any, at whose instance the inquiry is made.

56. (1) The Registrar shall, on the application of a creditor of a co-operative society, inspect or direct some person authorised by him by order in writing in this behalf to inspect the books of the society.

Provided that no such inspection shall be made unless the applicant—

(a) satisfies the Registrar that the debt is a sum then due, and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

(b) deposits with the Registrar such sum as security for the costs of proposed inspection as the Registrar may require.

(2) The Registrar shall communicate the result of any such inspection to the creditor.

Costs of inquiry.

57. Where an inquiry is held under section 55, or an inspection is made under section 56, the Registrar may apportion the costs, or such part of the costs, as he may think fit, between the society, the members or creditor demanding an inquiry or inspection, and the officers or former officers and the members or past members of the society:

Provided that—

(a) no order of the apportionment of the costs shall be made under this section unless the society or the person liable to pay the costs thereunder has had a reasonable opportunity of being heard;

(b) the Registrar shall state in writing under his own hand the grounds on which the costs are apportioned.

Recovery of costs.

58. Any sum awarded by way of costs under section 57 may be recovered, on application to a magistrate having jurisdiction in the place where the person from whom the money is claimable, actually and voluntarily resides or carries on business, and such magistrate shall recover the same as if it were a fine imposed by himself.

Surcharge⁽¹⁾.

59. (1) If in the course of an audit, inquiry, inspection or the winding up of a co-operative society, it is found that any person, who is or was entrusted with the organisation or management of such society or who is or has at any time been an officer or an employee of the society, has made any payment contrary to this Act, the rules or the bye-laws or has caused any deficiency in the assets of the society by breach of trust or wilful negligence or has misappropriated or fraudulently retained any money or other property belonging to such society, the Registrar may, of his own motion or on the application of the committee, liquidator or any creditor, inquire himself or direct any person authorised by him, by an order in writing in this behalf, to inquire into the conduct of such person:

Provided that no such inquiry shall be held after the expiry of six years from the date of any act or omission referred to in this sub-section.

(2) Where an inquiry is made under sub-section (1), the Registrar may, after giving the person concerned an opportunity of being heard, make an order, requiring him to repay or restore the money or property or any part thereof, with interest at such rate, or to pay contribution and costs or compensation to such extent, as the Registrar may consider just and equitable.

CHAPTER VIII

SETTLEMENT OF DISPUTES

60. (1) Notwithstanding anything contained in any law for the time being in force, if any dispute touching the constitution, management or the business of a co-operative society other than a dispute regarding disciplinary action taken by the society or its committee against a paid employee of the society arises—

Disputes which may be referred to arbitration.

(a) among members, past members and persons claiming through members, past members and deceased members, or

(b) between a member, past member or person claiming through a member, past member or deceased member and the society, its committee or any officer, agent or employee of the society or liquidator, past or present, or

(c) between the society or its committee and any past committee, any officer, agent or employee, or any past officer, past agent or past employee or the nominee, heirs or legal representatives of any deceased officer, deceased agent, or deceased employee of the society, or

(d) between the society and any other co-operative society, between a society and liquidator of another society or between the liquidator of one society and the liquidator of another society,

such disputes shall be referred to the Registrar for decision and no court shall have jurisdiction to entertain any suit or other proceedings in respect of such dispute.

(2) For the purposes of sub-section (1), the following shall be deemed to be disputes touching the constitution, management or the business of a co-operative society, namely:—

(a) a claim by the society for any debt or demand due to it from a member or the nominee, heirs or legal representatives of a deceased member, whether such debt or demand be admitted or not;

(b) a claim by a surety against the principal debtor where the society has recovered from the surety any amount in respect of any debt or demand due to it from the principal debtor as a result of the default of the principal debtor, whether such debt or demand is admitted or not;

(c) any dispute arising in connection with the election of any officer of a society other than a society mentioned in sub-section (1) of section 31.

(3) If any question arises whether a dispute referred to the Registrar under this section is or is not a dispute touching the constitution, management or the business of a co-operative society, the decision thereon of the Registrar shall be final and shall not be called in question in any court.

(4) (a) Notwithstanding anything contained in the Limitation Act, 1963, but subject to the specific provisions made in this Act, the period of limitation in the case of a dispute referred to the Registrar under sub-section (1) shall—

(i) when the dispute relates to the recovery of any sum including interest thereon due to a co-operative society by a member

thereof, be computed from the date on which such member dies or ceases to be a member of the society;

(ii) save as otherwise provided in sub-clause (iii), when the dispute relates to any act or omission on the part of any of the parties referred to in clause (b) or clause (c) of sub-section (1), be six years from the date on which the act or omission with reference to which the dispute arose, took place;

(iii) when the dispute relates to a co-operative society which has been ordered to be wound up under section 63 or in respect of which an administrator has been appointed under section 32, be six years from the date of the order issued under section 63 or section 32, as the case may be;

(iv) when the dispute is in respect of an election of an officer of a co-operative society other than a society referred to in sub-section (1) of section 31, be one month from the date of the declaration of the result of the election.

(b) The period of limitation in the case of any other dispute except those mentioned in the foregoing clause which are required to be referred to the Registrar under the last preceding section shall be regulated by the provisions of the Limitation Act, 1963, as if the dispute was a suit and the Registrar a civil court. 36 of 19

(c) Notwithstanding anything contained in clauses (a) and (b), the Registrar may admit a dispute after the expiry of the period of limitation, if the applicant satisfies the Registrar that he had sufficient cause for not referring the dispute within such period and the dispute so admitted shall be a dispute which shall not be barred on the ground that the period of limitation has expired.

Reference of disputes to arbitration.

61. (1) The Registrar may, on receipt of the reference of dispute under section 60,—

(a) decide the dispute himself, or

(b) transfer it for disposal to any person who has been invested by the Lieutenant-Governor with powers in that behalf, or

(c) refer it for disposal to one arbitrator.

(2) The Registrar may withdraw any reference transferred under clause (b) of sub-section (1) or referred under clause (c) of that sub-section and decide it himself or refer the same to another arbitrator for decision.

(3) The Registrar or any other person to whom a dispute is referred for decision under this section may, pending the decision of the dispute, make such interlocutory orders as he may deem necessary in the interest of justice.

Power of financing bank to proceed.

62. (1) If a co-operative society is unable to pay its debts to a financing bank by reason of its members committing default in the payment of the moneys due by them, the financing bank may direct the committee of such a society to proceed against such members under section 60 and if the committee fails to do so within a period of ninety days from the date of receipt of such direction, the financing bank itself may proceed against such members in which case the provisions of this Act, the rules or the bye-laws shall apply as if all references to the society or its committee in the said provisions were references to the financing bank.

(2) Where a financing bank has obtained a decree or award against a society in respect of moneys due to it from the society, the financing bank may proceed to recover such moneys firstly from the assets of the society and secondly from the members to the extent of their debts due to the society.

CHAPTER IX

WINDING UP OF CO-OPERATIVE SOCIETIES

63. (1) If the Registrar, after an inquiry has been held under section 55, or an inspection has been made under section 56, or on receipt of an application made by not less than three-fourths of the members of a co-operative society, is of opinion that the society ought to be wound up, he may issue an order directing it to be wound up.

Winding up of co-operative societies.

(2) The Registrar may of his own motion make an order directing the winding up of a co-operative society—

(a) where it is a condition of the registration of the society that the society shall consist of at least ten members and the number of members has been reduced to less than ten, or

(b) where the co-operative society has not commenced working or has ceased to function in accordance with co-operative principles.

(3) The Registrar may cancel an order for the winding up of a co-operative society, at any time, in any case where, in his opinion, the society should continue to exist.

(4) A copy of such order shall be communicated by registered post to the society and to the financing institutions, if any, of which the society is a member.

(5) Notwithstanding anything contained in this section no co-operative bank shall be wound up except with the previous sanction in writing of the Reserve Bank.

64. Notwithstanding anything to the contrary contained in this Act, the Registrar shall make an order for winding up of a co-operative bank, if so required by the Reserve Bank in the circumstances mentioned in section 13D of the Deposit Insurance Corporation Act, 1961.

Winding up of co-operative banks at the direction of the Reserve Bank

65. Where a co-operative bank being an insured bank within the meaning of the Deposit Insurance Corporation Act, 1961, is wound up, or taken into liquidation, and the Deposit Insurance Corporation has become liable to the depositors of the insured bank under sub-section (1) of section 16 of that Act, the Deposit Insurance Corporation shall be reimbursed by the liquidator or such other person in the circumstances to the extent and in the manner provided in section 21 of the Deposit Insurance Corporation Act, 1961.

47 of 1961.

Reimbursement to the Deposit Insurance Corporation by the liquidator.

66. (1) Where the Registrar has made an order under section 63 for the winding up of a co-operative society, the Registrar may appoint a liquidator for the purpose and fix his remuneration.

Liquidator.

(2) A liquidator shall, on appointment, take into his custody or under his control all the property, effects and actionable claims to which the

society is or appears to be entitled and shall take such steps as he may deem necessary or expedient, to prevent loss or deterioration of, or damage to, such property, effects and claims. He may carry on the business of the society so far as may be necessary with the previous approval of the Registrar.

(3) Where an appeal is preferred under section 76, an order of winding up of a co-operative society made under section 63 shall not operate thereafter until the order is confirmed in appeal:

Provided that the liquidator shall continue to have custody or control of the property, effects and actionable claims mentioned in sub-section (2) and have authority to take the steps referred to in that sub-section.

(4) Where an order of winding up of a co-operative society is set aside in appeal, the property, effects and actionable claims of the society shall revert in the society.

Powers of liquidator.

67. (1) Subject to any rules made in this behalf, the whole of the assets of a co-operative society, in respect of which an order for winding up has been made, shall vest in the liquidator appointed under section 66 from the date on which the order takes effect and the liquidator shall have power to realise such assets by sale or otherwise.

(2) Such liquidator shall also have power, subject to the control of the Registrar,—

(a) to institute and defend suits and other legal proceedings on behalf of the co-operative society by the name of his office;

(b) to determine from time to time the contribution (including debts due and costs of liquidation) to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members or by any officers or former officers, to the assets of the society;

(c) to investigate all claims against the co-operative society and subject to the provisions of this Act, to decide questions of priority arising between claimants;

(d) to pay claims against the co-operative society including interest up to the date of winding up according to their respective priorities, if any, in full or rateably, as the assets of the society may permit; the surplus, if any, remaining after payment of the claims being applied in payment of interest from the date of such order of winding up at a rate fixed by him but not exceeding the contract rate in any case;

(e) to determine by what persons and in what proportions the costs of the liquidation are to be borne;

(f) to determine whether any person is a member, past member or nominee of deceased member;

(g) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society;

(h) to carry on the business of the society so far as may be necessary for the beneficial winding up of the same;

(i) to make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging to have any claim, present or future, whereby the society may be rendered liable;

(j) to make any compromise or arrangement with any person between whom and the society there exists any dispute and to refer any such dispute to arbitration;

(k) after consulting the members of the society, to dispose of the surplus, if any, remaining after paying the claims against the society, in such manner as may be prescribed; and

(l) to compromise all calls or liabilities to calls and debts and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent, subsisting or supposed to subsist between the society and a contributory or alleged contributory or other debtor or person apprehending liability to the co-operative society and all questions in any way relating to or affecting the assets or the winding up of the society on such terms as may be agreed and take any security for the discharge of any such call, liability, debt or claim and give a complete discharge in respect thereof.

(3) When the affairs of a co-operative society have been wound up, the liquidator shall make a report to the Registrar and deposit the records of the society in such place as the Registrar may direct.

920. 68. Notwithstanding anything contained in the Provincial Insolvency Act, 1920, the contribution assessed by a liquidator shall rank next to debts due to the Government or to any local authority in order of priority in insolvency proceedings.

Priority of contributions assessed by liquidator.

69. (1) The Registrar may after considering the report of the liquidator made to him under sub-section (3) of section 67 order the registration of the co-operative society to be cancelled.

Power of Registrar to cancel registration of a co-operative society.

(2) An order passed under sub-section (1) shall be communicated by registered post to the president of the society and to the financing institutions, if any, of which the society was a member.

CHAPTER X

EXECUTION OF AWARDS, DECREES, ORDERS AND DECISIONS

70. Notwithstanding anything contained in Chapter VIII or any other law for the time being in force, but without prejudice to any other mode of recovery provided in this Act, the Registrar or any person subordinate to him empowered by the Registrar in this behalf may, on the application of a co-operative society, make an order directing the payment of any debt or outstanding demand due to the society by any member or past or deceased member, by sale of the property or any interest therein, which is subject to a charge under section 36:

Enforcement of charge.

Provided that no order shall be made under this section unless the member, past member or the nominee, heir or legal representative of the deceased member, has been served with a notice in the manner prescribed.

71. Every decision, award or order duly passed by the Registrar or arbitrator or Tribunal under section 29, section 30, section 59, section 61, section 70, section 76, section 78 or section 79 shall, if not carried out,—

Execution of orders, etc.

(a) where the decision, award or order provides for the recovery of money, be executed according to the law for the time being in force relating to the recovery of land revenue:

Provided that an application for the recovery of any sum in the manner aforesaid shall be made to the Collector and shall be accompanied by a certificate signed by the Registrar or by any person subordinate to him and empowered by the Registrar in this behalf; and

(b) in any other case be executed by the Registrar or any person subordinate to him and empowered by the Registrar in this behalf, in the same manner as is provided in the case of a civil court by the Code of Civil Procedure, 1908.

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Execution of orders of liquidator.

72. The orders of the liquidator under section 67 shall be executed according to the Act and under the rules for the time being in force for the recovery of arrears of land revenue.

Attachment before award.

73. Where the Registrar is satisfied that a party to any reference made to him under section 60 with intent to defeat or delay the execution of any decision that may be passed thereon is about to—

(a) dispose of the whole or any part of the property; or

(b) remove the whole or any part of the property from the local limits of the jurisdiction of the Registrar,

the Registrar may, unless adequate security is furnished, direct the conditional attachment of the said property or such part thereof as he thinks necessary. Such attachment shall be executed by a civil court having jurisdiction in the same way as an attachment order passed by itself and shall have the same effect as such an order:

Provided that the powers of the Registrar under this section shall not be delegated to any officer below such rank as may be prescribed.

Registrar or person empowered by him to be civil court for certain purposes.

74. The Registrar or any person empowered by him in this behalf shall be deemed, when exercising any powers under this Act for the recovery of any amount by the attachment and sale or by sale without attachment of any property, or when passing any orders on any application made to him for such recovery or for taking a step-in-aid of such recovery, to be civil court for the purposes of article 136 of the Schedule to the Limitation Act, 1963.

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Recovery of sums due to Government.

75. (1) All sums due from a co-operative society, or from an officer or member or past member of a co-operative society as such, to Government, including any costs awarded to Government under any provision of this Act, may on a certificate issued by the Registrar in this behalf, be recovered in the same manner as arrears of land revenue.

(2) Sums due from a co-operative society to Government and recoverable under sub-section (1), may be recovered, firstly, from the property of the society, secondly, in the case of a society the liability of the members of which is limited, from the members, past members or the estates of deceased members, subject to the limit of their liability, and, thirdly, in the case of other societies, from the members, past members or the estates of the deceased members:

Provided that the liability of past members and the estates of deceased members shall in all cases be subject to the provisions of section 27.

CHAPTER XI

APPEALS AND REVISION

76. (1) Subject to the provisions of section 77, an appeal shall lie Appeals.
under this section against—

(a) an order of the Registrar made under sub-section (2) of section 9 refusing to register a society;

(b) an order of the Registrar made under sub-section (4) of section 11 refusing to register an amendment of the bye-laws of a co-operative society;

(c) an order of the Registrar made under sub-section (1) of section 16;

(d) a decision of a co-operative society refusing to admit any person as a member of the society who is otherwise duly qualified for membership under the bye-laws of the society;

(e) a decision of a co-operative society expelling any of its members;

(f) an order of the Registrar removing the committee of a co-operative society made under section 32;

(g) an order made by the Registrar under section 57 apportioning the costs of an enquiry held under section 55 or an inspection made under section 56;

(h) any order of surcharge under section 59 ;

(i) any decision or award made under section 61;

(j) an order made by the Registrar under section 63 directing the winding up of a co-operative society;

(k) any order made by the liquidator of a co-operative society in exercise of the powers conferred on him by section 67;

(l) any order made under section 73.

(2) An appeal against any decision or order under sub-section (1) shall be made within sixty days from the date of the decision or order—

(a) if the decision or order falls under clause (g), (h), (i) or (l) of sub-section (1), to the Tribunal;

(b) if the decision or order falls under clause (f), to the Lieutenant-Governor;

(c) in any other case, to the Lieutenant-Governor or the Registrar according as the decision or order was made by the Registrar or any other person.

(3) No appeal shall lie under this section from any decision or order made by the Registrar in appeal.

77. Notwithstanding anything contained in this Act, where with the No appeal
or revision
in certain
cases.
previous sanction in writing or on requisition of the Reserve Bank,—

(i) a co-operative bank is being wound up; or

(ii) in respect of which a scheme of amalgamation or reorganisation is given effect to; or

(iii) in respect of which an order for the supersession of the committee and the appointment of an administrator therefor has been made,

no appeal, revision or review thereagainst shall lie or be permissible, and the sanction or requisition of the Reserve Bank shall not be liable to be called in question.

Delhi Co-operative Tribunal.

78. (1) The Lieutenant-Governor shall constitute a Tribunal to be called the Delhi Co-operative Tribunal to exercise the functions conferred on the Tribunal by or under this Act.

(2) The Tribunal shall consist of not more than three members possessing such qualifications as may be prescribed.

(3) Any vacancy in the membership of the Tribunal shall be filled by the Lieutenant-Governor.

(4) Subject to the previous approval of the Lieutenant-Governor, the Tribunal shall frame regulations consistent with the provisions of this Act and the rules made thereunder, for regulating its procedure and the disposal of its business.

(5) The regulations made under sub-section (4) shall be published by the Lieutenant-Governor in the Delhi Gazette.

(6) The Tribunal may call for and examine the record of any proceedings, in which an appeal lies to it, for the purpose of satisfying itself as to the legality or propriety of any decision or order passed and if in any case it shall appear to the Tribunal that any such decision or order should be modified, annulled or reversed, the Tribunal may pass such order thereon as it may deem fit.

(7) An order passed in appeal under section 76 or in revision under sub-section (6) of this section or in review under section 79 by the Tribunal shall be final and conclusive, and shall not be called in question in any civil or revenue court.

Explanation.—The Tribunal hearing an appeal under this Act shall exercise all the powers conferred upon an appellate court by section 97 of, and Order XLI of the First Schedule to, the Code of Civil Procedure, 1908.

5 of 19

Review of orders of Tribunal.

79. (1) The Tribunal may either on the application of the Registrar, or on the application of any party interested, review its own order in any case, and pass in reference thereto such order as it thinks just:

Provided that no such application made by the party shall be entertained unless the Tribunal is satisfied that there has been the discovery of new and important matter of evidence, which after the exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the time when its order was made or that there has been some mistake or error apparent on the face of the record, or for any other sufficient reason:

Provided further that no such order shall be varied or revised unless notice has been given to the parties interested to appear and be heard in support of such order.

(2) An application for review under sub-section (1) by any party shall be made within ninety days from the date of communication of the order of the Tribunal.

Revision.

80. Subject to the provisions of section 77, the Lieutenant-Governor may, *suo motu* or on the application of a party to a reference, call for and examine the record of any proceedings in which no appeal lies to the Lieutenant-Governor under section 76 (not being any proceedings in

which an appeal lies to the Tribunal) for the purpose of satisfying himself as to the legality and propriety of any decision or order passed and if in any case it shall appear to him that any such decision or order should be modified, annulled or revised, he may pass such order thereon as he may deem fit.

81. Where an appeal is made under section 76 or where the Tribunal or Lieutenant-Governor calls for the record of a case under section 78 or section 80, the appellate authority or the Tribunal or Lieutenant-Governor, as the case may be, may, in order to prevent the ends of justice being defeated, make such interlocutory order, including an order of stay, pending the decision of the appeal or revision as such authority or the Tribunal or Lieutenant-Governor may deem fit.

Interlocutory orders.

CHAPTER XII

OFFENCES AND PENALTIES

82. (1) Any person other than a co-operative society carrying on business under any name or title of which the word "co-operative", or its equivalent in any Indian language, is part, without the sanction of the Lieutenant-Governor shall be punishable with fine which may extend to two hundred rupees and in the case of a continuing breach with a further fine which may extend to five hundred rupees for every day during which the breach is continued after conviction for the first such breach.

Offences.

(2) Any member or past member or the nominee, heir or legal representative of a deceased member of a co-operative society who contravenes the provisions of sections 36 and 37 by disposing of any property in respect of which the society is entitled to have a first charge under that section or do any other act to the prejudice of such claim, shall be punishable with fine which may extend to five hundred rupees.

(3) A co-operative society or an officer or member thereof wilfully making a false return or furnishing false information, or any person wilfully or without any reasonable excuse disobeying any summons, requisition or lawful written order issued under the provisions of this Act or wilfully not furnishing any information required from him by a person authorised in this behalf under the provisions of this Act, shall be punishable with fine which may extend to two hundred rupees.

(4) Any employer who, without sufficient cause, fails to pay to a co-operative society the amount deducted by him under section 44 within a period of fourteen days from the date on which such deduction is made shall, without prejudice to any action that may be taken against him under any law for the time being in force be punishable with fine which may extend to five hundred rupees.

(5) Any officer or custodian who wilfully fails to hand over custody of books, records, cash, security and other property belonging to a co-operative society of which he is an officer or custodian, to a person entitled under section 33, 53, 54, 55 or 66 shall be punishable with fine which may extend to two hundred rupees and in the case of a continuing breach with a further fine which may extend to five hundred rupees for every day during which the breach is continued after conviction for the first such breach.

(6) Any person who fraudulently acquires or abets in the acquisition of any such property which is subject to a charge under sections 36 and 37 shall be punishable with fine which may extend to two hundred rupees.

Cogni-
zance of
offence.

83. (1) No court inferior to that of a magistrate of the first class shall try any offence under this Act.

(2) No prosecution shall be instituted under this Act without the previous sanction of the Registrar and such sanction shall not be given without giving to the person concerned a reasonable opportunity to represent his case.

Address
of socie-
ties.

84. Every co-operative society shall have an address registered in the manner prescribed to which all notices and communications may be sent, and shall send to the Registrar notice of every change thereof within thirty days of such change.

Copy of
Act, rules
and bye-
laws, etc.,
to be open
to ins-
pection.

85. Every co-operative society shall keep a copy of this Act, the rules and its bye-laws and also a list of its members, open to inspection free of charge at all reasonable times at the registered address of the society.

Prohibi-
tion
against
the use of
the word
"co-opera-
tive".

86. No person other than a co-operative society shall trade or carry on business under any name or title of which the word "co-operative" or its equivalent in any Indian language is part:

Provided that nothing in this section shall apply to the use by any person or his successor-in-interest of any name or title under which he carried on business at the date on which the Co-operative Societies Act, 1912, came into operation.

2 of 1912.

Power to
exempt
societies
from con-
ditions as
to regis-
tration.

87. Notwithstanding anything contained in this Act, the Lieutenant-Governor may, by general or special order and subject to such conditions, if any, as he may impose, exempt any society or class of societies from any of the requirements of this Act as to registration.

Power to
exempt
co-opera-
tive socie-
ties from
provisions
of the Act.

88. The Lieutenant-Governor may, by general or special order, to be published in the Delhi Gazette, exempt any co-operative society or any class of co-operative societies from any of the provisions of this Act, or may direct that such provisions shall apply to such societies or class of societies with such modifications as may be specified in the order.

Liquidator
to be
public
servant.

89. Any person appointed as liquidator under the provisions of this Act or the rules shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Notice
necessary
in suits.

90. No suit shall be instituted against a co-operative society or any of its officers in respect of any act touching the business of the society until the expiration of three months next after notice in writing has been delivered to the Registrar or left at his office, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims, and the plaint shall contain a statement that such notice has been so delivered or left.

45 of 1860.

Com-
panies
Act, not
to apply.

91. The provisions of the Companies Act, 1956, shall not apply to co-operative societies.

1 of 1956.

10 of 1904.
2 of 1912.
Bom.
7 of 1925.

92. (1) Every society now existing which has been registered under the Co-operative Credit Societies Act, 1904 or under the Co-operative Societies Act, 1912, or under the Bombay Co-operative Societies Act, 1925 as in force in the Union territory of Delhi, shall be deemed to be registered under the corresponding provisions of this Act, and its bye-laws shall, so far as the same are not inconsistent with the express provisions of this Act, continue in force until altered or rescinded. Saving of existing societies.

(2) All appointments, rules and orders made, notifications and notices issued and suits and other proceedings instituted under the said Acts shall, so far as they are consistent with the provisions of this Act, be deemed to have been respectively made, issued and instituted under this Act, save that an order made cancelling the registration of a society shall be deemed, unless the society has already been finally liquidated, as an order issued under section 63 for its being wound up.

93. (1) Save as provided in this Act, no civil or revenue court shall have any jurisdiction in respect of— Bar of jurisdiction of courts.

(a) the registration of a co-operative society or its bye-laws or of an amendment of a bye-law;

(b) the removal of a committee;

(c) any dispute required under section 60 to be referred to the Registrar; and

(d) any matter concerning the winding up and the dissolution of a co-operative society.

(2) While a co-operative society is being wound up, no suit or other legal proceedings relating to the business of such society shall be proceeded with or instituted against, the liquidator as such or against the society or any member thereof, except by leave of the Registrar and subject to such terms as he may impose.

(3) Save as provided in this Act, no order, decision or award made under this Act shall be questioned in any court on any ground whatsoever.

94. (1) In exercising the functions conferred on him by or under this Act, the Registrar, the arbitrator or any other person deciding a dispute under section 61 and the liquidator of a co-operative society or person entitled to audit, inspect or hold an inquiry and the Tribunal, shall have all the powers of a civil court, while trying a suit, under the Code of Civil Procedure, 1908, in respect of the following matters, namely:— Powers of civil court.

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

(b) requiring the discovery and production of any document;

(c) proof of facts by affidavits; and

(d) issuing commissions for examination of witnesses.

(2) In the case of an affidavit, any officer appointed by the Registrar, the arbitrator or any other person deciding a dispute and the liquidator or the Tribunal, as the case may be, may administer the oath to the deponent.

5 of 1908.

95. No suit, prosecution or other legal proceedings shall lie against the Registrar or any person subordinate to him or acting on his authority in respect of anything in good faith done or purporting to have been done under this Act. Indemnity.

Qualifica-
tions, re-
munera-
tion and
other con-
ditions of
service of
employees
of co-ope-
rative
societies.

96. (1) The Lieutenant-Governor shall, as soon as may be after the commencement of this Act, constitute a common service comprising of officers and other employees of different classes of co-operative societies and shall determine the number and designation of such officers and other employees.

(2) The Lieutenant-Governor shall make rules regulating the qualifications, remuneration, allowances, recruitment and other conditions of service of such officers and other employees of the co-operative societies.

Rules.

97. (1) The Lieutenant-Governor may, for any co-operative society or class of co-operative societies, make rules to carry out the purposes of this Act.

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

(i) the maximum number of shares or portion of the capital of a co-operative society which may, subject to the provisions of section 6, be held by a member;

(ii) the form to be used and the conditions to be complied with in the making of applications for the registration of a society and the procedure in the matter of such applications;

(iii) the procedure and conditions for change in the form and extent of the liability of a co-operative society;

(iv) the matters in respect of which the society may or shall make bye-laws and for the procedure to be followed in making, altering and abrogating bye-laws and the conditions to be satisfied prior to such making, alteration or abrogation;

(v) the conditions to be complied with by persons applying for admission or admitted as members, for the election and admission of members, and for the payment to be made and the interest to be acquired before the exercise of the right of membership;

(vi) the manner in which funds may be raised by means of shares and debentures or otherwise;

(vii) for general meeting of the members and for the procedure at such meetings and the powers to be exercised by such meetings;

(viii) the prohibitions and restrictions subject to which societies may transact business with persons who are not members;

(ix) the proportion of individuals and societies in the constitution of the committee of management and the general body of a co-operative society of which another co-operative society is a member;

(x) the determination of co-operative societies or class of co-operative societies for the purpose of sub-section (1) of section 31, and subject to the provisions of the said section, the election and nomination of members of committees, the appointment or election of officers and the suspension and removal of the members and other officers, and for the powers to be exercised and the duties to be performed by the committees and other officers;

(xi) the area of agricultural land, the conditions required to be fulfilled for the purpose of sub-section (6) of section 31;

(xii) the appointment and regulation of work entrusted to person or persons replacing the committee in pursuance of section 32;

(xiii) prohibiting a co-operative society from electing a defaulting member on its committee or to be its representative;

(xiv) the accounts and books to be kept by a co-operative society and the audit of such accounts and the charges, if any, to be made for such audit, and for the periodical publication of a balance-sheet showing the assets and liabilities of a co-operative society;

(xv) the returns to be submitted by a co-operative society to the Registrar, the persons by whom and the form in which such returns shall be submitted and in case of failure to submit any such returns for the levy of expenses of preparing it;

(xvi) the persons by whom and the form in which copies of the entries in books of societies may be certified and for the charges to be levied for the supply of such copies;

(xvii) the formation and maintenance of a register of members and where the liability of the members is limited by shares, of a register of shares;

(xviii) the appointment of an arbitrator to decide disputes;

(xix) the procedure to be followed in proceedings before the Registrar, arbitrator or other persons deciding disputes including the appointment of a guardian for a party to the dispute who is a minor or who, by reason of unsoundness of mind or mental infirmity, is incapable of protecting his interests, and the levy of the expenses relating to such proceedings;

(xx) the withdrawal and expulsion of members and for the payments, if any, to be made to members who withdraw or are expelled and for the liability of past members and of the estates of deceased members;

(xxi) the mode in which the value of a deceased member's share or interest shall be ascertained and for the nomination of a person to whom such share or interest may be paid or transferred;

(xxii) the payments to be made and conditions to be complied with by members applying for loans, the period for which any loans may be made and the maximum amount which may be lent, to any member;

(xxiii) the formation and maintenance of reserve funds and other funds and the objects to which such funds may be applied, and for the investment of any funds under the control of a co-operative society;

(xxiv) the extent to which a co-operative society may limit the number of its members;

(xxv) the conditions under which profits may be distributed to the members of a co-operative society with unlimited liability, and the maximum rate of dividend which may be paid by co-operative societies;

(xxvi) the calculation and writing off of bad debts by co-operative societies;

(xxvii) the procedure to be followed by a liquidator appointed under section 66 in respect of provisions of section 67;

(xxviii) the procedure to be followed in presenting and disposing of appeals under this Act;

(xxix) the form of orders referred to in sections 71 and 72;

(xxx) qualifications of the members of the Tribunal;

(xxxi) the issue and service of processes and for proof of service thereof;

(xxxii) the manner of effecting attachment;

(xxxiii) the custody, preservation and sale of property under attachment;

(xxxiv) the investigation of claims by persons other than the defaulter to any right or interest in the attached property, and for the postponement of the sale pending such investigation;

(xxxv) the immediate sale of perishable articles;

(xxxvi) the inspection of documents in the office of the Registrar or of any other officer or authority and the levy of fees for granting certified copies of the same;

(xxxvii) the terms and conditions on which the Central Government may make share-capital contribution or give assistance, financial or other, to societies and the terms and conditions on which the Central Government may guarantee the payment of the principal or interest on debentures issued by societies or loans raised by them;

(xxxviii) the manner in which funds may be raised by a society or a class of societies by means of shares or debentures or otherwise and the quantum of funds so raised;

(xxxix) for giving reasonable notice of the charge under sections 36 and 37;

(xl) qualifications, remuneration, allowances and recruitment and the conditions of service of officers and other employees of a society or class of societies;

(xli) the method of communicating or publishing any order, decision or award required to be communicated or published under this Act or the rules.

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

Bom. 7
of 1925.

98. On the day on which the Delhi Co-operative Societies Act, 1972 comes into force, the Bombay Co-operative Societies Act, 1925 as in force in the Union territory of Delhi shall stand repealed: Repeal
and
savings.

Provided that the repeal shall not affect—

(a) the previous operation of the Act so repealed or anything duly done or suffered thereunder; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed; or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the Act so repealed; or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if that Act had not been repealed.

THE COKING COAL MINES (NATIONALISATION)
ACT, 1972

ARRANGEMENT OF SECTIONS

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THE FIRST SCHEDULE.

THE SECOND SCHEDULE.

THE COKING COAL MINES (NATIONALISATION)
ACT, 1972

No. 36 OF 1972

[17th August, 1972]

An Act to provide for the acquisition and transfer of the right, title and interest of the owners of the coking coal mines specified in the First Schedule, and the right, title and interest of the owners of such coke oven plants as are in or about the said coking coal mines with a view to reorganising and reconstructing such mines and plants for the purpose of protecting, conserving and promoting scientific development of the resources of coking coal needed to meet the growing requirements of the iron and steel industry and for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

Short
title
and com-
mence-
ment.

1. (1) This Act may be called the Coking Coal Mines (Nationalisation) Act, 1972.

(2) The provisions of sections 30 and 31 shall come into force at once and the remaining provisions of this Act shall be deemed to have come into force on the 1st day of May, 1972.

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

Declaration as to the policy of the State.

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

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

Definitions.

(a) “appointed day” means the 1st day of May, 1972;

(b) “coke oven plant” means the plant and equipment with which the manufacture of hard coke has been, or is being, carried on, and includes—

(i) all lands, buildings, works, machinery and equipment, vehicles, railways, tramways and sidings, belonging to, or in, the coke oven plant,

(ii) all workshops belonging to the coke oven plant, including buildings, machinery, instruments, stores, equipment of such workshops and the lands on which such workshops stand,

(iii) all coke in stock or under production, and other stores, stocks and instruments, belonging to the coke oven plant,

(iv) all power stations belonging to the coke oven plant or operated for supplying electricity for the purpose of working the coke oven plant or a number of coke oven plants,

(v) all lands, buildings and equipment belonging to the coke oven plant where the washing of coal is carried on,

(vi) all other fixed assets, movable or immovable, and current assets belonging to a coke oven plant, whether within its premises or outside.

Explanation.—“Current assets” do not include dues from sundry debtors, loans and advances to other parties and investments, not being investments in the coke oven plant;

(c) “coking coal mine” means a coal mine in which there exists one or more seams of coking coal, whether exclusively or in addition to any seam of other coal;

(d) “company” means a company as defined in section 3 of the Companies Act, 1956, and includes a foreign company within the meaning of section 591 of that Act;

(e) “Commissioner” means the Commissioner of Payments appointed under section 20;

(f) “Custodian” means the Custodian appointed under sub-section (2) of section 14, to take over, or carry on, the management of a coking coal mine or coke oven plant;

of 1956.

↓ Subs. by Act 22 of 1978, s. 2 (w. 2.4.15-1972)

(g) "date of assent" means the date on which assent is given by the President to this Act;

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

1 of 1956.

(i) "managing contractor" means the person, or body of persons, who, with the previous consent in writing of the State Government, has entered into an arrangement, contract or understanding, with the owner of a coking coal mine or coke oven plant under which the operations of the coking coal mine or coke oven plant are substantially controlled by such person or body of persons;

(j) "mine" means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on, and includes—

(i) all borings and bore holes;

(ii) all shafts adjacent to, and belonging to, or in, a mine, whether in the course of being sunk or not;

(iii) all levels and inclined planes in the course of being driven;

(iv) all open cast working;

(v) all conveyors or aerial ropeways provided for bringing into or removal from a mine of minerals or other articles or for the removal of refuse therefrom;

(vi) all lands, buildings, works, adits, levels, planes, machinery and equipment, vehicles, railways, tramways and sidings belonging to, or in, or about, a mine;

(vii) all workshops belonging to, or in, a mine, including buildings, machinery, instruments, stores, equipment of such workshops and the lands on which such workshops stand;

(viii) all coal in stock or in transit or under production and other stores, stocks and instruments belonging to, or in, a mine;

(ix) all power stations belonging to, or in, a mine or operated for supplying electricity for the purpose of working the mine or a number of mines;

(x) all lands, buildings and equipment belonging to, or in, a mine where the washing of coal or manufacture of coke is carried on;

(xi) all other fixed assets, movable or immovable, and current assets, belonging to a mine, whether within its premises or outside.

~~Explanation.—"Current assets" do not include dues from sundry debtors, loans and advances to other parties and investments, not being investments in the coking coal mine;~~

↳ Subs. by Act. 22 of 1978, s. 2 (u. e. 7. 1.5.

87 of 1957. (k) "Mineral Concession Rules" means the rules, for the time being in force, made under the Mines and Minerals (Regulation and Development) Act, 1957;

1 of 1956. (l) "mining company" means a company owning a coking coal mine, and in relation to a foreign company within the meaning of section 591 of the Companies Act, 1956, the undertaking of that company in India;

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

(n) "owner",—

35 of 1952. (i) when used in relation to a mine, has the meaning assigned to it in the Mines Act, 1952.

(ii) when used in relation to a coke oven plant, means any person who is the immediate proprietor or lessee or occupier of the coke oven plant or any part thereof or is a contractor for the working of the coke oven plant or any part thereof;

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

2 of 1934. (p) "scheduled bank" means a bank included for the time being in the Second Schedule to the Reserve Bank of India Act, 1934;

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

12 of 1952. (r) words and expressions used herein and not defined but defined in the Coal Mines (Conservation, Safety and Development) Act, 1952, have the meanings, respectively, assigned to them in that Act;

12 of 1952. (s) words and expressions used herein and not defined in this Act or in the Coal Mines (Conservation, Safety and Development) Act, 1952, but defined in the Mines Act, 1952, shall have the meanings, respectively, assigned to them in the Mines Act, 1952.
35 of 1952.

repealed

CHAPTER II

ACQUISITION OF THE RIGHTS OF OWNERS OF COKING COAL MINES AND COKE OVEN PLANTS

4. (1) On the appointed day, the right, title and interest of the owners in relation to the coking coal mines specified in the First Schedule shall stand transferred to, and shall vest absolutely in, the Central Government, free from all incumbrances. Acquisition of rights in coking coal mines.

(2) For the removal of doubts, it is hereby declared that if, after the appointed day, any other coal mine is found, after an investigation made by the Coal Board, to contain coking coal, the provisions of the Coking Coal Mines (Emergency Provisions) Act, 1971, shall, until that mine is nationalised by an appropriate legislation, apply to such mine.

R-178.197

Provisions of the Act	Specified date	Gazette No. & date
Section 17 (3)	1-9-1972	G.S.R. 385 (E) dt. 22-8-1972.

Acquisition of rights of owners of coke oven plants.

5. ^{[11] 4} On the appointed day, the right, title and interest of the owners of each of the coke oven plants specified in the Second Schedule, being the coke oven plants which are situated in or about the coking coal mines specified in the First Schedule, shall stand transferred to, and shall vest absolutely in, the Central Government, free from all incumbrances.

Central Government to be the lessee of the State Government.

6. (1) Where the rights of an owner under any mining lease granted, or deemed to have been granted, in relation to a coking coal mine, by a State Government or any other person, vest in the Central Government under section 4, the Central Government shall, on and from the date of such vesting, be deemed to have become the lessee of the State Government or such other person, as the case may be, in relation to such coking coal mine ^{as if a mining lease} in relation to such coking coal mine had been granted to the Central Government under the Mineral Concession Rules, ^{the period of such lease being the entire period for which such lease could have been granted} by the State Government or such other person under those Rules and thereupon, all the rights under such mining lease, including surface, underground and other rights granted to the lessee shall be deemed to have been transferred to, and vested in, the Central Government. ^{maximum}

(2) On the expiry of the term of any lease, referred to in sub-section (1), such lease shall, if so desired by the Central Government be renewed, [on the same terms and conditions on which the lease was held on the appointed day] by the lessor for the maximum period for which such lease can be renewed under the Mineral Concession Rules.]

Power of Central Government to direct vesting rights in a Government company.

7. (1) Notwithstanding anything contained in sections 4 to 6 (both inclusive), the Central Government may, if it is satisfied that a Government company is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, direct, by an order in writing, that the right, title and interest of an owner in relation to a coking coal mine or coke oven plant referred to, respectively, in section 4 or section 5 shall, instead of continuing to vest in the Central Government, vest in the Government company either on the date of publication of the direction or on such earlier or later date (not being a date earlier than the appointed day), as may be specified in the direction.

(2) Where the right, title and interest of an owner in relation to a coking coal mine or coke oven plant vest in a Government company under sub-section (1), the Government company shall, on and from the date of such vesting, be deemed to have become—

(a) the lessee in relation to such coking coal mine as if a mining lease in relation to such coking coal mine had been granted to the Government company under the Mineral Concession Rules, the period of such lease being the entire period for which such lease could have been granted under those Rules;

(b) the owner of the coke oven plant,

and all the rights and liabilities of the Central Government in relation to such coking coal mine or coke oven plant shall, on and from the date of such vesting, be deemed to have become the rights and liabilities, respectively, of the Government company.

(3) The provisions of sub-section (2) of section 6 shall apply to a lease which vests in a Government company as they apply to a lease vested in the Central Government and, reference therein to the Central Government shall be construed as reference to the Government company,

8. (1) All property which vests in the Central Government [or in a Government company] under this Chapter shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other incumbrances affecting it and any attachment, injunction or decree or order of any court restricting the use of such property in any manner shall be deemed to have been withdrawn.

omit
Propert-
ties vest-
ing in
Central
Govern-
ment to
be freed
from
mortga-
ges, etc.

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

(3) For the removal of doubts, it is hereby declared that the mortgagee of any property referred to in sub-section (1) or any other person holding any charge, lien or other interest in, or in relation to, any such property shall be entitled to claim payment of the mortgage money or other dues, in whole or in part, out of the amount specified in relation to such property in the First Schedule or the Second Schedule, as the case may be, but no such mortgage, charge or lien or other interest shall be enforceable against any such property of the Central Government [or the Govern-
ment company]

9. (1) Every liability of the owner, agent, manager, or managing contractor of a coking coal mine or coke oven plant, in relation to any period prior to the appointed day, shall be the liability of such owner, agent, manager or managing contractor, as the case may be, and shall be enforceable against him and not against the Central Government [or the Government company]

Central
Govern-
ment not
to be
liable
for prior
liabili-
ties.

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

(a) save as otherwise provided elsewhere in this Act, no claim for wages, bonus, royalty, rate, rent, taxes, provident fund, pension, gratuity or any other dues in relation to a coking coal mine or coke oven plant in respect of any period prior to the appointed day, shall be enforceable against the Central Government or the Government company;

(b) no award, decree or order of any court, tribunal or other authority in relation to any coking coal mine or coke oven plant passed after the appointed day, but in relation to any matter, claim or dispute which arose before that day, shall be enforceable against the Central Government or the Government company;

(c) no liability for the contravention of any provision of law for the time being in force, made before the appointed day, shall be enforceable against the Central Government or the Government company.

CHAPTER III

PAYMENT OF AMOUNT

Payment of amount to owners of coking coal mines.

10. The owner of every coking coal mine or group of coking coal mines specified in the second column of the First Schedule, shall be given by the Central Government, in cash and in the manner specified in section 21, for vesting in it, under section 4, the right, title and interest of the owner in relation to such coking coal mine or group of coking coal mines, an amount equal to the amount specified against it in the corresponding entry in the fifth column of the said Schedule.

Payment of amount to owners of coke oven plants.

11. The owner of every coke oven plant specified in the second column of the Second Schedule, shall be given by the Central Government, in cash and in the manner specified in section 21, for vesting in it, under section 5, the right, title and interest of the owner in relation to such coke oven plant, an amount equal to the amount specified against it in the corresponding entry in the fifth column of the said Schedule.

Payment of further amount.

12. (1) In consideration of the retrospective operation of the provisions of section 4 and section 5, there shall be given by the Central Government, in cash, to the owner of every coking coal mine specified in the First Schedule or the owner of every coke oven plant specified in the Second Schedule, an amount equal to the amount which would have been, but for the provisions of the said section 4 or section 5, as the case may be, payable to such owner under the Coking Coal Mines (Emergency Provisions) Act, 1971, for the period commencing on the 1st day of May, 1972, and ending on the date of assent. 64 of 1971

(2) In addition to the amount specified in sub-section (1), there shall be given by the Central Government, in cash, to the owner of every coking coal mine specified in the First Schedule and the owner of every coke oven plant specified in the Second Schedule, simple interest at the rate of four per cent. per annum on the amount specified against such owner in the corresponding entry in the fifth column of the First Schedule or the Second Schedule, as the case may be, for the period commencing on the date of assent and ending on the date of payment of such amount to the Commissioner.

(3) The amounts referred to in sub-section (1) and sub-section (2) shall be in addition to the amount specified in the First Schedule or the Second Schedule, as the case may be.

Income derived by the owners of coking coal mines and coke oven plants after the appointed day to be refunded to the Central Government.

13. (1) Where, in pursuance of any decree, order or injunction made by a court, the Central Government or the Custodian appointed under the Coking Coal Mines (Emergency Provisions) Act, 1971, was prevented from taking over the management of any coking coal mine or coke oven plant, the owner of such coking coal mine or coke oven plant shall render, within sixty days from the date of assent, to the Central Government or the Government company, as the case may be, accounts, in relation to the period commencing on the appointed day and ending on the date of acquired or sold by him during the said period; 64 of 1971.

(a) assets or stores of the coking coal mine or coke oven plant acquired or sold by him during the said period;

(b) coal or coke sold or despatched during the said period;

(c) income derived by him from the coking coal mine or coke oven plant during the said period.

4 Ins. by Act 41 of 1973, s. 4 (w. e. f. 1-5-1972)

(2) If, on examination of the accounts referred to in sub-section (1), any income is found to have been derived by the owner from the coking coal mine or coke oven plant during the period referred to in that sub-section, such income shall be set off against the amount specified in the First Schedule or the Second Schedule, as the case may be, against the name of such owner, and the balance of such amount shall be paid to him.

(3) If no account is rendered by the owner of a coking coal mine or coke oven plant within the period referred to in sub-section (1) or if the Central Government or the Government company has any reason to believe that the account rendered by such owner is incorrect or false in material particulars, the Central Government or the Government company may refer the matter to the Commissioner and thereupon the Commissioner shall determine the income derived by the owner from the coking coal mine or coke oven plant during the period referred to in sub-section (1), and set off such income against the amount specified in the First Schedule or the Second Schedule, as the case may be, against the name of such owner and pay the balance to such owner.

CHAPTER IV

MANAGEMENT, ETC., OF COKING COAL MINES AND COKE OVEN PLANTS

14. (1) The general superintendence, direction, control and management of the affairs and business of a coking coal mine or coke oven plant, the right, title and interest of an owner in relation to which have vested in the Central Government under section 4 or section 5, as the case may be, shall,—

Management, etc. of coking coal mines and coke oven plants.

(a) in the case of a coking coal mine or coke oven plant, in relation to which a direction has been made by the Central Government under sub-section (1) of section 7, vest in the Government company specified in such direction, or

(b) in the case of a coking coal mine or coke oven plant, in relation to which no such direction has been made by the Central Government, vest in one or more Custodians appointed by the Central Government under sub-section (2),

and thereupon the Government company so specified or the Custodian so appointed, as the case may be, shall be entitled to exercise all such powers and do all such things as the owner of the coking coal mine or coke oven plant is authorised to exercise and do.

(2) The Central Government may appoint an individual or a Government company as the Custodian of a coking coal mine or coke oven plant in relation to which no direction has been made by it under sub-section (1) of section 7.

15. (1) On the vesting of the management of a coking coal mine or coke oven plant in a Government company or on the appointment of a Custodian, all persons in charge of the management of such coking coal mine or coke oven plant immediately before such vesting or appointment, shall be bound to deliver to the Government company or Custodian, as the case may be, all assets, books of account, registers or other documents in their custody relating to the coking coal mine or coke oven plant and any contract, whether express or implied, providing for the

Duty of persons in charge of management of coking coal mines or coke oven plants to deliver all assets etc.

management of the coking coal mine or coke oven plant made before the appointed day between such persons and the owners of such coking coal mine or coke oven plant, shall be deemed to have terminated on the date on which the management of the coking coal mine or coke oven plant vests in the Government company or the Custodian so appointed.

(2) The Central Government may issue such directions as it may deem desirable in the circumstances of the case to the Government company or Custodian as to its or his powers and duties and the Government company or Custodian may, also if it or he so desires, apply to the Central Government at any time for instructions as to the manner in which the management of the coking coal mine or coke oven plant shall be conducted by it or him or in relation to any other matter arising in the course of such management.

(3) The Custodian shall receive from the funds of the coking coal mine or coke oven plant, as the case may be, in relation to which he or it is the Custodian, such remuneration as the Central Government may fix and shall hold office during the pleasure of the Central Government.

Accounts
and audit.

16. The Custodian of every coking coal mine or coke oven plant shall maintain the accounts of such mine or plant in such manner and under such conditions as may be prescribed.

CHAPTER V

PROVISIONS RELATING TO EMPLOYEES OF COKING COAL MINES AND COKE OVEN PLANTS

Employ-
ment of
certain
employees
to continue.

17. (1) Every person who is a workman within the meaning of the Industrial Disputes Act, 1947, and has been, immediately before the appointed day, in the employment of a coking coal mine or coke oven plant, shall become, on and from the appointed day, an employee of the Central Government, or, as the case may be, of the Government company in which the right, title and interest of such mine or plant have vested under this Act, and shall hold office or service in the coking coal mine or coke oven plant, as the case may be, on the same terms and conditions and with the same rights to pension, gratuity and other matters as would have been admissible to him if the rights in relation to such coking coal mine or coke oven plant had not been transferred to, and vested in, the Central Government or Government company, as the case may be, and continue to do so unless and until his employment in such coking coal mine or coke oven plant is duly terminated or until his remuneration, terms and conditions of employment are duly altered, by the Central Government or the Government company. 14 of 11

(2) The Central Government or the Government company in which the right, title and interest in relation to a coking coal mine or coke oven plant have vested, may employ, on mutually acceptable terms and conditions, any person who is not a workman within the meaning of the Industrial Disputes Act, 1947, and who has been, immediately before the appointed day, in the employment of a coking coal mine or coke oven plant, and on such employment the said person shall become an employee of the Central Government or the Government company, as the case may be. 14 of 11

(3) Save as otherwise provided in sub-sections (1) and (2), the services of every person employed by the owner or occupier of a coking

coal mine or coke oven plant before the appointed day shall stand terminated on and from the specified date.

14 of 1947. (4) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any officer or other employee from a coking coal mine or coke oven plant to any other coking coal mine or coke oven plant shall not entitle such officer or other employee to any compensation under this Act or any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

(5) Where, under the terms of any contract of service or otherwise, any person whose service becomes terminated, or whose service becomes transferred to the Central Government or a Government company by reason of the provisions of this Act, is entitled to any payment by way of gratuity or retirement benefit or for any leave not availed of, or any other benefits, such person may enforce his claim against the owner of the coking coal mine or coke oven plant, as the case may be, but not against the Central Government or the Government company.

18. (1) Where a coking coal mine or coke oven plant has established a provident fund for the benefit of its employees, the monies relatable to the employees, whose services have become transferred, by or under this Act, to the Central Government or a Government company, shall, out of the monies standing, on the appointed day, to the credit of such provident fund, stand transferred to, and vest in, the Central Government or the Government company, as the case may be. Provident fund.

(2) The monies which stand transferred, under sub-section (1), to the Central Government or a Government company shall be dealt with by that Government or company, as the case may be, in such manner as may be prescribed.

19. Where a superannuation, welfare or other fund has been established for the benefit of the employees whose services stand transferred to the Central Government or a Government company, the coking coal mine or coke oven plant, by which such employees were employed, shall distribute the amount due to each such employee as if the employee had superannuated, or his services with the coking coal mine or coke oven plant had terminated, on the day immediately preceding the specified date. Superannuation, welfare and other funds.

CHAPTER VI

COMMISSIONER OF PAYMENTS

20. (1) For the purpose of disbursing the amounts payable to the owner of each coking coal mine or coke oven plant, the Central Government shall appoint such person as it may think fit to be the Commissioner of Payments. Commissioner of Payments to be appointed.

~~(2) The Central Government may appoint such other persons as it may think fit to assist the Commissioner.~~

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

↳ Subs. by Act 22 of 1978, s. 3

Payment by the Central Government to the Commissioner.

21. (1) The Central Government shall, within thirty days from the specified date, pay, in cash, to the Commissioner, for payment to the owner of a coking coal mine or coke oven plant, a sum equal to the sum specified against the coking coal mine or coke oven plant, as the case may be, in the First Schedule or the Second Schedule together with the amount and interest, if any, referred to in section 12.

(2) In addition to the sum referred to in sub-section (1), the Central Government shall pay, in cash, to the Commissioner, such amount as may become due to the owner of a coking coal mine or coke oven plant in relation to the period during which the management of the coking coal mine or coke oven plant remained vested in the Central Government.

(3) The Commissioner shall open and operate an account in a scheduled bank in respect of each coking coal mine or coke oven plant.

(4) Every amount paid to the Commissioner shall be deposited to the credit of the account, referred to in sub-section (3), of the coking coal mine or coke oven plant to which the payment relates.

(5) Interest accruing on the amount standing to the credit of the account referred to in sub-section (3) shall enure to the benefit of the owner of the coking coal mine or coke oven plant, as the case may be.

(6) References in this section to the owner of a coking coal mine shall, in relation to a group of coking coal mines specified in the First Schedule, be construed as references to the owner of that group of coking coal mines.

Statement of accounts in relation to the period of management by the Central Government, etc.

22. (1) The Central Government or the Government company, as the case may be, shall cause the books in relation to each coking coal mine or coke oven plant, the management of which has vested in it under the Coking Coal Mines (Emergency Provisions) Act, 1971, to be closed and balanced as on the 30th day of April, 1972, and shall cause a statement of accounts, as on that day, to be prepared, within such time, in such form and in such manner as may be prescribed, in relation to each such mine or plant in respect of the transactions effected by it during the period for which the management of such coking coal mine or coke oven plant remained vested in it: 64 of 1971.

Provided that where two or more coking coal mines or coke oven plants were owned, before the commencement of this Act, by the same owner, a consolidated statement of accounts may be prepared for all the coking coal mines or coke oven plants owned by such owner.

(2) All amounts received by the Central Government or the Government company after the closure of such accounts shall, where such amounts relate to transactions effected before the appointed day, be included in the said statement of accounts in respect of the coking coal mine or coke oven plant to which the said receipt relates.

(3) The Central Government or the Government company in which the right, title and interest of the coking coal mine or coke oven plant stands vested shall be entitled to receive, up to the specified date, to the exclusion of all other persons, any money, due to the coking coal mine or

2 Ins. by Act 22 of 1978, S. 4.

3 Ins. by S. 5, ibid (w.e.f. 1.5.1972)

4 Ins. by S. 5, ibid (w.e.f. 1.11.1973)

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coke oven plant, as the case may be, realised after the appointed day notwithstanding that the realisations pertain to a period prior to the appointed day:

Provided that where such realisations have not been included in the statement of accounts as on the 30th day of April, 1972, a supplementary statement of accounts shall be prepared and furnished, at such intervals as may be prescribed, by the Central Government or the Government company to the owner of the coking coal mine or the coke oven plant, as the case may be.

(4) The liabilities of the coking coal mine or the coke oven plant (not being liabilities arising out of advances made by the Central Government or Government company), which could not be discharged by the appointed day, may be discharged by the Central Government or the Government company up to the specified date, and every payment made for the settlement with the owner shall be included in the statement of accounts as on the 30th day of April, 1972, indicating therein the period in relation to which the payments were made:

Provided that the liabilities in relation to the period prior to the appointed day, which have not been discharged on or before the specified date, shall be the liabilities of the owner of the coking coal mine or the coke oven plant, as the case may be.

(5) A copy of each statement of accounts prepared under this section shall be delivered by the Central Government or the Government company, as the case may be, to the Commissioner and also to the owner:

Provided that where the number of owners is more than one, only one copy of the statement of accounts shall be given to the owners for the benefit of all of them.

(6) The statement of accounts prepared under this section shall be audited by a person who is qualified to be appointed as an auditor of a company under section 226 of the Companies Act, 1956, and the auditor so appointed shall receive, from the funds of the coking coal mine or coke oven plant, as the case may be, such remuneration as the Central Government may fix.

(7) The audit of the statement of accounts shall be conducted in such manner as the Central Government may direct.

23. (1) Every person having a claim against the owner of a coking coal mine or coke oven plant shall prefer such claim before the Commissioner within thirty days from the specified date:

Claims to be made to the Commissioner.

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

(2) Notwithstanding anything contained in any other law for the time being in force, there shall be paid in priority to all other unsecured debts, not being the amounts advanced by the Central Government or

25 Law-39 @ 1-11-1973: Vide Notifn. No. 4158 (E), dt. 28-9-1973,

4 Ins. by Act 41 of 1973, S. 5 (w.e.f. 1.5.1972)

the Custodian appointed under the Coking Coal Mines (Emergency Provisions) Act, 1971, for the management of the coking coal mine or coke oven plant, as the case may be,—

(a) all wages or salary (including wages payable for time or piece work and salary earned wholly or in part by way of commission) of any employee, in respect of services rendered to the coking coal mine or coke oven plant, as the case may be, and any compensation payable to any workman under any provisions of Chapter VA of the Industrial Disputes Act, 1947;

14 of 1947.

~~(b) all amounts due, in respect of contributions payable during the twelve months next before the appointed day, under the Coal Mines Provident Fund, Family Pension and Bonus Schemes Act, 1948 or any other law for the time being in force;~~

46 of 1948.

(c) all amounts due in respect of any compensation or liability for compensation under the Workmen's Compensation Act, 1923 in respect of the death or disablement of any employee of the coking coal mine or coke oven plant unless such mine or plant has, under such a contract with insurers as is mentioned in section 15 of the said Act, rights capable of being transferred to, and vested in, the workmen;

8 of 1923.

~~(d) all sums due to any employee from a provident fund, pension fund or gratuity fund or any other fund established for the welfare of the employees of the coking coal mine or coke oven plant; and~~

~~(e) all sums due to the State Government as royalty, rent or dead-rent, as the case may be.~~

(3) The debts specified in sub-section (2) shall rank equally among themselves and be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions and be paid accordingly.

(4) The Commissioner shall fix a certain date on or before which every claimant shall file the proof of his claim or be excluded from the benefit of the disbursements made by the Commissioner.

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

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

(6a) (7) The Commissioner shall, after such investigation as may, in his opinion, be necessary and after giving the owner of the coking coal mine or coke oven plant, as the case may be, an opportunity of refuting the claim and after giving the claimant a reasonable opportunity of being heard, in writing admit or reject the claim in whole or in part.

(8) The Commissioner shall have the power to regulate his own procedure in all matters arising out of the discharge of his functions including the place or places at which he will hold his sittings and shall, for

4 Omitted & subs. by Act 41 of 1973, 3.5 (w.e.f. 1-5-1972).

2 Ins. and Subs. by Act 22 of 1978, s. 5
3 Ins. by s. 6, ibid.
4 Ins. by s. 7, ibid. (w.e.f. 1.5.1972).
5 Ins. by s. 8, ibid.
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5 of 1908. the purpose of making any investigation under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

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

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

(c) the reception of evidence on affidavits;

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

45 of 1860. (9) Any investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Commissioner shall be deemed to be a civil court for the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898.
5 of 1898.

(10) ~~A claimant who is dissatisfied with the decision of the Commissioner may prefer an appeal against the decision, to the principal civil court of original jurisdiction within the local limits of whose jurisdiction the coking coal mine or coke oven plant, as the case may be, is situated:~~

24. Where the total amount of the claim admitted by the Commissioner does not exceed the total amount of the money credited to the account of a coking coal mine or coke oven plant, every such admitted claim shall rank equally among themselves and be paid in full, and the balance, if any, shall be paid to the owner, but where such amount is insufficient to meet in full the total amount of the admitted claims, every such claim shall abate in equal proportions and be paid accordingly.

Disbursement of money by the Commissioner.

25. Every amount advanced by the Central Government or the Custodian, as the case may be, for the management of a coking coal mine or coke oven plant shall be recovered from the income derived by such coking coal mine or coke oven plant in respect of the period during which the management of such mine or plant remained vested in the Central Government:

Amounts advanced by the Central Government how to be recovered.

Provided that where such income is insufficient to meet in full the total amount of the advances made by the Central Government or the Custodian for the management of the coking coal mine or coke oven plant, the Central Government may make a claim to the Commissioner for the deficiency of the amount so advanced and the claim in respect of such deficiency shall have priority over the claims of all other unsecured creditors of the coking coal mine or coke oven plant.

64 of 1971. *Explanation.*—In this section, “Custodian” means the Custodian appointed under the Coking Coal Mines (Emergency Provisions) Act, 1971.

Disputes how to be dealt with.

26. (1) In the event of there being a doubt or dispute as to the right of a person to receive the whole or any part of the amount referred to in sections (10) 11 and 12, the Commissioner shall refer the matter to the court for a decision, and shall make the disbursements in accordance with the decision of the court.

Added by Act 41 of 1973, s. 5 (w.e.f. 1-5-1972).

(2) In relation to a coking coal mine or coke oven plant, the operations of which were, immediately before the 17th day of October, 1971 under the control of a managing contractor, the amount specified in the First Schedule against such coking coal mine or in the Second Schedule against such coke oven plant shall be apportioned between the owner of the coking coal mine or coke oven plant and such managing contractor in such proportions as may be agreed upon by or between the owner and such managing contractor, and in the event of there being no such agreement, in such proportions as may be determined by the court.

Explanation.—In this section, “court”, in relation to a coking coal mine or coke oven plant, means the principal civil court of original jurisdiction within the local limits of whose jurisdiction the coking coal mine or coke oven plant is situated.

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

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

Section 27

CHAPTER VII

MISCELLANEOUS

Effect of Act on other laws.

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

Contracts cease to have effect unless ratified by the Central Government.

29. (1) Every contract entered into by the owner or occupier of any coking coal mine or coke oven plant for any service, sale or supply before the appointed day shall, on and from the expiry of one hundred and twenty days from the date of assent, cease to have effect unless such contract is, before the expiry of that period, ratified, in writing, by the Central Government and in ratifying such contract the Central Government may make such alterations or modifications therein as it may think fit:

Provided that the Central Government shall not omit to ratify a contract unless it is satisfied that such contract is unduly onerous or has been entered into in bad faith or is detrimental to the interests of the coking coal mine or coke oven plant.

(2) The Central Government shall not omit to ratify a contract or make any alteration or modification therein except after giving to the parties to the contract a reasonable opportunity of being heard and except after recording in writing its reasons for refusal to ratify the contract.

Subs. by Act 22 of 1978, s.9 (w.e.f. 29.3.76)

30. Any person who,—

Penalties.

(a) having in his possession, custody or control of any property forming part of the undertaking of any coking coal mine or coke oven plant referred to in the First Schedule or the Second Schedule, as the case may be, wrongfully withholds such property from the Central Government or Government Company, or

(b) wrongfully obtains possession of, or retains, any property forming part of the undertaking of any coking coal mine or coke oven plant referred to in the First Schedule or the Second Schedule, as the case may be, or wilfully withholds or fails to furnish to the Central Government or any person specified by that Government, any document relating to such coking coal mine or coke oven plant, which may be in his possession, custody or control, or fails to deliver to the Custodian any assets, books of account, registers or other documents in his custody relating to the coking coal mine or coke oven plant in respect of which a Custodian has been appointed, or

(c) wrongfully removes or destroys any property of any coking coal mine or coke oven plant or prefers any claim under this Act in relation to such mine or plant, which he knows or has reasonable cause to believe to be false or grossly inaccurate,

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

31. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. 1804 2010

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.

Mining companies not to be wound up by court.

32. No proceeding for the winding up of a mining company, the right, title and interest in relation to the coking coal mine or coke oven plant owned by which have vested in the Central Government or in a Government company under this Act or for the appointment of a receiver in respect of such business, shall lie in any court except with the consent of the Central Government.

Delegation of powers.

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

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

Power to make rules.

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

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

(a) the manner in which the coking coal mines or coke oven plants shall be managed by a Government company or a Custodian;

(b) the manner in which provident fund monies referred to in section 18 shall be dealt with;

(c) the form and manner in which the statement of accounts referred to in section 22 shall be prepared;

(d) any other matter in relation to which such rule is required to be, or may be, made.

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

Power to remove difficulties.

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

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

Coking coal mines to which the Act shall not apply.

36. Nothing in this Act shall apply to any coking coal mine—

(a) owned or managed by a Government company or corporation owned or controlled by Government;

(b) owned or managed by a company engaged in the production of iron or steel:

Provided that this section shall not extend to such mine or part thereof which, in the opinion of the Central Government, is in excess of the requirements for the production of iron and steel by that company.

THE FIRST SCHEDULE

(See sections 4 and 10)

Sl. No.	Name of the mine	Location of the mine	Name and address of the owners of the mine	Amount (in rupees)
1	2	3	4	5
1.	Dhori (EB-1)	Post office Bermo, District Hazaribagh.	Ownership under dispute.	6,77,500
2.	Kalyani Selected Kargali (EB-2)	Post Office Pichri, District Hazaribagh.	Gouri Shanker and Others, Post Office Bermo, Hazaribagh.	7,19,000
3.	Khas Dhori (EB-3)	Post Office Pichri, District Hazaribagh.	Khas Dhori Colliery Company, Post Office Katrasgarh, Dhanbad.	4,07,000
4.	Pipradih (EB-4)	Post Office, Gomia, District Hazaribagh.	Pacific Coal Company, Post Office Gomia, District Hazaribagh.	14,13,500
	Pichri (EB-5)	Post Office Pichri, District Hazaribagh.	Pichri Colliery Company Private Limited, Post Office Bermo, Hazaribagh.	3,21,800
6.	Selected Dhori (EB-6)	Post Office Bermo, District Hazaribagh.	Selected Dhori Colliery, Post Office Katrasgarh, Dhanbad.	7,43,500
7.	Turiyo (EB-7)	Post Office Turiyo, District Hazaribagh.	Bhubaneswar Singh and Shivdayal Rathi, Post Office Jharia, Dhanbad.	5,74,600
8.	Tarmi (EB-8)	Post Office Turiyo, District Hazaribagh.	Tarmi Colliery Company, Industrial Bank Building, Post Office Jharia, Dhanbad.	8,30,500
9.	Albion (J-1)	Post Office Karmatand	Albion Colliery Company, Post Office Karmatand, Dhanbad.	4,02,000
10.	Bokaro Jharia (J-2)	Post Office Karmatand	Messrs. Agarwalla Brothers, Post Office Karmatand, Dhanbad.	4,64,000
11.	North Damuda (J-3)	Post Office Nudkharkee	Hazaribagh Coal Syndicate Private Limited, Post Office Jharia, Dhanbad.	8,39,300
12.	Kessurgarh (J-4)	Post Office Nudkharkee	Manbhoom Coal Syndicate Limited, Post Office Jharia, Dhanbad.	27,50,000
13.	Madhuband (J-5)	Post Office Nudkharkee	Oriental Coal Company Limited, 25, Brabourne Road, Calcutta-1.	1,97,99,500
14.	Kankanee (J-67)	Post Office Bansjora		
15.	Pootkee (J-69)	Post Office Kusunda		
16.	Amlabad (J-188)	Post Office Bhowrah		
17.	Bhowrah North (J-189)	Post Office Bhowrah		
18.	Bhowrah South (J-190)			
19.	Mohalbandi (J-191)			
20.	Begunia (R-6)	Post Office Barakar, District Burdwan.		
21.	Khas Benedih (J-6)	Post Office Nawagarh	K.C. Mukherjee and Others, Post Office Hirapur, Dhanbad.	2,88,000
22.	Benedih (J-7)	Post Office Nudkharkee	Benedih Coal Concern, Post Office Katras, Dhanbad.	3,03,000
23.	Khas Ganeshpur (J-8)	Post Office Nawagarh	Khas Ganeshpur Coal Mines Limited, 135, Canning Street, Calcutta.	37,500
24.	Ganeshpur (I-9)	Post Office Nawagarh	Ganeshpur Coal Company Private Limited, Post Office Ganeshpur, Dhanbad.	37,500
25.	Ashakuti Phularitand (J-10)	Post Office Kharkharee	Ashakuti Coal Company Limited, 1/1, Rowland Road, Calcutta-20.	18,19,000
26.	Mohanpur (J-11)	Post Office Kharkharee	Shrimati Parbati Devi, Post Office Kharkharee, Dhanbad.	5,000
27.	New Bansjora (J-12)	Post Office Kharkharee	S. K. Sahana and Sons Private Limited, Post Office Kharkharee, Dhanbad.	1,49,000
28.	Khas Bhurangya (J-13)	Post Office Mohuda	Khas Bhurangya Coal Company, Post Office Jharia, Dhanbad.	5,000

Sl. No.	Name of the mine	Location of the mine	Name and address of the owners of the mine	Amount (in rupees)
1	2	3	4	5
29.	Rāneedih/Pipratand (J-14)	Post Office Mohuda	Shri K. L. Sablok, c/o Sudarasan Motors, Post Office Dhanzar, Dhanbad.	35,000
30.	East Mucheraidih (J-15)	Post Office Mohuda	East Mucheraidih Coal Company Limited, Post Office Jhariya, Dhanbad.	5,000
31.	New Huntodih (J-16)	Post Office Mohuda	New Huntodih Coal Company Limited, 178, Mahatma Gandhi Road, Calcutta-1.	21,300
32.	Bhatdee (J-19)	Post Office Mohuda	Bengal Bhatdee Coal Company Limited, 14, Netaji Subhas Road, Calcutta.	19,60,800
33.	Kharkharee (J-20)	Post Office Kharkharee	Bharat Mining Corporation Limited, 91, Stephen House, Dalhousie Square East, Calcutta-1.	19,66,000
34.	New Sinidih (J-21)	Post Office Kharkharee	Messrs. Bamandiha Coal Company Limited, 3, Synagogue Street, Calcutta-1.	39,500
35.	Dharmaband (J-22)	Post Office Katrasgarh	H.M. Barat and M.C. Barat, Post Office Katrasgarh, Dhanbad.	16,300
36.	New Dharmaband (J-23)	Post Office Malkera	Sethia Mining and Manufacturing Company Limited, 4, Bakul Bagan Road, Calcutta.	12,05,000
37.	Sinidih (J-25)	Post Office Katrasgarh	Sinidih Colliery Concern Private Limited, Post Office Katrasgarh, Dhanbad.	5,13,500
38.	Tundoo Khas (J-26)	Post Office Tundoo	J. P. Lala & Sons Collieries Private Limited, Post Box No. 76, Dhanbad.	4,79,000
39.	Bilbera (J-27)	Post Office Katrasgarh	B. N. Mondal and Company, 22, Canning Street, Calcutta.	3,93,500
40.	Jealgora Govindpur (J-28)	Post Office Sonardih	Jealgora Govindpur Colliery Company Limited, Post Office Sonardih, Dhanbad.	2,90,500
41.	South Govindpur (J-29)	Post Office Katrasgarh	H. I. Pathak, Post Office Katrasgarh, Dhanbad.	4,22,500
42.	Diamond Tettuliya (J-30)	Post Office Sonardih	Bihar Collieries Limited, District Dhanbad.	5,000
43.	Central Tetturya (J-31)	Post Office Malkera	Sri Tarapada Lodha & Others, Post Office Katrasgarh, District Dhanbad.	7,500
44.	New Tentulia (J-32)	Post Office Malkera	Tentulia Khas Colliery Company Limited, 25, Brabourne Road, Calcutta.	16,86,500
45.	Central Kooridih Sonardih (J-33)	Post Office Katrasgarh	Central Kooridih Colliery Company, Post Office Katrasgarh, Dhanbad.	12,23,500
46.	New Gobindpur (J-34)	Post Office Sonardih	New Gobindpur Coal Company Limited, 33, Canning Street, Calcutta-1.	13,92,300
47.	Khas Mehtadih (J-35)	Post Office Katrasgarh	Messrs. Khas Mehtadih Colliery Company, Post Office Katrasgarh, Dhanbad.	13,80,000
48.	Agardih (J-36)	Post Office Katrasgarh	Agardih Colliery Company, Post Office Katrasgarh, District Dhanbad.	3,78,300
49.	Katras Choitodih (J-37)	Post Office Katrasgarh		
50.	Mudidih (J-62)	} Post Office Sijua	} Burrakar Coal Company Limited, Chartered Bank Building, Calcutta-1.	1,68,56,000
51.	Badruchuk (J-63)			
52.	Loyabad (J-68)			
53.	Lakurka (J-38)	Post Office Katrasgarh	Lakurka Coal Company Limited, 3, Synagogue Street, Calcutta.	7,27,000
54.	Koiludih (J-39)	} Post Office Katrasgarh	} Messrs. East Katras Colliery Company Private Limited, Post Office Katrasgarh, Dhanbad.	20,08,000
55.	East Katras (J-41)			

Sl. No.	Name of the mine	Location of the mine	Name and address of the owners of the mine	Amount (in rupees)
1	2	3	4	5
56.	Khas Govindpur (J-40)	Post Office Katrasgarh	Khas Govindpur Coal Company Private Limited, Post Office Katrasgarh, Dhanbad.	2,65,000
57.	East Salanpur (J-42)	} Post Office Katrasgarh	East Salanpur Colliery Company, Post Office, Katrasgarh, Dhanbad.	2,97,500
58.	Joint Salanpur (J-43)			
59.	Khas Salanpur (J-44)			
60.	North Salanpur (J-45)	Post Office Katrasgarh	Sahai Brothers (Receiver H. S. Sahai), Post Office Katrasgarh, Dhanbad.	1,00,000
61.	Selected Salanpur (J-46)	Post Office Katrasgarh	Selected Salanpur Colliery Company, Post Office Katrasgarh, Dhanbad.	5,000
62.	Central Salanpur (J-47)	Post Office Katrasgarh	Central Salanpur Coal Concern, Post Office Katrasgarh, Dhanbad.	1,84,500
63.	Lakurka Khas (J-48)	Post Office Katrasgarh	Bharat's (Debutter Estate, Post Office Katrasgarh, Dhanbad.	1,96,800
64.	Salanpur (J-49)	} Post Office Katrasgarh	M/s. New Lakurka Colliery Company and Shrimati Sarojini Devi, Post Office Katrasgarh, Dhanbad.	4,14,500
65.	New Lakurka (J-50)			
66.	National Angarpathra (J-51)	Post Office Katrasgarh	National Coal Company Private Limited, 48/1, Ram Tarun Bose Lane, Calcutta-6.	2,89,000
67.	Union Angarpathra (J-52)	Post Office Sijua	Union Coal Company Limited, 135, Biplabi Rash Behari Basu Road, Calcutta-1.	4,51,000
68.	Gaslitam (J-53)	Post Office Sijua	New Manbhum Coal Company, 138, Biplabi Rash Behari Basu Road, Calcutta-1.	12,42,000
69.	Ramkanali (J-54)	Post Office Katrasgarh	Bijali Kanti Roy, Keshalpur House, Post Office Katrasgarh, Dhanbad.	4,70,000
70.	Trigunait (J-55)	} Post Office Katrasgarh	East Angarpathra Colliery Company Limited, Post Office Katrasgarh, Dhanbad.	16,20,000
71.	Kanta Pahari (J-56)			
72.	Khas Angarpathra (J-57)			
73.	Jharia Khas (J-58)			
74.	East Angarpathra (J-59)			
75.	Mahabir Angarpathra (J-60)	} Post Office Katrasgarh	Diamond Angarpathra Colliery Company, Post Office Katrasgarh, Dhanbad.	5,000
76.	Diamond Angarpathra (J-61)			
77.	Jogta (J-64)	Post Office Sijua	Jogta Coal Company Limited, Post Office Sijua, Dhanbad.	6,82,000
78.	Sendra (J-65)	Post Office Bansjora	Messrs. Hind Shippers Limited, 135, Biplabi Rash Behari Basu Road, Calcutta-1.	9,99,000
79.	Sendra Bansjora-Gopal Gararia (J-66)	} Post Office Bansjora	Messrs. Sendra Bansjora Colliery Company Private Limited, 135, Canning Street, Calcutta-1.	18,29,000
80.	North Ekra (J-78)			
81.	Gararia (J-79)			
82.	Gopalichuck (West) (J-70)	} Post Office Kusunda	Central Kirkend Coal Company Limited, 91, Stephen House, Dalhousie Square East, Calcutta-1.	6,94,000
83.	Central Kirkend (J-71)			
84.	Motiram's Kirkend (J-72)	Post Office Kusunda	Motiram Roshanlal Coal Company Private Limited, Kusunda, Dhanbad.	48,800
85.	Khas Kirkend (J-73)	Post Office Kusunda	Phuramal Agarwal, Post Office Dhansar, Dhanbad.	18,800
86.	Kirkend (J-74)	} Post Office Kusunda	New Marine Coal Company (Bengal) Limited, 111, Chittaranjan Avenue, Calcutta.	16,24,000
87.	New Marine (J-75)			

Sl. No.	Name of the mine	Location of the mine	Name and address of the owners of the mine	Amount (in rupees)
1	2	3	4	5
88.	Bansdeopur (J-77)	Post Office Kusunda	New Bansdeopur Coal Company Limited, 28-B, Netaji Subhas Road, Calcutta.	4,44,500
89.	Central Gararia (J-80)	Post Office Bansjora	Central Gararia Colliery Company Private Limited, Post Office Bansjora, Dhanbad.	58,800
90.	Gararia (J-81)	Post Office Bansjora	Tikmani and Company, Post Office Bansjora, Dhanbad.	1,34,000
91.	Chhota Bowa (J-82)	Post Office Bansjora	Chhota Bowa Colliery Company Limited, Post Office Bansjora, Dhanbad.	3,27,500
92.	Murulidih (J-17)	Post Office Mohuda	Kalyanji Mavji and Company, 14, Netaji Subhas Road, Calcutta-1.	21,33,000
93.	West Bhuggatdih (J-95)	Post Office Jharia		
94.	Industry (J-96)	Post Office Dhanisar		
95.	West Ena (J-97)	Post Office Dhanisar		
96.	Murulidih 20 and 21 Pits (J-18)	Post Office Mohuda	Bengal Coal Company Limited, 8, Clive Row, Calcutta-1.	49,49,000
97.	Chanch (R-3)	Post Office Chirkunda, District Dhanbad.		
98.	Maheshpur (J-24)	Post Office Katrasgarh	Messrs. Sahu Minerals and Properties Limited, A-3, Prithviraj Road, Jaipur.	29,68,000
99.	Ekra Khas (J-76)	Post Office Kusunda		
100.	Busseriya (J-83)	Post Office Kusunda	Busseriya Coal Company (Private) Limited, 13, Radha Bazar Lane, Calcutta-1.	4,29,500
101.	Busseriya North and South (J-85)			
102.	East Ekra (J-84)	Post Office Bansjora	East Ekra Coal Company, c/o K. Worah, Jora Bangalow, Dhanbad.	11,300
103.	North Busseriya (J-86)	Post Office Bansjora	North Busseriya Colliery Company, Post Office Bansjora, Dhanbad.	1,75,300
104.	Surendra East Loyabad (J-87)	Post Office Kirkend	Surendra East Loyabad Colliery Company, Post Office Jharia, Dhanbad.	1,24,500
105.	Gondudih (J-88)	Post Office Kusunda	Central Alkusa Colliery Company, Post Office Kusunda, Dhanbad.	3,57,000
106.	Dhariaioba (J-89)	Post Office Kirkend	M/s. H. D. Agarwalla & Sons, Post Office Jharia, Bihar.	13,65,000
107.	West Godhur (J-90)	Post Office Kusunda		
108.	Godhur (J-91)	Post Office Kusunda	Godhur Colliery Company, Post Office Kusunda, Dhanbad.	33,07,000
109.	Pure Kustore (J-92)	Post Office Kusunda	Pure Kustore Colliery Company, Post Office Kusunda, Dhanbad.	19,27,500
110.	Nayadee Kusunda (J-93)	Post Office Kusunda	Kusunda Nayadee Colliery Company (Private) Limited, Post Office Kusunda, Dhanbad.	27,42,000
111.	Kusunda (J-94)	Post Office Kusunda	Not available.	5,000
112.	Kendwadih (J-98)	Post Office Kusunda	East India Coal Company Ltd., Post Office Jealgora, Dhanbad.	193,28,500
113.	South Bulliary (J-101)	Post Office Kusunda		
114.	Jealgora (J-184)	Post Office Jealgora		
115.	Bararee Joyarampur (J-168)			
116.	Bararee (J-185)	Post Office Kusunda	Not available.	22,500
117.	Balihari C.T.C. (J-99)	Post Office Kusunda	Balihari Colliery Company Limited, 14, Netaji Subhas Road, Calcutta-1.	6,53,000
118.	Kutchi Balihari (J-100)	Post Office Kusunda	The Borrea Coal Company Limited, Chartered Bank Building, Calcutta-1.	132,58,000
119.	Bhagaband (J-102)	Post Office Bhagaband		
120.	Gonshadih (J-104)	Post Office Kusunda	Sri Biswanath Roy, Keshalpur House, Post Office Katrasgarh, Dhanbad.	112,90,500

Sl. No.	Name of the mine	Location of the mine	Name and address of the owners of the mine	Amount (in rupees)
1	2	3	4	5
121.	Kendwadih (J-103)	Post Office Bhaga	Equitable Coal Company Limited, 1/2, Lord Sinha Road, Calcutta-16.	98,800
122.	Bhutgoria (J-109)			
123.	Hurriladih (J-110)			
124.	Alkusa South (J-105)	Post Office Kustore	Raneegunge Coal Association Limited, 3A, Chowringhee Place, Calcutta-13.	91,95,000
125.	Kustore (J-106)	Post Office Kustore		
126.	Burragarh (J-107)	Post Office Jharia		
127.	Pure Burragarh (J-108)	Post Office Jharia		
128.	Simlabahal (J-111)	Post Office Jharia	Shri P. Roy, Director and nominated owner, Bhalgora Coal Company, 3, Synagogue Street, Calcutta-1	4,52,000
129.	Bhuggatdih (J-112)	Post Office Dhansar	Bengal Nagpur Coal Company, 5, Synagogue Street, Calcutta-1.	6,47,000
130.	Ena (J-113)	Post Office Dhansar	North West Coal Company Limited, 5, Synagogue Street, Calcutta-1.	9,77,500
131.	East Bhalgora (J-114)	Post Office Jharia	East Bhuggatdih Colliery Company (Private) Limited, Post Office Jharia, Dhanbad.	17,08,000
132.	Khas Jharia (J-115)			
133.	East Ena (J-116)			
134.	East Bhuggatdih (J-117)			
135.	Selected Khas Jharia (J-118)			
136.	Selected Jharia (J-119)			
137.	Selected Model Jharia (J-121)	Post Office Jharia	Bhalgora Coal Company Limited, 3, Synagogue Street, Calcutta-1.	4,86,000
138.	Bhalgora (J-120)	Post Office Jharia	Fularibad Colliery Company, Post Office Jharia, Dhanbad.	15,000
139.	New Khas Jharia (J-122)	Post Office Jharia		
140.	Fularibad (J-123)	Post Office Jharia		
141.	Sonalibad (J-138)	Post Office Jharia	Rajapur Colliery Company Limited, Post Office Jharia, Dhanbad.	2,39,000
142.	Rajapur (J-125)	Post Office Jharia	Khas Bhuggatdih Colliery Company, Post Office Jharia, Dhanbad.	2,67,000
143.	Khas Bhuggatdih (J-126)	Post Office Jharia		
144.	New Pure Jharia (J-124)	Post Office Jharia	D.D. Thacker and Sons, Dhanbad.	10,000
145.	Pure Jharia (J-127)			
146.	K. P. Dobari (J-128)	Post Office Jharia	K. P. Dobari, Post Office Jharia.	54,300
147.	South Jharia (J-129)	Post Office Jharia	J. K. Banerjee and Others, Post Box No. 46, Hirapur, District Dhanbad.	1,45,800
148.	Model Jharia (J-133)			
149.	East Pure Jharia (J-130)	Post Office Jharia	Owner not known.	15,000
150.	Dobari (J-131)	Post Office Jharia	R. N. Bagchi and Brothers, 5/8, Middle Row, Calcutta.	3,42,300
151.	East Model Jharia (J-132)	Post Office Jharia	Not available.	5,000
152.	Golden Jharia (J-134)	Post Office Jharia	Khora Ramji, Post Office Jharia, Dhanbad.	5,000
153.	Fatehpur (J-135)	Post Office Jharia	G.K. Dossa and Company, Post Office Jharia, Dhanbad.	5,000
154.	Pure Durgapur (J-136)	Post Office Jharia	Pure Durgapur Colliery Company Private Limited, Post Office Jharia, Dhanbad.	5,000
155.	Khas Jharia (J-137)	Post Office Jharia	Fularibad Colliery Company, Post Office Jharia, Dhanbad.	5,000
156.	Ganhoodih (J-139)	Post Office Jharia	S. B. Banerjee and Sons, Post Office Jharia, Dhanbad.	127,52,000
157.	East Jharia (J-140)	Post Office Jharia	Not available.	5,000
158.	K. P. Kujama (J-141)	Post Office Jharia	Jayantilal Keshavji Bale, Daye House, Joraphatok, Post Office Dhansar, Dhanbad.	55,800
159.	Kujama (J-142)			

Sl. No.	Name of the mine	Location of the mine	Name and address of the owners of the mine	Amount (in rupees)
1	2	3	4	5
160.	North Kujama (J-143)	Post Office Jharia	Ganji Dossa and Company, Post Office Jharia, Dhanbad.	63,500
161.	Central Kujama (J-144)	} Post Office Jharia	Central Kujama Coal Concern, Post Office Jharia, Dhanbad.	5,26,000
162.	Nanji Kujama (J-145)			
163.	Pandebera (J-146)			
164.	Pure Kujama (J-147)			
165.	Kujama Pandebere (J-148)			
166.	South Kujama (J-149)	Post Office Jharia	Bagdigi Kujama Collieries Company (1946) Limited, Post Office Jharia, Dhanbad.	25,84,000
167.	Goluckdih (J-150)	Post Office Jharia	Goluckdih Colliery Company, 22, Burtolla Street, Calcutta.	13,96,000
168.	South Goluckdih (J-151)	} Post Office Jharia	Messrs. Khimji Dossa and Sons, Post Office Jharia, Dhanbad. and South Goluckdih Coal Company, Post Office Jharia, Dhanbad.	8,78,500
169.	Central Jharia (J-152)			
170.	Indian Jharia (J-153)			
171.	Lower Upper Jharia (J-154)	Post Office Jharia	Khimji Dossa & Sons, Post Office Jharia, Dhanbad.	1,33,300
172.	Central Tisra (J-155)	Post Office Jharia	Shri K. D. Singh, Post Office Jharia, Post Box No. III, Dhanbad.	2,71,000
173.	Tisra (D.D.) (J-156)	Post Office Jharia	Dhanji Devji and Sons, Post Office Jharia, Dhanbad.	2,72,800
174.	Tisra (Diamond) (J-157)	Post Office Jharia	The Diamond Coal Company Limited, Post Office Jharia, Dhanbad.	2,56,00
175.	Tisra (A.G.) (J-158)	Post Office Jharia	Amarsing Gowamal & Sons, Post Box No. 47, Jharia, Dhanbad.	3,38,500
176.	Sree Commercial (J-159)	} Post Office South Tisra	Bengal Jharia Colliery Company Private Limited, Post Office South Tisra, Dhanbad.	8,50,000
177.	Bengal Jharia (J-160)			
178.	East India (J-161)	} Post Office Khas Jeenagora.	Khas Joyrampur Colliery Company, Post Office Khas Jeenagora, Dhanbad.	31,51,000
179.	Khas Joyrampur (J-162)			
180.	Lower Joyrampur (J-165)			
181.	Pure Joyrampur (J-169)			
182.	South Tisra (J-162)	Post Office Tisra	South Tisra Colliery Company Private Limited, Post Office Jharia, Dhanbad.	6,68,000
183.	Kalithan Jeenagora (J-164)	Post Office Khas Jeenagora.	} K.B. Seal and Sons, 28, Raja K. L. Goswami Street, Post Office Serampur, District Hooghly (West Bengal).	4,42,500
184.	Kalithan Suratand (J-175)	Post Office Jharia		
185.	New Jeenagora (J-166)	} Post Office Khas Jeenagora.	Khas Jeenagora Colliery Limited, 135, BiPlabi Rash Bihari Basu Road, Calcutta-1.	8,99,000
186.	Central Jeenagora (J-167)			
187.	North Bararee Jeenagora (J-170)			
188.	Khas Jeenagora (J-171)			
189.	Sri Jeenagora (J-173)			
190.	East Bararee (J-172)	Post Office Khas Jeenagora.	Jeenagora East Bararee Colliery Company, Post Office Khas Jeenagora, Dhanbad.	3,05,500
191.	New Suratand (J-174)	Post Office Jharia	Not available.	5,000

Sl. No.	Name of the mine	Location of the mine	Name and address of the owners of the mine	Amount (in rupees)
192.	Niluri Patra (J-176)	Post Office Jharia	Niluri Patra Coal Company Limited, Post Office Jharia, Dhanbad.	5,000
193.	North Burrakar Suratand (J-177)	Post Office Jharia	The New Standard Coal Company (Private) Limited, 27, Palace Court, 1, Kyd. Street, Calcutta-16.	1,12,500
194.	North Burrakar Lodna (J-178)			
195.	Lodna (J-179)			
196.	Standard (J-180)	Post Office Bhaga	Standard Coal Company, Post Office Bhaga, Dhanbad.	24,800
197.	Lodna (J-181)	Post Office Jharia	Lodna Colliery Company (1920) Limited, 6, Lyons Range, Calcutta.	81,80,800
198.	Madhuban Lodna (J-182)			
199.	Bagdigi (J-183)			
200.	Bhulanbararee (J-186)	Post Office Patherdih	Bhulanbararee Coal Company, 4, Clive Row, Calcutta-1.	15,13,300
201.	Lachmi (J-187)	Post Office Patherdih	Lachmi Coal Company 31, Mullick Street, Calcutta.	76,500
202.	Central Bhowrah (J-192)	Post Office Bhowrah	Central Bhowrah Coal Company, Post Office Jharia, Dhanbad.	30,000
203.	Sitanala (J-193)	Post Office Bhojudih	Mohatta Brothers, 19, British Indian Street, Calcutta-1.	56,300
204.	East Bhowra (J-194)	Post Office Patherdih	Shrimati Jyotsna Devi, Post Office Sitarampur, District Burdwan.	3,49,000
205.	East Sowardih (J-195)	Post Office Patherdih	J.N. Supakar Brothers and Company, Post Office Patherdih, Dhanbad.	5,000
206.	Patherdih (J-196)	Post Office Patherdih	Patherdih Sudamdih Colliery (Private) Limited, Post Office Patherdih, Dhanbad.	56,500
207.	New Sudamdih (J-197)	Post Office Patherdih	New Sudamdih Colliery Company, Post Office Patherdih, Dhanbad.	1,97,000
208.	Selected Patherdih (J-198)	Post Office Patherdih	Selected Patherdih Coal Company Limited, 12, Tarachand Dutta Street, Calcutta-1.	13,000
209.	New Chasnalla (J-199)	Post Office Jharia	New Chasnalla Coal Concern, Post Office Jharia, Dhanbad.	15,000
210.	Pure Chasnalla (J-200)	Post Office Patherdih	Pure Chasnalla Colliery Company, 192, Cross Street, Calcutta-7.	49,800
211.	Junkundar (R-1)	Post Office Chirkunda, District Dhanbad.	D. Mondal and Company Limited, Post Office Dishergarh, District Burdwan, West Bengal.	1,56,000
212.	Laikdih Deep (R-2)	Post Office Chirkunda, District Dhanbad.	Katras-Jharia Coal Company Limited, 8, Clive Row, Calcutta-1.	16,53,000
213.	Victoria (R-4)	Post Office Kulti, District Burdwan.	New Birbhoom Coal Company Limited, 8, Clive Row, Calcutta-1.	23,38,300
214.	Victoria West (R-5)			

NOTE:—The number specified, in brackets, against the name specified in the second column indicates the corresponding serial number of the coking coal mine in the First Schedule to the Coking Coal Mines (Emergency Provisions) Act, 1971 (64 of 1971). The abbreviations "EB" stand for "East Bokaro Coalfield"; "J" stands for Jharia Coalfield and "R" stands for "Rancegunge Coalfield".

THE SECOND SCHEDULE

(see sections 5 and 11)

Sl. No.	Name of the coke oven plant	Location of the coke oven plant	Name and address of the owners of the coke oven plant	Amount (in rupees)
1	2	3	4	5
1.	Bararee Coke Plant	South Balliary-Kendwadih Colliery, Post Office Kusunda, District Dhanbad.	Bararee Coke Company Limited, 4, Clive Row, Calcutta-1.	21,42,000
2.	Bhowra Coke Plant	Bhowra South Colliery, Post Office Bhowra, District Dhanbad.	Messrs. Bhowra Coke Company, Bhattacharya's House, Lubi Circular Road, Dhanbad.	11,76,900
3.	Bhulanbararee	Bhulanbararee Colliery, Post Office Patherdih, District Dhanbad.	Bararee Coke Company Limited, 4, Clive Row, Calcutta-1.	2,03,500
4.	Central Bhowra	Central Bhowra Colliery, Post Office Bhowra, District Dhanbad.	Central Bhowra Coal Company (Private) Limited, Post Office Jharia; and G. D. Kumar and Sons, Bastacolla, Post Office Dhansar, Dhanbad.	2,98,000
5.	Central Kooridih	Central Kooridih-Sonardih Colliery, Post Office Katrasgarh, Dhanbad.	Shivram Singh and Company (Private) Limited, Post Office Katrasgarh, District Dhanbad.	1,50,000
6.	Junkundar Valley Beehive Coke Plant	Junkundar Colliery, Post Office Chirkunda, District Dhanbad.	D. Mondal and Company Limited, Panchayat Road, Post Office Chirkunda, District Dhanbad.	1,08,800
7.	New Gobindpur	New Gobindpur Colliery, Post Office Sonardih, District Dhanbad.	Ghosh's Estate Private Limited, 33, Canning Street, Calcutta-1.	1,12,500
8.	New Standard Lodna	New Standard Lodna Colliery, Post Office Jharia, District Dhanbad.	Messrs. Singh Sachdeva, Post Office Dhansar, Dhanbad.	1,05,000
9.	New Sujandih	New Sujandih Colliery, Post Office Patherdih, District Dhanbad.	Sanjive Coke Manufacturing Company, c/o H.D. Adjmera, Post Office Patherdih, Dhanbad.	3,21,600
10.	North Kujama	North Kujama Colliery, Post Office Jharia, District Dhanbad.	Beehive Hard Coke Manufacturing Company, Chowra Construction Company Private Limited, 111, Central Avenue, Calcutta.	12,57,500
11.	Ramkanaly	Ramkanaly Colliery, Post Office Katrasgarh, District Dhanbad.	Bijali Kanti Roy, Keshalpur House, Post Office Katrasgarh, Dhanbad and M. C. Coal Company, Post Office Jharia, Dhanbad.	2,02,000
12.	Union Angarpathra	Union Angarpathra Colliery, Post Office Katrasgarh, District Dhanbad.	Satyadeo Singh Coal Company (Private) Limited, 138, Biplabi Rash Bihari Basu Road, Calcutta-1.	1,84,000

Rep. by Act. 38 of 1978, s. 2 + Sch. I

THE SUPREME COURT (ENLARGEMENT OF CRIMINAL APPELLATE JURISDICTION) AMENDMENT ACT, 1972

No. 37 OF 1972

[20th August, 1972]

An Act to amend the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act, 1970.

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

1. This Act may be called the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Amendment Act, 1972.

2. In section 1 of the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act, 1970, in sub-section (2), the words "except the State of Jammu and Kashmir" shall be omitted.

Short title.
Amendment of section 1.

Rep. by Act. 38 of 1978, S. 2 + Sch. I

THE INDIAN TELEGRAPH (AMENDMENT) ACT, 1972

No. 38 OF 1972

[21st August, 1972]

An Act further to amend the Indian Telegraph Act, 1885.

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

Short title. 1. This Act may be called the Indian Telegraph (Amendment) Act, 1972.

Substitution of new section for section 5. 2. For section 5 of the Indian Telegraph Act, 1885, the following section shall be substituted, namely:—

13 of 1885.

Power for Government to take possession of licensed telegraphs and to order interception of messages.

"5. (1) On the occurrence of any public emergency, or in the interest of the public safety, the Central Government or a State Government or any officer specially authorised in this behalf by the Central Government or a State Government may, if satisfied that it is necessary or expedient so to do, take temporary possession (for so long as the public emergency exists or the interest of the public safety requires the taking of such action) of any telegraph established, maintained or worked by any person licensed under this Act.

(2) On the occurrence of any public emergency, or in the interest of the public safety, the Central Government or a State Government or any officer specially authorised in this behalf by the Central Government or a State Government may, if satisfied that it is necessary or expedient so to do in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of an offence, for reasons to be recorded in writing, by order, direct that any message or class of messages to or from any person or class of persons, or relating to any particular subject, brought for transmission by or transmitted or received by any telegraph, shall not be transmitted, or shall be intercepted or detained, or shall be disclosed to the Government making the order or an officer thereof mentioned in the order:

Provided that press messages intended to be published in India of correspondents accredited to the Central Government or a State Government shall not be intercepted or detained, unless their transmission has been prohibited under this sub-section."

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 Not Corrected See India Code
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THE PAYMENT OF GRATUITY ACT, 1972
No. 39 OF 1972

[21st August, 1972.]

An Act to provide for a scheme for the payment of gratuity to employees engaged in factories, mines, oilfields, plantations, ports, railway companies, shops or other establishments and for matters connected therewith or incidental thereto.

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

1. (1) This Act may be called the Payment of Gratuity Act, 1972.
- (2) It extends to the whole of India:

Short title, extent, application and commencement.

Provided that in so far as it relates to plantations or ports, it shall not extend to the State of Jammu and Kashmir.

- (3) It shall apply to—
 - (a) every factory, mine, oilfield, plantation, port and railway company;
 - (b) 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;
 - (c) such other establishments or class of establishments, in which ten or more persons are employed, as may be specified in the Act.

1 E (3A) A shop or establishment to which this Act has become applicable shall continue to be governed by this Act notwithstanding that the number of persons employed therein at any time after it has become so applicable falls below ten.

49ms by Act 26 of 1982, S. 2

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(4) It shall come into force on such date as the Central Government may, by notification, appoint.

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

(a) "appropriate Government" means,—

(i) in relation to an establishment—

(a) belonging to, or under the control of, the Central Government,

(b) having branches in more than one State,

(c) of a factory belonging to, or under the control of, the Central Government,

(d) of a major port, mine, oilfield or railway company, the Central Government,

(ii) in any other case, the State Government;

(b) "completed year of service" means continuous service for one year;

~~(c) "continuous service" means uninterrupted service and includes service which is interrupted by sickness, or continuous service as defined off, strike or a lock-out or cessation of work not the employee concerned, whether such uninterrupted or interrupted service was rendered before or after the commencement of this Act.~~

Explanation I.—In the case of an employee who is not in uninterrupted service for one year, he shall be deemed to be in continuous service if he has been actually employed by an employer during the twelve months immediately preceding the year for not less than—

(i) 190 days, if employed below the ground in a mine, or

(ii) 240 days, in any other case, except when he is employed in a seasonal establishment.

Explanation II.—An employee of a seasonal establishment shall be deemed to be in continuous service if he has actually worked for not less than seventy-five per cent. of the number of days on which the establishment was in operation during the year;

(d) "controlling authority" means an authority appointed by the appropriate Government under section 3;

(e) "employee" means any person (other than an apprentice) employed on wages, not exceeding one thousand rupees per mensem, in any establishment, factory, mine, oilfield, plantation, port, railway company or shop, to do any skilled, semi-skilled, or unskilled, manual, supervisory, technical or clerical work, whether the terms of such employment are express or implied, but does not include any such person who is employed in a managerial or administrative capacity, or who holds a civil post under the Central Government or a State Government, or who is subject to the Air Force Act, 1950, the Army Act, 1950, or the Navy Act, 1957.

45 of 1950.
46 of 1950.
62 of 1957.

4 16-9-1972; Vide Notifn. No. S.O. 601 (E), dt. 16-9-1972
Gaz. of India, Extra., Pt. II, Sec. 3 (ii), p. 1641

Explanation.—In the case of an employee, who, having been employed for a period of not less than five years on wages not exceeding one thousand rupees per mensem, is employed at any time thereafter on wages exceeding one thousand rupees per mensem, gratuity, in respect of the period during which such employee was employed on wages not exceeding one thousand rupees per mensem, shall be determined on the basis of the wages received by him during that period;

(f) “employer” means, in relation to any establishment, factory, mine, oilfield, plantation, port, railway company or shop—

(i) belonging to, or under the control of, the Central Government or a State Government, a person or authority appointed by the appropriate Government for the supervision and control of employees, or where no person or authority has been so appointed, the head of the Ministry or the Department concerned,

(ii) belonging to, or under the control of, any local authority, the person appointed by such authority for the supervision and control of employees or where no person has been so appointed, the chief executive officer of the local authority,

(iii) in any other case, the person, who, or the authority which, has the ultimate control over the affairs of the establishment, factory, mine, oilfield, plantation, port, railway company or shop, and where the said affairs are entrusted to any other person, whether called a manager, managing director or by any other name, such person;

(g) “factory” has the meaning assigned to it in clause (m) of section 2 of the Factories Act, 1948;

63 of 1948.

(h) “family”, in relation to an employee, shall be deemed to consist of—

(i) in the case of a male employee, himself, his wife, his children, whether married or unmarried, his dependent parents and the widow and children of his predeceased son, if any,

(ii) in the case of a female employee, herself, her husband, her children, whether married or unmarried, her dependent parents and the dependent parents of her husband and the widow and children of her predeceased son, if any:

Provided that if a female employee, by a notice in writing to the controlling authority, expresses her desire to exclude her husband from her family, the husband and his dependent parents shall no longer be deemed, for the purposes of this Act, to be included in the family of such female employee unless the said notice is subsequently withdrawn by such female employee.

Explanation.—Where the personal law of an employee permits the adoption by him of a child, any child lawfully adopted by him

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Payment of Gratuity

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shall be deemed to be included in his family, and where a child of an employee has been adopted by another person and such adoption is, under the personal law of the person making such adoption, lawful, such child shall be deemed to be excluded from the family of the employee;

(i) "major port" has the meaning assigned to it in clause (8) of section 3 of the Indian Ports Act, 1908; 15 of 1908

(j) "mine" has the meaning assigned to it in clause (j) of subsection (1) of section 2 of the Mines Act, 1952; 35 of 1952

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

(l) "oilfield" has the meaning assigned to it in clause (e) of section 3 of the Oilfields (Regulation and Development) Act, 1948; 53 of 1948

(m) "plantation" has the meaning assigned to it in clause (f) of section 2 of the Plantations Labour Act, 1951; 69 of 1951

(n) "port" has the meaning assigned to it in clause (4) of section 3 of the Indian Ports Act, 1908; 15 of 1908

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

(p) "railway company" has the meaning assigned to it in clause (5) of section 3 of the Indian Railways Act, 1890; 9 of 1890.

(q) "retirement" means termination of the service of an employee otherwise than on superannuation;

(r) "superannuation", in relation to an employee, means,—

(i) the attainment by the employee of such age as is fixed in the contract or conditions of service as the age on the attainment of which the employee shall vacate the employment; and

(ii) in any other case, the attainment by the employee of the age of fifty-eight years;

(s) "wages" means all emoluments which are earned by an employee while on duty or on leave in accordance with the terms and conditions of his employment and which are paid or are payable to him in cash and includes dearness allowance but does not include any bonus, commission, house rent allowance, overtime wages and any other allowance.

Control-
ling autho-
rity.

3. The appropriate Government may, by notification, appoint any officer to be a controlling authority, who shall be responsible for the administration of this Act and different controlling authorities may be appointed for different areas.

Payment
of gratuity

4. (1) Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years,—

(a) on his superannuation, or

(b) on his retirement or resignation, or

1984 by Act 26 of 1984, S. 4

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(c) on his death or disablement due to accident or disease:

Provided that the completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement:

Provided further that in the case of death of the employee, gratuity payable to him shall be paid to his nominee or, if no nomination has been made, to his heirs.

Explanation.—For the purposes of this section, disablement means such disablement as incapacitates an employee for the work which he was capable of performing before the accident or disease resulting in such disablement.

(2) For every completed year of service or part thereof in excess of six months, the employer shall pay gratuity to an employee at the rate of fifteen days' wages based on the rate of wages last drawn by the employee concerned:

Provided that in the case of a piece-rated employee, daily wages shall be computed on the average of the total wages received by him for a period of three months immediately preceding the termination of his employment, and, for this purpose, the wages paid for any overtime work shall not be taken into account:

Provided further that in the case of an employee employed in a seasonal establishment, the employer shall pay the gratuity at the rate of seven days' wages for each season.

(3) The amount of gratuity payable to an employee shall not exceed twenty months' wages.

(4) For the purpose of computing the gratuity payable to an employee who is employed, after his disablement, on reduced wages, his wages for the period preceding his disablement shall be taken to be the wages received by him during that period, and his wages for the period subsequent to his disablement shall be taken to be the wages as so reduced.

✓(5) Nothing in this section shall affect the right of an employee to receive better terms of gratuity under any award or agreement or contract with the employer.

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

(a) the gratuity of an employee, whose services have been terminated for any act, wilful omission or negligence causing any damage or loss to, or destruction of, property belonging to the employer, shall be forfeited to the extent of the damage or loss so caused:

(b) the gratuity payable to an employee shall be wholly forfeited—

(i) if the services of such employee have been terminated for his riotous or disorderly conduct or any other act of violence on his part, or

(ii) if the services of such employee have been terminated for any act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment.

Power to exempt.

4(u) 5.

The appropriate Government may, by notification, and subject to such conditions as may be specified in the notification, exempt any establishment, factory, mine, oilfield, plantation, port, railway company or shop to which this Act applies from the operation of the provisions of this Act if, in the opinion of the appropriate Government, the employees in such establishment, factory, mine, oilfield, plantation, port, railway company or shop are in receipt of gratuity or pensionary benefits not less favourable than the benefits conferred under this Act.

Nomination.

6. (1) Each employee, who has completed one year of service, shall make, within such time, in such form and in such manner, as may be prescribed, nomination for the purpose of the second proviso to sub-section (1) of section 4.

(2) An employee may, in his nomination, distribute the amount of gratuity payable to him under this Act amongst more than one nominee.

(3) If an employee has a family at the time of making a nomination, the nomination shall be made in favour of one or more members of his family, and any nomination made by such employee in favour of a person who is not a member of his family shall be void.

(4) If at the time of making a nomination the employee has no family, the nomination may be made in favour of any person or persons but if the employee subsequently acquires a family, such nomination shall forthwith become invalid and the employee shall make, within such time as may be prescribed, a fresh nomination in favour of one or more members of his family.

(5) A nomination may, subject to the provisions of sub-sections (3) and (4), be modified by an employee at any time, after giving to his employer a written notice in such form and in such manner as may be prescribed, of his intention to do so.

(6) If a nominee predeceases the employee, the interest of the nominee shall revert to the employee who shall make a fresh nomination, in the prescribed form, in respect of such interest.

(7) Every nomination, fresh nomination or alteration of nomination, as the case may be, shall be sent by the employee to his employer, who shall keep the same in his safe custody.

Determination of the amount of gratuity.

7. (1) A person who is eligible for payment of gratuity under this Act or any person authorised, in writing, to act on his behalf shall send a written application to the employer, within such time and in such form, as may be prescribed, for payment of such gratuity.

4 numbered + Ins by Act 26 of 1944, S.5

OF 1972]

Payment of Gratuity

(2) As soon as gratuity becomes payable, the employer shall, whether an application referred to in sub-section (1) has been made or not, determine the amount of gratuity and give notice in writing to the person to whom the gratuity is payable and also to the controlling authority specifying the amount of gratuity so determined.

(3) The employer shall arrange to pay the amount of gratuity, within such time as may be prescribed, to the person to whom the gratuity is payable.

(4) (a) If there is any dispute as to the amount of gratuity payable to an employee under this Act or as to the admissibility of any claim of, or in relation to, an employee for payment of gratuity, or as to the person entitled to receive the gratuity, the employer shall deposit with the controlling authority such amount as he admits to be payable by him as gratuity.

Explanation.—Where there is a dispute with regard to any matter specified in this clause the employee may make an application to the controlling authority for taking such action as is specified in clause (b).

(b) The controlling authority shall, after due inquiry and after giving the parties to the dispute a reasonable opportunity of being heard, determine the amount of gratuity payable to an employee, and, if as a result of such inquiry any amount in excess of the amount deposited by the employer is found to be payable, the controlling authority shall direct the employer to pay such amount as is in excess of the amount deposited by him.

(c) The controlling authority shall pay the amount deposited, including the excess amount, if any, deposited by the employer, to the person entitled thereto.

(d) As soon as may be after a deposit is made under clause (a), the controlling authority shall pay the amount of the deposit—

(i) to the applicant where he is the employee; or

(ii) where the applicant is not the employee, to the nominee or heir of the employee if the controlling authority is satisfied that there is no dispute as to the right of the applicant to receive the amount of gratuity.

(5) For the purpose of conducting an inquiry under sub-section (4), the controlling authority shall have the same powers as are vested in a court, while trying a suit, under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

(a) enforcing the attendance of any person or examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses.

(6) Any inquiry under this section shall be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code.

(7) Any person aggrieved by an order under sub-section (4) may, within sixty days from the date of the receipt of the order, prefer an appeal to the appropriate Government or such other authority as may be specified by the appropriate Government in this behalf:

5 of 1908.

45 of 1860.

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Provided that the appropriate Government or the appellate authority, as the case may be, may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, extend the said period by a further period of sixty days.

(8) The appropriate Government or the appellate authority, as the case may be, may, after giving the parties to the appeal a reasonable opportunity of being heard, confirm, modify or reverse the decision of the controlling authority.

Recovery
of gra-
tuity.

8. If the amount of gratuity payable under this Act is not paid by the employer, within the prescribed time, to the person entitled thereto, the controlling authority shall, on an application made to it in this behalf by the aggrieved person, issue a certificate for that amount to the Collector, who shall recover the same, together with compound interest thereon at the rate of nine per cent. per annum, from the date of expiry of the prescribed time, as arrears of land revenue and pay the same to the person entitled thereto.

Penalties.

9. (1) Whoever, for the purpose of avoiding any payment to be made by himself under this Act or of enabling any other person to avoid such payment, knowingly makes or causes to be made any false statement or false representation shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) An employer who contravenes, or makes default in complying with, any of the provisions of this Act or any rule or order made thereunder shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both:

Provided that where the offence relates to non-payment of any gratuity payable under this Act, the employer shall be punishable with imprisonment for a term which shall not be less than three months unless the court trying the offence, for reasons to be recorded by it in writing, is of opinion that a lesser term of imprisonment or the imposition of a fine would meet the ends of justice.

Exemption
of emp-
loyer
from liabi-
lity in
certain
cases.

10. Where an employer is charged with an offence punishable under this Act, he shall be entitled, upon complaint duly made by him and on giving to the complainant not less than three clear days' notice in writing of his intention to do so, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the court—

(a) that he has used due diligence to enforce the execution of this Act, and

(b) that the said other person committed the offence in question without his knowledge, consent or connivance,

that other person shall be convicted of the offence and shall be liable to the like punishment as if he were the employer and the employer shall be discharged from any liability under this Act in respect of such offence:

Provided that in seeking to prove as aforesaid, the employer may be examined on oath and his evidence and that of any witness whom he calls

in his support shall be subject to cross-examination on behalf of the person he charges as the actual offender and by the prosecutor:

Provided further that, if the person charged as the actual offender by the employer cannot be brought before the court at the time appointed for hearing the charge, the court shall adjourn the hearing from time to time for a period not exceeding three months and if by the end of the said period the person charged as the actual offender cannot still be brought before the court, the court shall proceed to hear the charge against the employer and shall, if the offence be proved, convict the employer.

11. (1) No court shall take cognizance of any offence punishable under this Act save on a complaint made by or under the authority of the appropriate Government: **Cognizance of offences.**

Provided that where the amount of gratuity has not been paid, or recovered, within six months from the expiry of the prescribed time, the appropriate Government shall authorise the controlling authority to make a complaint against the employer, whereupon the controlling authority shall, within fifteen days from the date of such authorisation, make such complaint to a magistrate having jurisdiction to try the offence.

(2) No court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

12. No suit or other legal proceeding shall lie against the controlling authority or any other person in respect of anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder. **Protection of action taken in good faith.**

13. No gratuity payable under this Act shall be liable to attachment in execution of any decree or order of any civil, revenue or criminal court. **Protection of gratuity.**

✓ 14. The provisions of this Act or any rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument or contract having effect by virtue of any enactment other than this Act. **Act to override other enactments, etc.**

15. (1) The appropriate Government may, by notification, make rules for the purpose of carrying out the provisions of this Act. **Power to make rules.**

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

Rep. by Act. 38 of 1978, s. 2 + Sch. I

THE VICTORIA MEMORIAL (AMENDMENT) ACT, 1972

No. 40 OF 1972

[25th August, 1972]

An Act further to amend the Victoria Memorial Act, 1903.

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

Short
title.

1. This Act may be called the Victoria Memorial (Amendment) Act, 1972.

Amend-
ment of
section 2.

2. In the Victoria Memorial Act, 1903, in section 2, in sub-section (1),— 10 of :

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

“(a) the Minister in charge of the Ministry of the Central Government concerned with matters relating to the Victoria Memorial,”;

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

“(d) two persons to be nominated by the Central Government from among persons who, in the opinion of that Government, have expert knowledge of the exhibits in the Victoria Memorial or are museologists, historians or art historians,”;

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

“(h) such and so many persons as shall from time to time be nominated by the Trustees from among persons who, in the opinion of the Trustees, have expert knowledge of the exhibits in the Victoria Memorial or are museologists, historians or art historians, with the approval of the Central Government to represent the general body of subscribers.”.

THE INCOME-TAX (AMENDMENT) ACT, 1972

No. 41 OF 1972

[26th August, 1972]

An Act further to amend the Income-tax Act, 1961 and to provide for barring, in the computation of total income in respect of certain assessment years prior to the assessment year 1962-63, deduction of amounts paid on account of wealth-tax.

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

1. This Act may be called the Income-tax (Amendment) Act, 1972. Short title.

~~43 of 1961.~~ ^{xxxxx} 2. ~~In section 40 of the Income-tax Act, 1961 (hereinafter referred to as the principal Act), after sub-clause (ii) of clause (a), the following sub-clause shall be, and shall be deemed always to have been, inserted, namely:—~~ Amendment of section 40.

‘(ia) any sum paid on account of wealth-tax.

27 of 1957. *Explanation.*—For the purposes of this sub-clause, “wealth-tax” means wealth-tax chargeable under the Wealth-tax Act, 1957 or any tax of a similar character chargeable under any law in force in any country outside India or any tax chargeable under such law with reference to the value of the assets of, or the capital employed in,

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↓ Sec. 2 & 3 Repealed by Act. 38 of 1978, S. 2 + Sch. I

a business or profession carried on by the assessee, whether or not the debts of the business or profession are allowed as a deduction in computing the amount with reference to which such tax is charged, but does not include any tax chargeable with reference to the value of any particular asset of the business or profession;'

Amendment of section 58.

3. Section 58, as originally enacted, of the principal Act shall be deemed always to have been re-numbered as sub-section (1) thereof, and after that sub-section, the following sub-section shall be, and shall be deemed always to have been, inserted, namely:—

'(1A) The provisions of sub-clause (iia) of clause (a) of section 40 shall, so far as may be, apply in computing the income chargeable under the head "Income from other sources" as they apply in computing the income chargeable under the head "Profits and gains of business or profession".'

Wealth-tax not deductible in computing the total income for certain assessment years.

4. Nothing contained in the Indian Income-tax Act, 1922 shall be deemed to authorise, or shall be deemed ever to have authorised, any deduction in the computation of the income of any assessee chargeable under the head "Profits and gains of business, profession or vocation" or "Income from other sources" for the assessment year commencing on the 1st day of April, 1957 or any subsequent assessment year, of any sum paid on account of wealth-tax. 11 of 1922

Explanation.—For the purposes of this section, "wealth-tax" shall have the same meaning as is assigned to it in the *Explanation* to sub-clause (iia) of clause (a) of section 40 of the principal Act.

Saving in certain cases.

5. Where, before the 15th day of July, 1972 [being the date on which the Income-tax (Amendment) Ordinance, 1972 came into force], the Supreme Court has, on an appeal in respect of the assessment of an assessee for any particular assessment year, held that wealth-tax paid by the assessee is deductible in computing the total income of that year then, nothing contained in sub-clause (iia) of clause (a) of section 40, or sub-section (1A) of section 58, of the principal Act, as amended by this Act, or, as the case may be, section 4 of this Act, shall apply to the assessment of such assessee for that particular year. 7 of 1972

Repeal and saving.

6. ~~(1) The Income-tax (Amendment) Ordinance, 1972, is hereby repealed. 7 of 1972~~

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance or under section 5 or section 6 of the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act or under section 4 or section 5 of this Act, as the case may be, as if this Act had come into force on the 15th day of July, 1972.

↓ Repealed by Act 38 of 1978, s. 2 + Sch. I

Rep. by Act 38 of 1978, S. 2 + Sch. I

THE DENTISTS (AMENDMENT) ACT, 1972

NO. 42 OF 1972

[27th August, 1972]

An Act further to amend the Dentists Act, 1948.

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

- 16 of 1948. 1. (1) This Act may be called the Dentists (Amendment) Act, 1972. 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.
- 27 of 1933.
102 of 1956. 2. In sub-section (2) of section 1 of the Dentists Act, 1948 (hereinafter referred to as the principal Act), the words "except the State of Jammu and Kashmir" shall be omitted. Amendment of section 1.
3. In section 2 of the principal Act,— Amendment of section 2.
- (a) in clause (f), for the words and figures "Indian Medical Council Act, 1933," the words and figures "Indian Medical Council Act, 1956," shall be substituted;
- (b) for clause (j), the following clause shall be substituted, namely:—
- '(j) "recognised dental qualification" means any of the qualifications included in the Schedule;'; and
- (c) clause (m) shall be omitted.

¹1-11-1972: vide Notification No. S.O. 682 (E) dated the 28th October 1972, see Gazette of India, Extraordinary, Part II, Sec. 3(ii), p. 1841.

Repealed

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Dentists (Amendment)

[ACT 42

Insertion
of new
section
2A.

Con-
struc-
tion of
refer-
ences
to laws
not in
force in
Jammu
and
Kashmir.

Amend-
ment of
section 3.

4. In Chapter I of the principal Act, after section 2, the following section shall be inserted, namely:—

“2A. Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.”.

5. In section 3 of the principal Act,—

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

“(c) not more than four members elected from among themselves, by—

(a) Principals, Deans, Directors and Vice-Principals of dental colleges in the States training students for recognised dental qualifications;

Provided that not more than one member shall be elected from the same dental college;

(b) Heads of dental wings of medical colleges in the States training students for recognised dental qualifications;”;

(b) in clause (e), the words “other than the State of Jammu and Kashmir or a Union territory” shall be omitted;

(c) to clause (e), the following *Explanation* shall be added, namely:—

Explanation.—In this clause, “State” does not include a Union territory;”.

Amend-
ment of
section 6.

6. In section 6 of the principal Act,—

(a) to subsection (1), the following proviso shall be added, namely:—

“Provided that a member nominated under clause (e) or clause (f) of section 3, shall hold office during the pleasure of the authority nominating him.”;

(b) in sub-section (3),—

(i) for the words “Principal or Vice-Principal”, the words “Principal, Dean, Director or Vice-Principal” shall be substituted;

(ii) for the words “a professor of dental surgery”, the words “the Head of the dental wing” shall be substituted.

Amend-
ment of
section 9.

7. In sub-section (2) of section 9 of the principal Act, after the words “President and Vice-President *ex officio*”, the words “and the Director-General of Health Services *ex officio*” shall be inserted.

Repeated

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

Substitution of new section for section 10.

"10. (1) The dental qualifications, granted by any authority or institution in India, which are included in Part I of the Schedule shall be recognised dental qualifications for the purposes of this Act.

Recognition of dental qualifications.

(2) Any authority or institution in India which grants a dental qualification not included in Part I of the Schedule may apply to the Central Government to have such qualification recognised and included in that Part, and the Central Government, after consulting the Council, and after such inquiry, if any, as it may think fit for the purpose, may, by notification in the Official Gazette, amend Part I of the Schedule so as to include such qualification therein, and any such notification may also direct that an entry shall be made in Part I of the Schedule against such dental qualification declaring that it shall be a recognised dental qualification only when granted after a specified date.

(3) (a) The dental qualifications, granted by any authority or institution outside India, which are included in Part II of the Schedule shall be recognised dental qualifications only for the purposes of the registration of citizens of India when the register is first prepared under this Act.

(b) Where any dental qualification granted by any authority or institution outside India, and held by a citizen of India, is recognised for the purposes of the register when it is first prepared, after the commencement of the Dentists (Amendment) Act, 1972, the Central Government may, after consultation with the Council, by notification in the Official Gazette, amend Part II of the Schedule so as to include therein the dental qualification so recognised.

(4) (a) The dental qualifications granted by any authority or institution outside India, which are included in Part III of the Schedule, shall be recognised dental qualifications for the purposes of this Act, but no person possessing any such qualification shall be entitled for registration unless he is a citizen of India.

(b) Where any dental qualification granted by any authority or institution outside India, and held by a citizen of India, is recognised, except on reciprocal basis, after the commencement of the Dentists (Amendment) Act, 1972, the Central Government may, after consultation with the Council, by notification in the Official Gazette, amend Part III of the Schedule so as to include therein the dental qualification so recognised.

(5) The Council may enter into negotiations with any authority or institution in any State or country outside India which, by law of any such State or country, is entrusted with the maintenance of a register of dentists, for the settling of a scheme of reciprocity for the recognition of dental qualifications and in pursuance of any such scheme, the Central Government may, by notification in the Official Gazette, declare that any such qualification granted by any authority

or institution in any such State or country, or such qualification, only when granted after a specified date, shall be a recognised dental qualification for the purposes of this Act, and any such notification may provide for an amendment of the Schedule and may also direct that any such dental qualification as is specified in the notification shall be entered in the Schedule as so amended.

(6) The Central Government may, after consultation with the Council, by notification in the Official Gazette, amend the Schedule by directing that an entry be made therein in respect of any dental qualification declaring that it shall be a recognised dental qualification only when granted before a specified date."

Insertion
of new
section
15A.
Appoint-
ment of
Visitors.

9. After section 15 of the principal Act, the following section shall be inserted, namely:—

"15A. (1) The Council may appoint such number of Visitors as it may deem necessary to attend at any examination held by any authority or institution in a State which grants recognised dental qualifications and to inspect any institution training students for recognised dental qualifications.

(2) Any person, whether he is a member of the Council or not, may be appointed as a Visitor under this section, but a person who is appointed as an Inspector under section 15 for any inspection or examination shall not be appointed as a Visitor for the same inspection or examination.

(3) The Visitor shall not interfere with the course of any examination but shall report to the President of the Council on the sufficiency of every examination at which he attends and of the courses of study and training at every institution which he inspects, and on the adequacy of the standards of dental education including staff, equipment, accommodation and other facilities prescribed for giving dental education, and on any other matters with regard to which the Council may require him to report.

(4) The report of a Visitor shall be treated as confidential unless in any particular case the President of the Council otherwise directs:

Provided that if the Central Government requires a copy of the report of a Visitor, the Council shall furnish the same."

Amend-
ment of
section
16.
Insertion
of new
section
16A.
With-
drawal
of recog-
nition of
recog-
nised
dental
qualifi-
cation.

10. In section 16 of the principal Act, the words "dental of", wherever they occur, shall be omitted.

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

"16A. (1) When, upon report by the Executive Committee or the Visitor, it appears to the Council—

(a) that the courses of study and training or the examination to be undergone in order to obtain a recognised dental qualification from any authority or institution in a State, or the conditions for admission to such courses or the standards of proficiency required from the candidates at such examinations are not in conformity with the regulations made under this Act or fall short of the standards required thereby, or

Repealed

(b) that an institution does not, in the matter of staff, equipment, accommodation, training and other facilities, satisfy the requirements of the Council,

the Council shall send a statement to that effect to the Central Government.

(2) After considering such a statement, the Central Government may send it to the Government of the State in which the authority exercises power or the institution is situated, and the State Government shall forward it, along with such remarks as it may think fit to make, to the authority or institution concerned, with an intimation of the period within which the authority or institution may submit its explanation to the State Government.

(3) After considering the explanation, or where no explanation is submitted within the period fixed, then, on the expiry of that period, the State Government shall make its recommendations to the Central Government.

(4) The Central Government may, after considering the recommendations of the State Government and after making such further inquiry, if any, as it may think fit, by notification in the Official Gazette, direct that an entry shall be made in Part I of the Schedule against the qualification granted by the authority or institution declaring that it shall be a recognised dental qualification only when granted before a specified date or that the said recognised dental qualification if granted to students of a specified college or institution affiliated to any University shall be a recognised dental qualification only when granted before a specified date or, as the case may be, that the said recognised dental qualification shall be a recognised dental qualification in relation to a specified college or institution affiliated to any University only when granted after a specified date."

12. In section 17 of the principal Act, the word and figures "section 10," shall be omitted.

Amendment of section 17.

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

Insertion of new section 17A.

"17A. (1) The Council may prescribe standards of professional conduct and etiquette or the code of ethics for dentists.

Professional conduct.

(2) Regulations made by the Council under sub-section (1) may specify which violations thereof shall constitute infamous conduct in any professional respect, that is to say, professional misconduct, and such provision shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force."

14. In sub-section (2) of section 20 of the principal Act,—

Amendment of section 20.

(a) in clause (a), the words "and the maintenance and audit of its accounts" shall be omitted;

(b) in clause (f), for the words ". Inspectors and other officers and servants of the Council", the words "and other officers and servants of the Council, and Inspectors, and Visitors appointed by the Council" shall be substituted.

Repealed

Amendment of section 21.

15. In section 21 of the principal Act,—
(a) in clause (d), the word “and” occurring at the end shall be omitted;
(b) in clause (e), the word “and” shall be inserted at the end;
and
(c) after clause (e), the following clause shall be inserted, namely:—
“(f) the Chief Medical Officer of the State, by whatever name called, *ex officio*.”

Amendment of section 23.

16. In section 23 of the principal Act, after clause (e), the following clause shall be inserted, namely:—
“(f) the Chief Medical Officer of each participating State, by whatever name called, *ex officio*.”

Amendment of section 27.

17. In section 27 of the principal Act, to sub-section (1), the following proviso shall be added, namely:—
“Provided that a member nominated under clause (e) of section 21 or clause (e) of section 23, shall hold office during the pleasure of the authority nominating him.”

Amendment of section 29.

18. In sub-section (1) of section 29 of the principal Act, after the words “President and Vice-President *ex officio*”, the words “and the Chief Medical Officer of the State or the States concerned, by whatever name called, *ex officio*” shall be inserted.

Amendment of section 33.

19. In sub-section (1) of section 33 of the principal Act,—
(a) in the first proviso, for clause (b), the following clause shall be substituted, namely:—
“(b) recognised, in pursuance of a scheme of reciprocity, under sub-section (5) of section 10:”;
(b) in the second proviso, for the word and figures “Part III”, the word and figures “Part II” shall be substituted;
(c) in the third proviso,—
(i) in clause (b), the word “or” shall be inserted at the end;
(ii) after clause (b), the following clause shall be inserted, namely:—
“(c) in the State of Jammu and Kashmir, if he is registered on the register of dental practitioners maintained under the Jammu and Kashmir Dentists Act, 1958.”

J. & K. Act 9 of 1958.

Amendment of section 34.

20. In section 34 of the principal Act,—
(a) in sub-section (1)—
(i) for the word “Council”, wherever it occurs, the words “Central Government” shall be substituted;
(ii) in the first proviso, for clause (b), the following clause shall be substituted, namely:—
“(b) recognised, in pursuance of a scheme of reciprocity, under sub-section (5) of section 10:”;
(b) in sub-section (2),—
(i) in clause (a), for the words “State Dental Council”, the words “State Council” shall be substituted;

Repealed

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

(aa) the State Council may, during the period of two years immediately after the commencement of the Dentists (Amendment) Act, 1972, permit, for sufficient reasons, the registration in the State register of any displaced person or a repatriate who does not hold any recognised dental qualification but has been actually practising the profession of dentistry as his principal means of livelihood from a date prior to the 29th day of March, 1948.

Explanation.—In this clause,—

(i) “displaced person” means any person who, on account of civil disturbances or fear of such disturbances in any area now forming part of Bangladesh, has, after the 14th day of April, 1957 but before the 25th day of March, 1971, left, or has been displaced from, his place of residence in such area and who has since then been residing in India;

(ii) “repatriate” means any person who, on account of civil disturbances or fear of such disturbances in any area now forming part of Burma or Ceylon, has, after the 14th day of April, 1957, left or has been displaced from, his place of residence in such area and who has since then been residing in India;;

(iii) in clause (b), the words “, irrespective of any considerations of reciprocity,” shall be omitted.

21. In section 39 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) On payment of the renewal fee, the Registrar shall issue a certificate of renewal and such certificate shall be proof of renewal of registration.”

Amendment of section 39.

22. In section 41 of the principal Act,—

(a) in clause (ii) of sub-section (1), after the words “professional respect”, the words, figures and letter “or has violated the standards of professional conduct and etiquette or the code of ethics prescribed under section 17A” shall be inserted; and

(b) in sub-section (5), after the words “certificate of registration”, the words “and certificate of renewal, if any,” shall be inserted.

Amendment of section 41.

23. In section 44 of the principal Act, after the words “certificate of registration”, the words “or a certificate of renewal” shall be inserted.

Amendment of section 44.

24. After section 46 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 46A.

“46A. Where a dentist registered in one State is practising dentistry in another State, he may, on payment of the prescribed fee which shall not exceed the renewal fee for registration in such other State, make an application in the prescribed form to the Council for the transfer of his name, from the register of the State where he is registered, to the register of the State in which he is practising dentistry, and on receipt of any such application, the Council shall,

Transfer of registration.

Repealed

notwithstanding anything contained elsewhere in this Act, direct that the name of such person be removed from the first-mentioned register and entered in the register of the second-mentioned State and the State Councils concerned shall comply with such directions:

Provided that such a person shall be required to produce a certificate to the effect that all dues in respect of his registration in the former State have been paid:

Provided further that where any such application for transfer is made by a dentist against whom any disciplinary proceeding is pending or where for any other reason it appears to the Council that the application for transfer has not been made *bona fide* and the transfer should not be made, the Council may, after giving the dentist a reasonable opportunity of making a representation in this behalf, reject the application."

Amendment of section 50.

25. In section 50 of the principal Act, after the words "certificate of registration", the words "or certificate of renewal, or both" shall be inserted.

Insertion of new section 53A.

26. After section 53 of the principal Act, the following section shall be inserted, namely:—

Accounts and audit.

"53A. (1) The Council shall maintain appropriate accounts and other relevant records and prepare an annual statement of accounts including the balance-sheet, in accordance with such general directions as may be issued and in such form as may be specified by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Council shall be audited annually by the Comptroller and Auditor-General of India or any person appointed by him in this behalf and any expenditure incurred by him or any person so appointed in connection with such audit shall be payable by the Council to the Comptroller and Auditor-General of India.

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

(4) The accounts of the Council as certified by the Comptroller and Auditor-General of India or any person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government.

(5) A copy of the accounts of the Council as so certified together with the audit report thereon shall be forwarded simultaneously to the Council."

Amendment of section 55.

27. In sub-section (2) of section 55 of the principal Act,—

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

"(gg) the form of application for transfer of registration from one State to another;"

Repealed

of 1972]

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

“(h) the charge for supplying printed copies of the registers, and the fees payable for—

- (i) registration or renewal of registration;
- (ii) supplying a duplicate certificate of registration or renewal; and
- (iii) transfer of registration from one State to another;”;

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

“(i) the forms of certificates of registration and renewal;”.

28. For the Schedule to the principal Act, the following Schedule shall be substituted, namely:—

Substitution of new Schedule for the Schedule.

“THE SCHEDULE

PART I

[See sub-sections (1) and (2) of section 10]

Recognised Dental Qualifications granted by the Authorities or Institutions in India

Authority or Institution	Recognised dental qualification	Abbreviation for registration
1	2	3
1. Board of Examiners, Calcutta Dental College & Hospital, Calcutta	Licentiate in Dental Science; —if granted before the 1st day of May, 1941.	L.D.Sc. Calcutta
2. State Medical Faculty, Bengal, Calcutta	Licentiate in Dental Science; —if granted after the 30th day of April, 1941.	L.D.S. (S.M.F.) Bengal
3. City Dental College and Hospital, Calcutta	Licentiate in Dental Science; —if granted before the 31st day of March, 1940, to any person who— (i) had undergone two years' course of training in that institution; or (ii) having been previously engaged in practice as a dentist or a medical practitioner, had undergone one year's course of training in that institution.	L.D.Sc. (C.D.C.) Calcutta
4. University of Bombay	(i) Bachelor of Dental Surgery (ii) Master of Dental Surgery —Prosthetic Dentistry —Periodontia —Oral Surgery —Orthodontia —Dental Radiology —Operative Dentistry —Dental Pathology and Bacteriology	B.D.S. Bombay M.D.S. (Pros.) Bombay M.D.S. (Perio.) Bombay M.D.S. (Oral Surgery) Bombay M.D.S. (Ortho.) Bombay M.D.S. (Radiology) Bombay M.D.S. (Operative) Bombay M.D.S. (Dent. Path. & Bact.) Bombay

Repealed

Author Institution	Recognised dental qualification	Abbreviation for registration
1	2	3
5. College of Physicians and Surgeons, Bombay	Licentiate in Dental Science	L.D.S. (C.P.S.) Bombay
6. Nair Hospital, Dental Board, Bombay	Licentiate in Dental Science	L.D.Sc. (Nair) Bombay
7. East Punjab University	Bachelor of Dental Surgery; —if granted during the year 1948.	B.D.S. East Punjab
8. Lucknow University	(i) Bachelor of Dental Surgery (ii) Master of Dental Surgery —Prosthodontics —Periodontics —Orthodontics —Oral Surgery —Pedodontia and Preventive Dentistry	B.D.S. Lucknow M.D.S. (Pros.) Lucknow M.D.S. (Perio.) Lucknow M.D.S. (Ortho.) Lucknow M.D.S. (Oral Surgery) Lucknow M.D.S. (Pedo.) Lucknow
9. Madras University	(i) Bachelor of Dental Surgery (ii) Master of Dental Surgery —Oral Surgery —Periodontology	B.D.S. Madras M.D.S. (Oral Surgery) Madras M.D.S. (Perio.) Madras
10. Calcutta University	Bachelor of Dental Surgery	B.D.S. Calcutta
11. Punjab University	(i) Bachelor of Dental Surgery *(ii) Master of Dental Surgery —Pedodontia & Preventive Dentistry —Dental Prosthesis and Crown and Bridge Work *—if granted before the 31st December, 1970.	B.D.S. Punjab M.D.S. (Pedo.) Punjab M.D.S. (Pros.) Punjab
12. Punjabi University	Bachelor of Dental Surgery	B.D.S. Punjabi
13. Osmania University	Bachelor of Dental Surgery	B.D.S. Osmania
14. Kerala University	(i) Bachelor of Dental Surgery (ii) Master of Dental Surgery —Operative Dentistry	B.D.S. Kerala M.D.S. (Operative) Kerala
15. Mysore University	Bachelor of Dental Surgery	B.D.S. Mysore
16. Patna University	Bachelor of Dental Surgery	B.D.S. Patna
17. Bangalore University	(i) Bachelor of Dental Surgery (ii) Master of Dental Surgery —Orthodontics —Oral Surgery —Periodontia	B.D.S. Bangalore M.D.S. (Ortho.) Bangalore M.D.S. (Oral Surgery) Bangalore M.D.S. (Perio.) Bangalore
18. Indore University	Bachelor of Dental Surgery	B.D.S. Indore
19. Gujarat University	(i) Bachelor of Dental Surgery (ii) Master of Dental Surgery —Prosthetic Dentistry —Periodontia —Oral Pathology and Bacteriology —Oral Diagnosis and Dental Radiology —Operative Dentistry	B.D.S. Gujarat M.D.S. (Pros.) Gujarat M.D.S. (Perio.) Gujarat M.D.S. (Oral Path. & Bact.) Gujarat M.D.S. (Oral Diag. & Radiology) Gujarat M.D.S. (Operative) Gujarat
20. Guru Nanak University	(i) Bachelor of Dental Surgery (ii) Master of Dental Surgery —Pedodontia and Preventive Dentistry —Dental Prosthesis and Crown and Bridge Work	B.D.S. Guru Nanak M.D.S. (Pedo.) Guru Nanak M.D.S. (Pros.) Guru Nanak

Repealed

1972]

Dentists (Amendment)

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PART II

[See sub-section (3) of section 10]

Recognised Dental Qualifications for the purposes of Registration when the Register is first prepared

Authority or Institution	Recognised dental qualification	Abbreviation for registration
i	2	3
1. The University of Vienna (Austria)	Post-graduate Certificate of Dentistry	Z.D.S. (Vienna)
2. The Tulane University of Louisiana (U.S.A.)	Doctor of Dental Surgery	D.D.S. (Louisiana, U.S.A.)
3. Dusseldorf (Germany)	Zahnarzt Diploma	—

PART III

[See sub-section (4) of section 10]

Recognised Dental Qualifications granted by Authorities or Institutions outside India only when granted to a citizen of India

Authority or Institution	Recognised dental qualification	Abbreviation for registration
1	2	3
1. The University of Punjab, Lahore	Bachelor of Dental Surgery Master of Dental Surgery —if granted before the 15th day of August, 1947	B.D.S. Lahore M.D.S. Lahore
2. The Punjab State Medical Faculty, Lahore	Licentiate in Dental Science —if granted before the 15th day of August, 1947	L.D.Sc. (S.M.F.) Lahore
3. The Board of Examiners, College of Dentistry, Karachi	Licentiate in Dental Science —if granted before the 31st day of December, 1943	L.D.Sc. Karachi

Repealed

Authority or Institution	Recognised dental qualification	Abbreviation for registration
1	2	3
4. The Royal College of Surgeons, England (U.K.)	Licence in Dental Surgery Fellowship in Dental Surgery Diploma in Orthodontics	L.D.S.R.C.S. Eng. F.D.S.R.C.S. Eng. D. Orth. R.C.S. Eng.
5. The Royal College of Surgeons, Edinburgh (U.K.)	Licentiate in Dental Surgery Fellow in Dental Surgery	L.D.S.R.C.S. Edin. F.D.S.R.C.S. Edin.
6. Royal College of Physicians & Surgeons of Glasgow/Royal Faculty of Physicians & Surgeons, Glasgow (U.K.)	Licence in Dental Surgery Diploma in Orthopaedics Fellowship in Dental Surgery *Higher Dental Diplomate *—granted only up to 1965	L.D.S.R./C.P.S.G. D.D.O.R.C.P.S.G. F.D.S.R.C.P.S.G. H.D.D.
7. The Royal College of Surgeons, Ireland	Licence in Dental Surgery Fellowship of the Faculty of Dentistry	L.D.S.R.C.S. Irel. F.F.D.R.C.S. Irel.
8. The University of Newcastle Upon Tyne, Newcastle Upon Tyne/ The University of Durham, Newcastle Upon Tyne (U.K.)	*Licence in Dental Surgery Bachelor of Dental Surgery Master of Dental Surgery Doctor of Dental Science *—abolished from 1962	L.D.S. Dunelm B.D.S. Newcastle/Dunelm M.D.S. Newcastle/Dunelm D.D.S. Newcastle/Dunelm
9. The University of London (U.K.)	Bachelor of Dental Surgery Master of Dental Surgery Master of Science (Dentistry)	B.D.S. London M.D.S. London M.Sc. London
10. The University of Manchester (U.K.)	Doctor of Dental Surgery Master of Dental Surgery Bachelor of Dental Surgery Licentiate in Dental Surgery	D.D.S. (U. Manc.) M.D.S. (U. Manc.) B.D.S. (U. Manc.) L.D.S. (U. Manc.)
11. The University of Birmingham (U.K.)	Bachelor of Dental Surgery Master of Dental Surgery *Licence of Dental Surgery *—abolished from 1950	B.D.S. Birmingham M.D.S. Birmingham L.D.S. Birmingham
12. The University of Liverpool (U.K.)	Bachelor of Dental Surgery Master of Dental Surgery Doctor of Philosophy *Licence in Dental Surgery *—abolished in 1963	B.D.S. Liverpool M.D.S. Liverpool Ph. D. Liverpool L.D.S. Liverpool
13. The University of Leeds (U.K.)	Bachelor of Dental Surgery Diploma in Dental Surgery Master of Dental Surgery	B.Ch.D. U. Leeds L.D.S. U. Leeds M.Ch. D. U. Leeds
14. The University of Sheffield (U.K.)	Bachelor of Dental Surgery Master of Dental Surgery Licentiate of Dental Surgery	B.D.S. U. Sheff. M.D.S. U. Sheff. L.D.S. U. Sheff.
15. The University of Bristol (U.K.)	Bachelor of Dental Surgery Diploma in Dental Surgery Master of Dental Surgery	B.D.S. U. Brist. L.D.S. U. Brist. M.D.S. U. Brist.

Repealed

1	2	3
Authority or Institution	Recognised dental qualification	Abbreviation for registration
16. The University of Dundee/ University of St. Andrews, Dundee (U.K.)	Bachelor of Dental Surgery Master of Dental Surgery Doctor of Dental Science Diploma in Public Dentistry *Diploma in Dental Surgery *—abolished in 1950	B.D.S. U.Dundee/St. And. M.D.S. U.Dundee/St. And. D.D.Sc. U.Dundee/St. And. D.P.D. U.Dundee/St. And. L.D.S. U.St. And.
17. The Queen's University of Belfast (U.K.)	Bachelor of Dental Surgery Master of Dental Surgery *Licentiate in Dental Surgery *—abolished	B.D.S. Q.U. Belf. M.D.S. Q.U. Belf. L.D.S. Q.U. Belf.
18. The National University of Ireland, Dublin	Bachelor of Dental Surgery Master of Dental Surgery	B.D.S. N.U. Irel. M.D.S. N.U. Ir l.
19. The Emory University, Atlanta (U.S.A.) Atlanta/Southern Dental College, Atlanta, Georgia (U.S.A.)	Doctor of Dental Surgery Master of Science in Dentistry	D.D.S. Atlanta [†] M.S.D. Atlanta
20. University of Illinois, Chicago (U.S.A.)	Degree of Dental Surgery Master of Science	D.D.S. Illinois M.S. Illinois
21. Lyola University, Chicago (U.S.A.)	Doctor of Dental Surgery Master of Science in Oral Biology	D.D.S. Lyola M.S. Lyola
22. North-Western University, Chicago, Illinois (U.S.A.)	Doctor of Dental Surgery Master of Science *Master of Science in Dentistry *—discontinued in 1939	D.D.S. North-Western M.S. North-Western M.S.D. North-Western
23. Indiana University, Indianapolis, Indiana (U.S.A.)	Doctor of Dental Surgery Master of Science in Dentistry	D.D.S. Indiana M.S.D. Indiana
24. College of Dentistry, University of Iowa City, Iowa (U.S.A.)	Doctor of Dental Surgery Master of Science	D.D.S. Iowa M.S. Iowa
25. Harvard University, Boston, Massachusetts (U.S.A.)	Doctor of Dental Medicine	D.M.D. Harvard
26. University of Nebraska, Omaha, Nebraska (U.S.A.)	Doctor of Dental Surgery Master of Science in Dentistry	D.D.S. Nebraska M.S.D. Nebraska
27. Columbia University, New York City (U.S.A.)	Doctor of Dental Surgery	D.D.S. Columbia
28. University of Pennsylvania, Philadelphia, Pennsylvania (U.S.A.)	*Doctor of Dental Surgery Doctor of Dental Medicine *—abolished in 1964	D.D.S. Penn. D.M.D. Penn.
29. The University of Texas at Houston, Texas Dental College, Houston (U.S.A.)	Doctor of Dental Surgery	D.D.S. Texas
30. University of Minnesota (U.S.A.)	Doctor of Dental Surgery Master of Science in Dentistry Doctor of Philosophy	D.D.S. Minnesota M.S.D. Minnesota Ph. D. Minnesota
31. Saint Louis University, Missouri (U.S.A.)	Doctor of Dental Surgery	D.D.S. St. Louis
32. University of Michigan (U.S.A.)	Doctor of Dental Surgery Master of Science Doctor of Philosophy	D.D.S. Michigan M.S. Michigan Ph. D. Michigan

Repealed

Authority or Institution	Recognised dental qualification	Abbreviation for registration
1	2	3
33. Tufts University, Tufts College, Boston (U.S.A.)	Doctor of Dental Medicine Master of Science Master of Dental Science Doctor of Philosophy	D.M.D. Tufts M.S. Tufts M.D.S. Tufts Ph.D. Tufts
34. The University of Toronto, Ontario (Canada)	Doctor of Dental Surgery Diploma in Dental Public Health Diploma in Oral Surgery and Anaesthesia Diploma in Paedodontics Diploma in Orthodontics Diploma in Periodontics Bachelor of Science in Dentistry Master of Science in Dentistry Doctor of Philosophy	D.D.S. Toronto D.D.P.H. Toronto Dip. Oral Surg. Toronto Dip. Paedodont. Toronto Dip. Orthodont. Toronto Dip. Periodont. Toronto B.Sc.D. Toronto M.Sc.D. Toronto Ph.D. Toronto
35. McGill University, Montreal (Canada)	Doctor of Dental Surgery	D.D.S. McGill
36. Deutsche Zahnärztliche Universitaets Institut, Bonn (Germany)	Diploma	..
37. Deutsche Zahnärztliche Universitaets Institut, Munich (Germany)	Diploma	..
38. Ecole Dentaire de Paris, Paris	Chirurgien Dentiste (Diploma of Dental Surgeon),	D.E.D.P. Paris
39. Ecole Dentaire Française, Paris	Diploma of Dental Surgeon	D.E.D.F. Paris
40. American Dental College, Karachi	Licentiate in Dental Science —if granted on or before the 31st December, 1936	L.D.Sc. Karachi
41. The Faculty of Medicine, University of Vienna (Austria)	The qualification of dental specialist granted by the Faculty of Medicine, University of Vienna, after two years' course in dentistry prior to which the M.D. Degree of that University has been obtained.	..
42. University of Berlin (Germany)	Zahnarzt Diploma Doctor Medicinæ Dentariæ	Dr. Med. Dent.
43. University of Freiburg (Germany)	Zahnarzt Diploma	..
44. University of Frankfurt (Germany)	Doctor Medicinæ Dentariæ	Dr. Med. Dent.
45. Baltimore College of Dental Surgery, University of Maryland (U.S.A.)	Doctor of Dental Surgery Master of Science	D.D.S. Maryland M.S. Maryland
46. University of Rostock (Germany)	Doctor Medicinæ Dentariæ	Dr. Med. Dent.
47. University of Detroit (U.S.A.)	Doctor of Dental Surgery Master of Science	D.D.S. Detroit M.S. Detroit

Repealed

Authority or Institution	Recognised dental qualification	Abbreviation for registration
1	2	3
48. University of Rochester (U.S.A.)	Doctor of Philosophy	Ph.D. Rochester
49. University of Edinburgh (U.K.)	Bachelor of Dental Surgery	B.D.S. Edin.
50. Punjab Dental College/ Dental and Optical College, Lahore (Now defunct)	*Licentiate of Dental Science Diploma *Bachelor of Dental Science Diploma *—if granted on or before the 14th August, 1947	L.D.Sc. Lahore B.D.Sc. Lahore
51. Tokyo Medical and Dental University, Tokyo (Japan)	Dr. of Medical Science —Operative Dentistry	D.M.Sc.—Igakuhakushi
52. University of New Zealand, Wellington, New Zealand	Master of Dental Surgery	M.D.S. New Zealand
53. Ecole de Chirurgie Dentaire et de Stomatologie de Paris (France)	Diploma	DECD&S. Paris
54. University of Sydney, Sydney (Australia)	Bachelor of Dental Surgery Master of Dental Surgery	B.D.S. Sydney M.D.S. Sydney
55. Georgetown University, Washington (U.S.A.)	Doctor of Dental Surgery Master of Surgery in Pedodontia	D.D.S. Georgetown M.S. (Pedo.) Georgetown
56. University of Alabama, Alabama (U.S.A.)	Doctor of Dental Surgery Master of Science in Dentistry	D.D.S. Alabama M.S.D. Alabama
57. University of Otago, Dunedin C.I. (New Zealand)	Master of Dental Surgery	M.D.S. Otago
58. Marquette University, Milwaukee, Wisconsin (U.S.A.)	Doctor of Dental Surgery Master of Science	D.D.S. Marquette M.S. Marquette
59. New York University, New York (U.S.A.)	Doctor of Dental Surgery Master of Science in Dentistry	D.D.S. N.Y. M.S.D. N.Y.
60. University of California, San Francisco (U.S.A.)	Doctor of Dental Surgery Master of Science	D.D.S. Calif. M.S. Calif.
61. University of Missouri at Kansas City, Missouri (U.S.A.)	Doctor of Dental Surgery Master of Science	D.D.S. Missouri M.S. Missouri
62. Washington University, St. Louis, Missouri (U.S.A.)	Doctor of Dental Surgery Master of Science	D.D.S. Washington M.S. Washington

Repealed

Authority or Institution	Recognised dental qualification	Abbreviation for registration
1	2	3
63. University of Malaya, Singapore	Bachelor of Dental Surgery	B.D.S. Malaya
64. University of Pittsburg, Pittsburg, Pennsylvania (U.S.A.)	Master of Science in Dentistry (Pedodontics)	M.S.D. (Pedo.) Pittsburg
65. University of Alabama in Birmingham, U.S.A.	Master of Science Degree in Pathology (Oral Pathology)	M.S.D. (Oral Path.) Birmingham."

**THE DIPLOMATIC RELATIONS (VIENNA CONVENTION)
ACT, 1972**

No. 43 OF 1972

[29th August, 1972]

An Act to give effect to the Vienna Convention on Diplomatic Relations, 1961 and to provide for matters connected therewith.

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

1. (1) This Act may be called the Diplomatic Relations (Vienna Convention) Act, 1972. **Short title
and extent.**

(2) It extends to the whole of India.

2. (1) Notwithstanding anything to the contrary contained in any other law, the provisions set out in the Schedule to this Act of the Vienna Convention on Diplomatic Relations, adopted by the United Nations Conference on Diplomatic Intercourse and Immunities on the 14th day of April, 1961, shall have the force of law in India. **Application
of Vienna
Convention
on Diplo-
matic Re-
lations.**

(2) The Central Government may, from time to time, by notification in the Official Gazette, amend the Schedule in conformity with any amendments, duly made and adopted, of the provisions of the said Convention set out therein.

Applica-
tion of
certain
privileges
and immu-
nities
to diplo-
matic
missions
and their
members
pursuant
to inter-
national
agree-
ment.

3. Where in pursuance of any agreement, convention or other instru-
ment it is necessary to accord to any diplomatic mission and its mem-
bers, the sending State of which is not a party to the Vienna Conven-
tion on Diplomatic Relations, 1961, or to any other special mission and
its members, privileges and immunities in India similar to those con-
tained in the provisions set out in the Schedule, the Central Government
may, by notification in the Official Gazette, declare that the provisions
set out in the Schedule shall, subject to such modifications, if any, as it
may consider necessary or expedient for giving effect to the said agree-
ment, convention or other instrument, apply *mutatis mutandis* to the
diplomatic mission and its members, or to the other special mission and
its members, as the case may be, and thereupon the said provisions shall
apply accordingly, and notwithstanding anything to the contrary con-
tained in any other law, shall in such application have the force of law
in India.

Restric-
tions on
privileges
and immu-
nities.

4. If it appears to the Central Government that a State which is a
party to the Vienna Convention on Diplomatic Relations, 1961 is in
breach of its obligations arising thereunder or, that the privileges and
immunities accorded to an Indian Mission or members thereof in the
territory of any State which is a party to the Vienna Convention on
Diplomatic Relations, 1961, are less than those conferred by this Act on
the Diplomatic mission of that State or members thereof, the Central
Government may, notwithstanding anything contained in this Act, by
notification in the Official Gazette, withdraw such of the privileges and
immunities so conferred from the diplomatic mission of that State or
from members thereof as may appear to the Central Government to be
proper.

Waiver.

5. For the purpose of article 32 of the Convention set out in the
Schedule, a waiver by the head of the mission of any State or any person
for the time being performing his functions shall be deemed to be a
waiver by that State.

Restric-
tions on
certain
exemptions
from
customs
duty, etc.

6. Nothing contained in article 36 of the Convention set out in the
Schedule shall be construed to entitle a diplomatic mission or member
thereof to import into India goods free of any duty of customs without
any restrictions on their subsequent sale therein.

Privileges
and immu-
nities
of citizens
of India.

7. For the purpose of article 38 of the Convention set out in the
Schedule, a citizen of India shall be entitled only to such additional pri-
vileges and immunities, other than those set out in that article, as are
granted to him by the Central Government by notification in the Official
Gazette.

Restric-
tions on
entry into
diplo-
matic
premises.

8. No public servant or agent of the Central Government, a State
Government or any public authority shall enter the premises of a diplo-
matic mission for the purpose of serving legal process, except with the
consent of the head of the mission. Such consent may be obtained
through the Ministry of External Affairs of the Government of India.

Evidence.

9. If in any proceedings any question arises whether or not any person
is entitled to any privilege or immunity under this Act, a certificate

issued by or under the authority of the Secretary to the Government of India in the Ministry of External Affairs stating any fact relating to that question shall be conclusive evidence of that fact.

10. The Central Government may make rules for carrying out the purposes of this Act. Power to make rules.

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

THE SCHEDULE

(See section 2)

PROVISIONS OF THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS, 1961--
WHICH SHALL HAVE FORCE OF LAW

Article 1

For the purpose of the present Convention, the following expressions shall have the meaning hereunder assigned to them:

(a) the "head of the mission" is the person charged by the sending State with the duty of acting in that capacity;

(b) the "members of the mission" are the head of the mission and the members of the staff of the mission;

(c) the "members of the staff of the mission" are the members of the diplomatic staff, of the administrative and technical staff and of the service staff of the mission;

(d) the "members of the diplomatic staff" are the members of the staff of the mission having diplomatic rank;

(e) a "diplomatic agent" is the head of the mission or a member of the diplomatic staff of the mission;

(f) the "members of the administrative and technical staff" are the members of the staff of the mission employed in the administrative and technical service of the mission;

(g) the "members of the service staff" are the members of the staff of the mission in the domestic service of the mission;

(h) a "private servant" is a person who is in the domestic service of a member of the mission and who is not an employee of the sending State;

(i) the "premises of the mission" are the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used for the purpose of the mission including the residence of the head of the mission.

Article 22

1. The premises of the mission shall be inviolable, the agents of the receiving State may not enter them except with the consent of the head of the mission.

2. The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.

3. The premises of the mission, their furnishings and other property thereon and the means of transport of the mission shall be immune from search, requisition, attachment or execution.

Article 23

1. The sending State and the head of the mission shall be exempt from all national, regional or municipal dues and taxes in respect of the premises of the mission, whether owned or leased, other than such as represent payment for specific services rendered.

2. The exemption from taxation referred to in this article shall not apply to such dues and taxes payable under the law of the receiving State by persons contracting with the sending State or the head of the mission.

Article 24

The archives and documents of the mission shall be inviolable at any time and wherever they may be.

Article 27

1. The receiving State shall permit and protect free communication on the part of the mission for all official purposes. In communicating with the Government and the other missions and consulates of the sending State, wherever situated, the mission may employ all appropriate means, including diplomatic couriers and messages in code or cipher. However, the mission may install and use a wireless transmitter only with the consent of the receiving State.

2. The official correspondence of the mission shall be inviolable. Official correspondence means all correspondence relating to the mission and its functions.

3. The diplomatic bag shall not be opened or detained.

4. The packages constituting the diplomatic bag must bear visible external marks of their character and may contain only diplomatic documents or articles intended for official use.

5. The diplomatic courier, who shall be provided with an official document indicating his status and the number of packages constituting the diplomatic bag, shall be protected by the receiving State in the performance of his functions. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.

6. The sending State or the mission may designate diplomatic couriers *ad hoc*. In such cases the provisions of paragraph 5 of this article shall also apply, except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the diplomatic bag in his charge.

7. A diplomatic bag may be entrusted to the captain of a commercial aircraft scheduled to land at an authorized port of entry. He shall be provided with an official document indicating the number of packages constituting the bag but he shall not be considered to be a diplomatic courier. The mission may send one of its members to take possession of the diplomatic bag directly and freely from the captain of the aircraft.

Article 28

The fees and charges levied by the mission in the course of its official duties shall be exempt from all dues and taxes.

Article 29

The person of a diplomatic agent shall be inviolable. He shall not be liable to any form of arrest or detention. The receiving State shall treat him with due respect and shall take all appropriate steps to prevent any attack on his person, freedom or dignity.

Article 30

1. The private residence of a diplomatic agent shall enjoy the same inviolability and protection as the premises of the mission.
2. His papers, correspondence and, except as provided in paragraph 3 of article 31, his property, shall likewise enjoy inviolability.

Article 31

1. A diplomatic agent shall enjoy immunity from the criminal jurisdiction of the receiving State. He shall also enjoy immunity from its civil and administrative jurisdiction, except in the case of:

(a) a real action relating to private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State for the purposes of the mission;

(b) an action relating to succession in which the diplomatic agent is involved as executor, administrator, heir or legatee as a private person and not on behalf of the sending State;

(c) an action relating to any professional or commercial activity exercised by the diplomatic agent in the receiving State outside his official functions.

2. A diplomatic agent is not obliged to give evidence as a witness.

3. No measures of execution may be taken in respect of a diplomatic agent except in the cases coming under sub-paragraphs (a), (b) and (c) of paragraph 1 of this article, and provided that the measures concerned can be taken without infringing the inviolability of his person or of his residence.

4. The immunity of a diplomatic agent from the jurisdiction of the receiving State does not exempt him from the jurisdiction of the sending State.

Article 32

1. The immunity from jurisdiction of diplomatic agents and of persons enjoying immunity under article 37 may be waived by the sending State.

2. Waiver must always be express.

3. The initiation of proceedings by a diplomatic agent or by a person enjoying immunity from jurisdiction under article 37 shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.

4. Waiver of immunity from jurisdiction in respect of civil or administrative proceedings shall not be held to imply waiver of immunity in

respect of the execution of the judgment, for which a separate waiver shall be necessary.

Article 33

1. Subject to the provisions of paragraph 3 of this article, a diplomatic agent shall with respect to services rendered for the sending State be exempt from social security provisions which may be in force in the receiving State.

2. The exemption provided for in paragraph 1 of this article shall also apply to private servants who are in the sole employ of diplomatic agent, on condition:

(a) that they are not nationals of or permanently resident in the receiving State; and

(b) that they are covered by the social security provisions which may be in force in the sending State or a third State.

3. A diplomatic agent who employs persons to whom the exemption provided for in paragraph 2 of this article does not apply shall observe the obligations which the social security provisions of the receiving State impose upon employers.

4. The exemption provided for in paragraphs 1 and 2 of this article shall not preclude voluntary participation in the social security system of the receiving State provided that such participation is permitted by that State.

5. The provisions of this article shall not affect bilateral or multi-lateral agreements concerning social security concluded previously and shall not prevent the conclusion of such agreements in the future.

Article 34

A diplomatic agent shall be exempt from all dues and taxes, personal or real, national, regional or municipal, except:

(a) indirect taxes of a kind which are normally incorporated in the price of goods or services;

(b) dues and taxes on private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State for the purposes of the mission;

(c) estate, succession or inheritance duties levied by the receiving State, subject to the provisions of paragraph 4 of article 39;

(d) dues and taxes on private income having its source in the receiving State and capital taxes on investments made in commercial undertakings in the receiving State;

(e) charges levied for specific services rendered;

(f) registration, court or record fees, mortgage dues and stamp duty, with respect to immovable property, subject to the provisions of article 23.

Article 35

The receiving State shall exempt diplomatic agents from all personal services, from all public service of any kind whatsoever, and from military obligations such as those connected with requisitioning, military contributions and billeting.

Article 36

1. The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on:

(a) articles for the official use of the mission;

(b) articles for the personal use of a diplomatic agent or members of his family forming part of his household, including articles intended for his establishment.

2. The personal baggage of a diplomatic agent shall be exempt from inspection, unless there are serious grounds for presuming that it contains articles not covered by the exemptions mentioned in paragraph 1 of this article, or articles the import or export of which is prohibited by the law or controlled by the quarantine regulations of the receiving State. Such inspection shall be conducted only in the presence of the diplomatic agent or of his authorized representative.

Article 37

1. The members of the family of a diplomatic agent forming part of his household shall, if they are not nationals of the receiving State, enjoy the privileges and immunities specified in articles 29 to 36.

2. Members of the administrative and technical staff of the mission, together with members of their families forming part of their respective households, shall, if they are not nationals of or permanently resident in the receiving State, enjoy the privileges and immunities specified in articles 29 to 35, except that the immunity from civil and administrative jurisdiction of the receiving State specified in paragraph 1 of article 31 shall not extend to acts performed outside the course of their duties. They shall also enjoy the privileges specified in article 36, paragraph 1, in respect of articles imported at the time of first installation.

3. Members of the service staff of the mission who are not nationals of or permanently resident in the receiving State shall enjoy immunity in respect of acts performed in the course of their duties, exemption from dues and taxes on the emoluments they receive by reason of their employment and the exemption contained in article 33.

4. Private servants of members of the mission shall, if they are not nationals of or permanently resident in the receiving State, be exempt from dues and taxes on the emoluments they receive by reason of their employment. In other respects, they may enjoy privileges and immunities only to the extent admitted by the receiving State. However, the re-

ceiving State must exercise its jurisdiction over those persons in such a manner as not to interfere unduly with the performance of the functions of the mission.

Article 38

1. Except in so far as additional privileges and immunities may be granted by the receiving State, a diplomatic agent who is a national of or permanently resident in that State, shall enjoy only immunity from jurisdiction, and inviolability, in respect of official acts performed in the exercise of his functions.

2. Other members of the staff of the mission and private servants who are nationals of or permanently resident in the receiving State shall enjoy privileges and immunities only to the extent admitted by the receiving State. However, the receiving State must exercise its jurisdiction over those persons in such a manner as not to interfere unduly with the performance of the functions of the missions.

Article 39

1. Every person entitled to privileges and immunities shall enjoy them from the moment he enters the territory of the receiving State on proceeding to take up his post or, if already in its territory, from the moment when his appointment is notified to the Ministry for Foreign Affairs or such other Ministry as may be agreed.

2. When the functions of a person enjoying privileges and immunities have come to an end, such privileges and immunities shall normally cease at the moment when he leaves the country, or on expiry of a reasonable period in which to do so, but shall subsist until that time, even in case of armed conflict. However, with respect to acts performed by such a person in the exercise of his functions as a member of the mission, immunity shall continue to subsist.

3. In case of the death of a member of the mission, the members of his family shall continue to enjoy the privileges and immunities to which they are entitled until the expiry of a reasonable period in which to leave the country.

4. In the event of the death of a member of the mission not a national of or permanently resident in the receiving State or a member of his family forming part of his household, the receiving State shall permit the withdrawal of the movable property of the deceased, with the exception of any property acquired in the country the export of which was prohibited at the time of his death. Estate, succession and inheritance duties shall not be levied on movable property the presence of which in the receiving State was due solely to the presence there of the deceased as a member of the mission or as a member of the family of a member of the mission.

Article 40

1. If a diplomatic agent passes through or is in the territory of a third State, which has granted him a passport/visa if such visa was necessary, while proceeding to take up or to return to his post, or when returning to his own country, the third State shall accord him inviolability and such

other immunities as may be required to ensure his transit or return. The same shall apply in the case of any members of his family enjoying privileges or immunities who are accompanying the diplomatic agent, or travelling separately to join him or to return to their country.

2. In circumstances similar to those specified in paragraph 1 of this article, third States shall not hinder the passage of members of the administrative and technical or service staff of a mission, and of members of their families, through their territories.

3. Third States shall accord to official correspondence and other official communications in transit, including messages in code or cipher, the same freedom and protection as is accorded by the receiving State. They shall accord to diplomatic couriers, who have been granted a passport/visa if such visa was necessary, and diplomatic bags in transit the same inviolability and protection as the receiving State is bound to accord.

4. The obligations of third States under paragraphs 1, 2 and 3 of this article shall also apply to the persons mentioned respectively in those paragraphs, and to official communications and diplomatic bags, whose presence in the territory of the third State is due to force majeure.

THE PUBLIC DEBT (AMENDMENT) ACT, 1972

No. 44 OF 1972

[29th August, 1972]

An Act further to amend the Public Debt Act, 1944.

WHEREAS in pursuance of clause (1) of article 252 of the Constitution, each of the Houses of the Legislature of the State of Jammu and Kashmir has passed a resolution to the effect that certain matters relating to the public debt of that State, that is to say, matters for which provision is made in the Public Debt Act, 1944, should be regulated in that State by Parliament by law;

AND WHEREAS in consequence thereof it is necessary further to amend the Public Debt Act, 1944;

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

1. (1) This Act may be called the Public Debt (Amendment) Act, 1972. Short title and commencement.
- (2) It shall come into force on the 1st day of September, 1972.
2. In section IA of the Public Debt Act, 1944 (hereinafter referred to as the principal Act), the words "other than the Government of Jammu and Kashmir" shall be omitted. Amendment of section 1A.
3. In sub-section (1) of section 3 of the principal Act,— Amendment of section 3.
 - (a) in clause (iii), the word "and", occurring at the end shall be omitted;
 - (b) in clause (iv), the word "and" shall be added at the end;

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

“(v) is made on or after the 1st day of September, 1972, in the case of a security issued on or after that day by the Government of the State of Jammu and Kashmir.”

Amendment of section 28.

4. In section 28 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

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

Insertion of new section 31.

5. After section 30 of the principal Act, the following section shall be inserted, namely:—

Construction of references to laws not in force in Jammu and Kashmir.

“31. Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, wherever necessary, be construed as including a reference to the corresponding law, if any in force in that State.”

THE TAXATION LAWS (AMENDMENT) ACT, 1972

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title and commencement.

CHAPTER II

AMENDMENTS TO THE INCOME-TAX ACT, 1961

2. Insertion of new section 55A.
3. Amendment of section 254.
4. Insertion of new Chapter XXA.
5. Insertion of new section 281A.
6. Insertion of new section 287A.

CHAPTER III

AMENDMENTS TO THE WEALTH-TAX ACT, 1957

7. Amendment of section 2.
8. Amendment of section 7.
9. Insertion of new section 12A.
10. Insertion of new section 16A.
11. Amendment of section 23.
12. Amendment of section 24.
13. Amendment of section 26.
14. Insertion of new Chapter VIIB.
15. Amendment of section 35.
16. Amendment of section 36.
17. Amendment of section 37.
18. Insertion of new section 38A.
19. Amendment of section 46.

CHAPTER IV

AMENDMENTS TO THE GIFT-TAX ACT, 1958

20. Amendment of section 2.
21. Amendment of section 15.
22. Amendment of section 23.
23. Amendment of section 25.
24. Insertion of new section 43A.

CHAPTER V

MISCELLANEOUS

25. Saving and special provision.

THE TAXATION LAWS (AMENDMENT) ACT, 1972

No. 45 OF 1972

[31st August, 1972]

An Act further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957 and the Gift-tax Act, 1958.

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

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (1) This Act may be called the Taxation Laws (Amendment) Act, 1972.

(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.

CHAPTER II

AMENDMENTS TO THE INCOME-TAX ACT, 1961

Insertion of new section 55A.

2. In the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act), after section 55, the following section shall be inserted, namely:—

Reference to Valuation Officer.

'55A. With a view to ascertaining the fair market value of a capital asset for the purposes of this Chapter, the Income-tax Officer may refer the valuation of the capital asset to a Valuation Officer—

(a) in a case where the value of the asset as claimed by the assessee is in accordance with the estimate made by a registered valuer, if the Income-tax Officer is of opinion that the value so claimed is less than its fair market value;

15.11.1972: Ss. 4, 5, 7, 9, 14, 16, 18 and 19; 1.1.1973: Ss. 2, 3, 6, 8, 10, 11, 12, 13, 15, 17. and 20 to 25 (both inclusive); vide Notification No. S.O. 704(E), dated the 14th November, 1972.

2/ Ss. 2 to 24 Repealed by Act. 38 of 1978, s. 2

Repealed

(b) in any other case, if the Income-tax Officer is of opinion—

(i) that the fair market value of the asset exceeds the value of the asset as claimed by the assessee by more than such percentage of the value of the asset as so claimed or by more than such amount as may be prescribed in this behalf; or

(ii) that having regard to the nature of the asset 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 Wealth-tax Officer under sub-section (1) of section 16A of that Act.

27 of 1957.

Explanation.—In this section, “Valuation Officer” has the same meaning as in clause (r) of section 2 of the Wealth-tax Act, 1957.

27 of 1957.

3. In section 254 of the Income-tax Act, sub-section (1A) shall be omitted.

Amendment of section 254.

4. In the Income-tax Act, after Chapter XX, the following Chapter shall be inserted, namely:—

Insertion of new Chapter XXA.

CHAPTER XXA

ACQUISITION OF IMMOVABLE PROPERTIES IN CERTAIN CASES OF TRANSFER TO COUNTERACT EVASION OF TAX

269A. In this Chapter, unless the context otherwise requires,—

Definitions.

(a) “apparent consideration”, in relation to any immovable property transferred, means,—

(i) if the transfer is by way of sale, the consideration for such transfer as specified in the instrument of transfer;

(ii) if the transfer is by way of exchange,—

(A) in a case where the consideration for the transfer consists of a thing or things only, the price that such thing or things would ordinarily fetch on sale in the open market on the date of execution of the instrument of transfer;

(B) in a case where the consideration for the transfer consists of a thing or things and a sum of money, the aggregate of the price that such thing or things would ordinarily fetch on sale in the open market on the date of execution of the instrument of transfer and such sum;

(b) “competent authority” means an Assistant Commissioner of Income-tax authorised by the Central Government under section 269B to perform the functions of a competent authority under this Chapter;

Repealed

(c) "court" means a principal civil court of original jurisdiction unless the Central Government has appointed (as it is hereby authorised to do) any special judicial officer within any specified local limits to perform the functions of the court under this Chapter;

(d) "fair market value", in relation to any immovable property transferred, means the price that the immovable property would ordinarily fetch on sale in the open market on the date of execution of the instrument of transfer of such property;

(e) "immovable property" means any land or any building or part of a building, and includes, where any land or any building or part of a building is transferred together with any machinery, plant, furniture, fittings or other things, such machinery, plant, furniture, fittings or other things also.

Explanation.—For the purposes of this clause, land, building, part of a building, machinery, plant, furniture, fittings and other things include any rights therein;

(f) "instrument of transfer" means the instrument of transfer registered under the Registration Act, 1908;

16 of 1908.

(g) "person interested", in relation to any immovable property, includes all persons claiming, or entitled to claim, an interest in the compensation payable on account of the acquisition of that property under this Chapter;

(h) "transfer", in relation to any immovable property, means transfer of such property by way of sale or exchange.

Competent authority.

269B. (1) The Central Government may, by general or special order published in the Official Gazette,—

(a) authorise as many Assistant Commissioners of Income-tax, as it thinks fit, to perform the functions of a competent authority under this Chapter; and

(b) define the local limits within which the competent authorities shall perform their functions under this Chapter.

(2) In respect of any function to be performed by a competent authority under any provision of this Chapter in relation to any immovable property referred to in section 269C, the competent authority referred to therein shall,—

(a) in a case where such property is situate within the local limits of the jurisdiction of only one competent authority, be such competent authority;

(b) in a case where such property is situate within the local limits of the jurisdiction of two or more competent authorities, be the competent authority empowered to perform such functions in relation to such property in accordance with rules made in this behalf by the Board under section 295.

(3) No person shall be entitled to call in question the jurisdiction of a competent authority in respect of any immovable property after the expiry of thirty days from the date on which such competent authority initiates proceedings under section 269D for the acquisition of such property.

Repealed

of 1972]

Taxation Laws (Amendment)

355

(4) Subject to the provisions of sub-section (3), where the jurisdiction of a competent authority is questioned, the competent authority shall, if satisfied with the correctness of the claim, by order in writing, determine the question accordingly and if he is not so satisfied, he shall refer the question to the Board and the Board shall, by order in writing, determine the question.

269C. (1) Where the competent authority has reason to believe that any immovable property of a fair market value exceeding twenty-five thousand rupees has been transferred by a person (hereafter in this Chapter referred to as the transferor) to another person (hereafter in this Chapter referred to as the transferee) for an apparent consideration which is less than the fair market value of the property and that the consideration for such transfer as agreed to between the parties has not been truly stated in the instrument of transfer with the object of—

Immovable property in respect of which proceedings for acquisition may be taken.

(a) facilitating the reduction or evasion of the liability of the transferor to pay tax under this Act in respect of any income arising from the transfer; or

(b) facilitating the concealment of any income or any moneys or other assets which have not been or which ought to be disclosed by the transferee for the purposes of the Indian Income-tax Act, 1922, or this Act or the Wealth-tax Act, 1957,

122.

157.

the competent authority may, subject to the provisions of this Chapter, initiate proceedings for the acquisition of such property under this Chapter:

Provided that before initiating such proceedings, the competent authority shall record his reasons for doing so:

Provided further that no such proceedings shall be initiated unless the competent authority has reason to believe that the fair market value of the property exceeds the apparent consideration therefor by more than fifteen per cent. of such apparent consideration.

(2) In any proceedings under this Chapter in respect of any immovable property,—

(a) where the fair market value of such property exceeds the apparent consideration therefor by more than twenty-five per cent. of such apparent consideration, it shall be conclusive proof that the consideration for such transfer as agreed to between the parties has not been truly stated in the instrument of transfer;

(b) where the property has been transferred for an apparent consideration which is less than its fair market value, it shall be presumed, unless the contrary is proved, that the consideration for such transfer as agreed to between the parties has not been truly stated in the instrument of transfer with such object as is referred to in clause (a) or clause (b) of sub-section

(1).

269D. (1) The competent authority shall initiate proceedings for the acquisition, under this Chapter, of any immovable property referred to in section 269C by notice to that effect published in the Official Gazette:

Preliminary notice.

Repeated

Provided that no such proceedings shall be initiated in respect of any immovable property after the expiration of a period of six months from the end of the month in which the instrument of transfer in respect of such property is registered under the Registration Act, 1908:

Provided further that—

(a) in a case where it is determined under sub-section (4) of section 269B by the competent authority who has initiated proceedings for the acquisition of any immovable property under this Chapter or by the Board that such competent authority has no jurisdiction to initiate such proceedings, the competent authority having jurisdiction may initiate such proceedings within—

(i) the period of six months specified in the foregoing proviso; or

(ii) a period of thirty days from the date of such determination,

whichever period expires later;

(b) in a case where proceedings for the acquisition of any immovable property under this Chapter could not be initiated during any period of time by reason of any injunction or order of any court prohibiting the initiation of such proceedings or preventing the examination of documents or other materials required to be examined for the purpose of determining whether such proceedings should be initiated, the time of the continuance of the injunction or order, the day on which it was issued or made and the day on which it was withdrawn shall be excluded in computing the period during which such proceedings may be initiated under this sub-section.

(2) The competent authority shall—

(a) cause a notice under sub-section (1) in respect of any immovable property to be served on the transferor, the transferee, the person in occupation of the property, if the transferee is not in occupation thereof, and on every person whom the competent authority knows to be interested in the property;

(b) cause such notice to be published—

(i) in his office by affixing a copy thereof to a conspicuous place;

(ii) in the locality in which the immovable property to which it relates is situate, by affixing a copy thereof to a conspicuous part of the property and also by making known in such manner as may be prescribed the substance of such notice at convenient places in the said locality.

Objec-
tions.

269E. (1) Objections against the acquisition of the immovable property in respect of which a notice has been published in the Official Gazette under sub-section (1) of section 269D may be made—

(a) by the transferor or the transferee or any other person referred to in clause (a) of sub-section (2) of that section, within a period of forty-five days from the date of such publication or a period of thirty days from the date of service of notice on such person under the said clause, whichever period expires later;

(b) by any other person interested in such immovable property, within forty-five days from the date of such publication.

Repealed

(2) Every objection under sub-section (1) shall be made to the competent authority in writing.

(3) For the removal of doubts, it is hereby declared that objection may be made under sub-section (1) that the provisions of clause (a) of sub-section (2) of section 269C do not apply in relation to any immovable property on the ground that the fair market value of such property does not exceed the apparent consideration therefor by more than twenty-five per cent. of such apparent consideration.

269F. (1) The competent authority shall fix a day and place for the hearing of the objections made under section 269E against the acquisition under this Chapter of any immovable property, and shall give notice of the same to every person who has made such objection: Hearing of objections.

Provided that such notice shall also be given to the transferee of such property even if he has not made any such objection.

(2) Every person to whom a notice is given under sub-section (1) shall have the right to be heard at the hearing of the objections.

(3) The competent authority shall have the power to adjourn the hearing of the objections from time to time.

(4) The competent authority may, before disposing of the objections, make such further inquiry as he thinks fit.

(5) The decision of the competent authority in respect of the objections heard shall be in writing and shall state the reasons for the decision with respect to each objection.

(6) If after hearing the objections, if any, and after taking into account all the relevant material on record, the competent authority is satisfied that,—

(a) the immovable property to which the proceedings relate is of a fair market value exceeding twenty-five thousand rupees;

(b) the fair market value of such property exceeds the apparent consideration therefor by more than fifteen per cent. of such apparent consideration; and

(c) the consideration for such transfer as agreed to between the parties has not been truly stated in the instrument of transfer with such object as is referred to in clause (a) or clause (b) of sub-section (1) of section 269C,

he may, after obtaining the approval of the Commissioner, make an order for the acquisition of the property under this Chapter.

Explanation.—In this sub-section, “Commissioner”, in relation to a competent authority, means such Commissioner as the Board may, by general or special order in writing, specify in this behalf.

(7) If the competent authority is not satisfied as provided in sub-section (6), he shall, by order in writing, declare that the property will not be acquired under this Chapter.

(8) The competent authority shall serve a copy of his order under sub-section (6) or sub-section (7), as the case may be, on the transferor, the transferee and on every person who has made objections against such acquisition under section 269E.

(9) In any proceedings under this Chapter in respect of any immovable property, no objection shall be entertained on the ground

Repealed

that although the apparent consideration for the property is less than the fair market value of the property on the date of the execution of the instrument of transfer, the consideration as agreed to between the parties has been truly stated in the instrument of transfer because such consideration was agreed to having regard to the price that such property would have ordinarily fetched on sale in the open market on the date of the conclusion of the agreement to sell the property, except where such agreement has been registered under the Registration Act, 1908.

16 of 1908.

Appeal
against
order for
acquisi-
tion.

269G. (1) An appeal may be preferred to the Appellate Tribunal against the order for the acquisition of any immovable property made by the competent authority under section 269F,—

(a) by the transferor or the transferee or any other person referred to in sub-section (8) of that section, within a period of forty-five days from the date of such order or a period of thirty days from the date of service of a copy of the order on such person under the said sub-section, whichever period expires later;

(b) by any other person interested in such immovable property, within forty-five days from the date of such order:

Provided that the Appellate Tribunal may, on an application made in this behalf before the expiry of the said period of forty-five days or, as the case may be, thirty days, permit, by order, the appeal to be presented within such further period as may be specified therein if the applicant satisfies the Appellate Tribunal that he has sufficient cause for not being able to present the appeal within the said period of forty-five days or, as the case may be, thirty days.

(2) Every appeal under this section shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a fee of one hundred and twenty-five rupees.

(3) The Appellate Tribunal shall fix a day and place for the hearing of the appeal and shall give notice of the same to the appellant and to the competent authority.

(4) The Appellate Tribunal may, after giving the appellant and the competent authority an opportunity of being heard, pass such orders thereon as it thinks fit.

(5) The Appellate Tribunal may, at any time within thirty days from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (4) and shall make such amendment if the mistake is brought to its notice by the appellant or the competent authority:

Provided that if any such amendment is likely to affect any person prejudicially, it shall not be made without giving to such person a reasonable opportunity of being heard.

(6) The Appellate Tribunal shall send a copy of any orders passed under this section to the appellant and to the Commissioner.

(7) Save as provided in section 269H, orders passed by the Appellate Tribunal on appeal shall be final.

Repealed

(8) Every appeal under this section shall be disposed of as expeditiously as possible and endeavour shall be made to dispose of every such appeal within ninety days from the date on which it is presented.

(9) The provisions of section 255 [except sub-section (3) thereof] shall, so far as may be, apply in relation to the powers, functions and proceedings of the Appellate Tribunal under this section as they apply in relation to the powers, functions and proceedings of the Appellate Tribunal under Chapter XX.

269H. (1) The Commissioner or any person aggrieved by any order of the Appellate Tribunal under section 269G may, within sixty days of the date on which he is served with notice of such order under that section, prefer an appeal against such order to the High Court on any question of law:

Appeal to High Court.

Provided that the High Court may, on an application made in this behalf before the expiry of the said period of sixty days, permit, by order, the appeal to be presented within such further period as may be specified therein, if the applicant satisfies the High Court that he has sufficient cause for not being able to present the appeal within the said period of sixty days.

(2) An appeal under sub-section (1) shall be heard by a Bench of not less than two Judges of the High Court and the provisions of section 259 shall apply in relation to any such appeal as they apply in relation to a case referred to the High Court under section 256.

(3) The costs of the appeal shall be in the discretion of the High Court.

269I. (1) As soon as may be after the order for acquisition of any immovable property made under sub-section (6) of section 269F becomes final, the competent authority may, by notice in writing, order any person who may be in possession of the immovable property to surrender or deliver possession thereof to the competent authority or any other person duly authorised in writing by the competent authority in this behalf, within thirty days of the date of the service of the notice.

Vesting of property in Central Government.

Explanation.—For the purposes of this sub-section, an order for the acquisition of any immovable property (hereafter in this *Explanation* referred to as the order for acquisition) made under sub-section (6) of section 269F becomes final,—

(a) in a case where the order for acquisition is not made the subject of an appeal to the Appellate Tribunal under section 269G, upon the expiry of the period during which such appeal may be presented under that section;

(b) in a case where the order for acquisition is made the subject of an appeal to the Appellate Tribunal under section 269G,—

(i) if the order for acquisition is confirmed by the Appellate Tribunal and the order of the Appellate Tribunal

Repealed

is not made the subject of an appeal to the High Court under section 269H, upon the expiry of the period during which such appeal may be presented under that section to the High Court;

(ii) if the order of the Appellate Tribunal is made the subject of an appeal to the High Court under section 269H, upon the confirmation of the order for acquisition by the High Court.

(2) If any person refuses or fails to comply with the notice under sub-section (1), the competent authority or other person duly authorised by the competent authority under that sub-section may take possession of the immovable property and may, for that purpose, use such force as may be necessary.

(3) Notwithstanding anything contained in sub-section (2), the competent authority may, for the purpose of taking possession of any property referred to in sub-section (1), requisition the services of any police officer to assist him and it shall be the duty of such officer to comply with such requisition.

(4) When the possession of the immovable property is surrendered or delivered under sub-section (1) to the competent authority or a person duly authorised by him in that behalf or, as the case may be, when the possession thereof is taken under sub-section (2) or sub-section (3) by such authority or person, the property shall vest absolutely in the Central Government free from all encumbrances:

Provided that nothing in this sub-section shall operate to discharge the transferee or any other person (not being the Central Government) from liability in respect of such encumbrances and, notwithstanding anything contained in any other law, such liability may be enforced against the transferee or such other person by a suit for damages.

Compen-
sation.

269J. (1) Where any immovable property is acquired under this Chapter, the Central Government shall pay for such acquisition compensation which shall be a sum equal to the aggregate of the amount of the apparent consideration for its transfer and fifteen per cent. of the said amount.

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

(a) where, after the transfer to the transferee of the property referred to in that sub-section but before the vesting of the property in the Central Government, the property has been damaged (otherwise than as a result of normal wear and tear), the compensation payable under that sub-section shall be reduced by such amount as the competent authority and the persons entitled to the compensation may agree within fifteen days of the vesting of the property in the Central Government or in default of such agreement as the court may, on a reference made to it in this behalf by the competent authority or by any person duly authorised for the purpose by the competent authority, determine to be the amount that may have to be expended for restoring the property to the condition in which it was at the time of such transfer;

Repealed

(b) where, after the transfer of such property to the transferee but before the date of publication in the Official Gazette of the notice in respect of such property under sub-section (1) of section 269D, any improvements have been made to the property, whether by way of addition or alteration or in any other manner, the compensation payable in respect of such property under sub-section (1) shall be increased by such amount as the competent authority and the persons entitled to the compensation may agree within fifteen days of the vesting of the property in the Central Government or in default of such agreement as the court may, on a reference made to it in this behalf by the competent authority or by any person duly authorised for the purpose by the competent authority, determine to be the amount spent for making such improvements.

(3) Every reference under clause (a) or clause (b) of sub-section (2) shall be made within thirty days of the date on which the immovable property to which it relates becomes vested in the Central Government or within such further period as the court may, on an application made in this behalf before the expiry of the said period and on being satisfied that there is sufficient cause for doing so, allow and such reference shall state clearly the compensation payable under sub-section (1) in respect of the immovable property and the amount by which, according to the estimate of the competent authority, such compensation shall be reduced under clause (a) or, as the case may be, increased under clause (b), of sub-section (2).

(4) The amount by which the compensation payable under sub-section (1) in respect of any immovable property acquired under this Chapter falls short of the amount which would have been payable as compensation if that property had been acquired under the Land Acquisition Act, 1894, after the issue of a preliminary notice under section 4 of that Act on the date of publication in the Official Gazette of the notice in respect of the property under sub-section (1) of section 269D, shall be deemed to have been realised by the Central Government as a penalty from the transferee for being a party to a transfer with such object as is referred to in clause (a) or clause (b) of sub-section (1) of section 269C, and no penalty shall be levied for any assessment year on the transferee—

(a) under clause (iii) of sub-section (1) of section 271, for concealing the particulars or furnishing inaccurate particulars of so much of his income as is utilised by him for paying to the transferor, by way of consideration for the property, any amount in excess of the apparent consideration for the property, notwithstanding that such amount is included in the income of the transferee;

(b) under clause (iii) of sub-section (1) of section 18 of the Wealth-tax Act, 1957, for concealing the particulars or furnishing inaccurate particulars of so much of his assets as are utilised by him for paying to the transferor, by way of consideration for the property, any amount in excess of the apparent consideration for the property, notwithstanding that such assets are included in the net wealth of the transferee.

Repealed

Payment
or deposit
of com-
pensation.

269K. (1) The amount of compensation payable in accordance with the provisions of section 269J for the acquisition of any immovable property shall be tendered to the person or persons entitled thereto, as soon as may be, after the property becomes vested in the Central Government under sub-section (4) of section 269I:

Provided that in any case where a reference is or has to be made under sub-section (2) of section 269J to the court for the determination of the amount by which the compensation payable under sub-section (1) of that section shall be reduced or increased, the amount of such compensation as reduced or increased by the amount estimated in that behalf by the competent authority for the purposes of such reference shall be tendered as aforesaid.

(2) Notwithstanding anything contained in sub-section (1), if any dispute arises as to the apportionment of the compensation amongst persons claiming to be entitled thereto, the Central Government shall deposit in the court the compensation required to be tendered under sub-section (1) and refer such dispute for the decision of the court and the decision of the court thereon shall be final.

(3) Notwithstanding anything contained in sub-section (1), if the persons entitled to compensation do not consent to receive it, or if there is no person competent to alienate the immovable property, or if there is any dispute as to the title to receive the compensation, the Central Government shall deposit in the court the compensation required to be tendered under sub-section (1) and refer the matter for the decision of the court:

Provided that nothing herein contained shall affect the liability of any person who may receive the whole or any part of the compensation for any immovable property acquired under this Chapter to pay the same to the person lawfully entitled thereto.

(4) If the Central Government fails to tender under sub-section (1) or deposit under sub-section (2) or sub-section (3) the whole or any part of the compensation required to be tendered or deposited thereunder within thirty days of the date on which the immovable property to which the compensation relates becomes vested in the Central Government under sub-section (4) of section 269I, the Central Government shall be liable to pay simple interest at the rate of twelve per cent. per annum reckoned from the day immediately following the date of expiry of the said period up to the date on which it so tenders or deposits such compensation or, as the case may be, such part of the compensation.

(5) Where any amount of compensation (including interest, if any, thereon) has been deposited in the court under this section, the court may, either of its own motion or on an application made by or on behalf of any party interested or claiming to be interested in such amount, order the same to be invested in such Government or other securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as will, in its opinion, give the parties interested therein the same benefit therefrom as they might have had from the immovable property in respect whereof such amount has been deposited or as near thereto as may be.

Repealed

of 1972]

Taxation Laws (Amendment)

363

269L. (1) The competent authority may,—

Assistance
by valuation
Officers.

(a) for the purpose of initiating proceedings for the acquisition of any immovable property under section 269C or for the purpose of making an order under section 269F in respect of any immovable property, require a Valuation Officer to determine the fair market value of such property and report the same to him;

(b) for the purpose of estimating the amount by which the compensation payable under sub-section (1) of section 269J in respect of any immovable property may be reduced or, as the case may be, increased under clause (a) or clause (b) of sub-section (2) of that section, require the Valuation Officer to make such estimate and report the same to him.

(2) The Valuation Officer to whom a reference is made under clause (a) or clause (b) of sub-section (1) shall, for the purpose of dealing with such reference, have all the powers that he has under section 38A of the Wealth-tax Act, 1957.

27 of 1957.

(3) If in an appeal under section 269G against the order for acquisition of any immovable property, the fair market value of such property is in dispute, the Appellate Tribunal shall, on a request being made in this behalf by the competent authority, give an opportunity of being heard to any Valuation Officer nominated for the purpose by the competent authority.

Explanation.—In this section, “Valuation Officer” has the same meaning as in clause (7) of section 2 of the Wealth-tax Act, 1957.

27 of 1957.

269M. The competent authority shall have, for the purposes of this Chapter, all the powers that a Commissioner has, for the purposes of this Act, under section 131.

Powers of
competent
authority.

269N. With a view to rectifying any mistake apparent from the record, the competent authority may amend any order made by him under this Chapter at any time before the time for presenting an appeal against such order has expired, either on his own motion or on the mistake being brought to his notice by any person affected by the order:

Rectifi-
cation of
mistakes.

Provided that if any such amendment is likely to affect any person prejudicially, it shall not be made without giving to such person a reasonable opportunity of being heard.

269O. Any person who is entitled or required to attend before a competent authority or the Appellate Tribunal in any proceeding under this Chapter, otherwise than when required to attend personally for examination on oath or affirmation, may attend—

Appear-
ance by
authorised
represent-
ative or
registered
valuer.

(a) by an authorised representative in connection with any matter;

Repealed

(b) by a registered valuer in connection with any matter relating to the valuation of any immovable property for the purposes of this Chapter or the estimation of the amount by which the compensation payable under sub-section (1) of section 269J for the acquisition of any immovable property may be reduced or, as the case may be, increased in accordance with the provisions of clause (a) or clause (b) of sub-section (2) of that section.

Explanation.—In this section,—

(i) "authorised representative" has the same meaning as in section 288;

(ii) "registered valuer" has the same meaning as in clause (aaa) of section 2 of the Wealth-tax Act, 1957.

27 of 1957.

Statement to be furnished in respect of transfers of immovable property.

269P. (1) Notwithstanding anything contained in any other law for the time being in force, no registering officer appointed under the Registration Act, 1908, shall register any document which purports to transfer any immovable property belonging to any person unless a statement in duplicate in respect of such transfer, in the prescribed form and verified in the prescribed manner and setting forth such particulars as may be prescribed, is furnished to him along with the instrument of transfer.

16 of 1908.

(2) The registering officer shall, at the end of every fortnight, forward to the competent authority,—

(a) one set of the statements received by him under sub-section (1) during the fortnight; and

(b) a return in the prescribed form and verified in the prescribed manner and setting forth such particulars as may be prescribed in respect of documents of the nature referred to in sub-section (1) which have been registered by him during the fortnight.

Chapter not to apply to transfers to relatives.

269Q. The provisions of this Chapter shall not apply to or in relation to any transfer of immovable property made by a person to his relative on account of natural love and affection for a consideration which is less than its fair market value if a recital to that effect is made in the instrument of transfer.

Properties liable for acquisition under this Chapter not to be acquired under other laws.

269R. Notwithstanding anything contained in the Land Acquisition Act, 1894, or any corresponding law for the time being in force, no immovable property referred to in section 269C shall be acquired for any purpose of the Union under that Act or such law unless the time for initiation of proceedings for the acquisition of such property under this Chapter has expired without such proceedings having been initiated or unless the competent authority has declared that such property will not be acquired under this Chapter.

1 of 1894.

Chapter not to extend to State of Jammu and Kashmir.

269S. The provisions of this Chapter shall not extend to the State of Jammu and Kashmir.

Repealed

of 1972]

Taxation Laws (Amendment)

355

5. In the Income-tax Act, after section 281, the following section shall be inserted, namely:—

Insertion of new section 281A.

“281A. (1) No suit to enforce 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 instituted in any court by or on behalf of a person (hereafter in this section referred to as the claimant) claiming to be the real owner of such property unless,—

Effect of failure to furnish information in respect of properties held *benami*.

(a) the income, if any, from such property has been disclosed in any return of income furnished by the claimant under this Act; or

27 of 1957.

(b) such property has been disclosed in any return of net wealth furnished by the claimant under the Wealth-tax Act, 1957; or

(c) notice in the prescribed form and containing the prescribed particulars in respect of the property has been given by the claimant to the Income-tax Officer.

(2) The Income-tax Officer shall, on an application made by any person in the prescribed manner and on payment of the prescribed fees, issue for the purposes of a suit referred to in sub-section (1), relevant extracts from the return furnished by such person under this Act or the Wealth-tax Act, 1957, or a certified copy of any notice given by such person under clause (c) of sub-section (1), within fourteen days from the date of receipt of the application therefor.

27 of 1957.

(3) This section shall not apply to any suit of a value not exceeding two thousand rupees which is tried by,—

15 of 1882.
9 of 1887.

(a) a Court of Small Causes constituted under the Presidency Small Cause Courts Act, 1882, or the Provincial Small Cause Courts Act, 1887; or

(b) a court invested with the jurisdiction of a Court of Small Causes, by or under any enactment for the time being in force, in the exercise of such jurisdiction.”

6. In the Income-tax Act, after section 287, the following section shall namely:—

Insertion of new section 287A.

“287A. Any assessee who is entitled or required to attend before any income-tax authority or the Appellate Tribunal in connection with any matter relating to the valuation of any asset, otherwise than when required under section 131 to attend personally for examination on oath or affirmation, may attend by a registered valuer.

Appearance by registered valuer in certain matters.

Explanation.—In this section, “registered valuer” has the same meaning as in clause (aaa) of section 2 of the Wealth-tax Act, 1957.”

27 of 1957.

CHAPTER III

AMENDMENTS TO THE WEALTH-TAX ACT, 1957

27 of 1957.

7. In section 2 of the Wealth-tax Act, 1957 (hereinafter referred to as the Wealth-tax Act),—

Amendment of section 2.

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

‘(aaa) “registered valuer” means a person registered as a valuer under section 34AB;’

Repealed

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

‘(r) “Valuation Officer” means a person appointed as a Valuation Officer under section 12A, and includes a Regional Valuation Officer, a District Valuation Officer and an Assistant Valuation Officer;’.

Amendment of section 7.

8. In section 7 of the Wealth-tax Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Notwithstanding anything contained in sub-section (1), where the valuation of any asset is referred by the Wealth-tax Officer to the Valuation Officer under section 16A, the value of such asset shall be estimated to be the price which, in the opinion of the Valuation Officer, it would fetch if sold in the open market on the valuation date.”.

Insertion of new section 12A.

9. After section 12 of the Wealth-tax Act, the following section shall be inserted, namely:—

“12A. (1) The Central Government may appoint as many Valuation Officers as it thinks fit.

Appointment of Valuation Officers.

(2) Subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, a wealth-tax authority may appoint as many overseers, surveyors and assessors as may be necessary to assist the Valuation Officers in the performance of their functions.”.

Insertion of new section 16A.

10. After section 16 of the Wealth-tax Act, the following section shall be inserted, namely:—

Reference to Valuation Officer.

“16A. (1) For the purpose of making an assessment (including an assessment in respect of any assessment year commencing before the date of coming into force of this section) under this Act, the Wealth-tax Officer may refer the valuation of any asset to a Valuation Officer—

(a) in a case where the value of the asset as returned is in accordance with the estimate made by a registered valuer, if the Wealth-tax Officer is of opinion that the value so returned is less than its fair market value;

(b) in any other case, if the Wealth-tax Officer is of opinion—

(i) that the fair market value of the asset exceeds the value of the asset as returned by more than such percentage of the value of the asset 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 asset and other relevant circumstances, it is necessary so to do.

(2) For the purpose of estimating the value of any asset in pursuance of a reference under sub-section (1), the Valuation Officer may serve on the assessee a notice requiring him to produce or cause to be produced on a date specified in the notice such accounts, records or other documents as the Valuation Officer may require.

Repealed

(3) Where the Valuation Officer is of opinion that the value of the asset has been correctly declared in the return made by the assessee under section 14 or section 15, he shall pass an order in writing to that effect and send a copy of his order to the Wealth-tax Officer and to the assessee.

(4) Where the Valuation Officer is of opinion that the value of the asset is higher than the value declared in the return made by the assessee under section 14 or section 15, or where the asset is not disclosed or the value of the asset is not declared in such return or where no such return has been made, the Valuation Officer shall serve a notice on the assessee intimating the value which he proposes to estimate and giving the assessee an opportunity to state, on a date to be specified in the notice, his objections either in person or in writing before the Valuation Officer and to produce or cause to be produced on that date such evidence as the assessee may rely in support of his objections.

(5) On the date specified in the notice under sub-section (4), or as soon thereafter as may be, after hearing such evidence as the assessee may produce and after considering such evidence as the Valuation Officer may require on any specified points and after taking into account all relevant material which he has gathered, the Valuation Officer shall, by order in writing, estimate the value of the asset and send a copy of his order to the Wealth-tax Officer and to the assessee.

(6) On receipt of the order under sub-section (3) or sub-section (5) from the Valuation Officer, the Wealth-tax Officer shall, so far as the valuation of the asset in question is concerned, proceed to complete the assessment in conformity with the estimate of the Valuation Officer.”.

11. In section 23 of the Wealth-tax Act,—

Amend-
ment of
section 23.

(a) in sub-section (1),—

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

“(ha) objecting to any order of the Valuation Officer under section 35 having the effect of enhancing the valuation of any asset or refusing to allow the claim made by the assessee under the said section; or”;

(ii) in clause (i) for the words “Wealth-tax Officer”, the words “Wealth-tax Officer or Valuation Officer” shall be substituted;

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

“(3A) If the valuation of any asset is objected to in an appeal under clause (a) of sub-section (1), the Appellate Assistant Commissioner shall,—

(a) in a case where such valuation has been made by a Valuation Officer under section 16A, give such Valuation Officer an opportunity of being heard;

Repealed

(b) in any other case, on a request being made in this behalf by the Wealth-tax Officer, give an opportunity of being heard to any Valuation Officer nominated for the purpose by the Wealth-tax Officer”;

(c) in sub-section (4), in clause (b), for the words “Wealth-tax Officer”, the words “Wealth-tax Officer or, as the case may be, the Valuation Officer” shall be substituted.

Amend-
ment of
section 24.

12. In section 24 of the Wealth-tax Act,—

(a) in sub-section (5), for the words “Provided that”, the following shall be substituted, namely:—

“Provided that if the valuation of any asset is objected to, the Appellate Tribunal shall,—

(a) in a case where such valuation has been made by a Valuation Officer under section 16A, also give such Valuation Officer an opportunity of being heard;

(b) in any other case, on a request being made in this behalf by the Wealth-tax Officer, give an opportunity of being heard also to any Valuation Officer nominated for the purpose by the Wealth-tax Officer:

Provided further that”;

(b) sub-sections (6), (7), (8), (8A) and (8B) shall be omitted.

Amend-
ment of
section 26.

13. In section 26 of the Wealth-tax Act, in sub-section (3), for the words, brackets and figures “sub-sections (3) and (5) to (10) inclusive”, the words, brackets and figures “sub-sections (3), (5), (9) and (10)” shall be substituted.

Insertion
of new
Chapter
VII B.

14. In the Wealth-tax Act, after Chapter VIIA, the following Chapter shall be inserted, namely:—

“CHAPTER VIIB
REGISTERED VALUERS

Appear-
ance by
register-
ed
valuers.

34AA. Notwithstanding anything contained in this Act, any assessee who is entitled to or required to attend before any wealth-tax authority or the Appellate Tribunal in connection with any matter relating to the valuation of any asset, except where he is required under this Act to attend in person, may attend by a registered valuer.

Registra-
tion of
valuers.

34AB. (1) The Board shall maintain a register to be called the Register of Valuers in which shall be entered the names and addresses of persons registered under sub-section (2) as valuers.

(2) Any person who possesses the qualifications prescribed in this behalf may apply to the Board in the prescribed form for being registered as a valuer under this section:

Provided that different qualifications may be prescribed for valuers of different classes of assets.

Repealed

(3) Every application under sub-section (2) shall be verified in the prescribed manner, shall be accompanied by such fees as may be prescribed and shall contain a declaration to the effect that the applicant will—

(i) make an impartial and true valuation of any asset which he may be required to value;

(ii) furnish a report of such valuation in the prescribed form;

(iii) charge fees at a rate not exceeding the rate or rates prescribed in this behalf;

(iv) not undertake valuation of any asset in which he has a direct or indirect interest.

(4) The report of valuation of any asset by a registered valuer shall be in the prescribed form and be verified in the prescribed manner.

34AC. (1) No person, either alone or in partnership with any other person, shall practise, describe himself or hold himself out as a registered valuer for the purposes of this Act or permit himself to be so described or held out, unless he is registered as a valuer or, as the case may be, unless he and all his partners are so registered under this Chapter.

Restrictions on practice as registered valuer.

(2) No company or other body corporate shall practise, describe itself or hold itself out as registered valuers for the purposes of this Act or permit itself to be so described or held out.

34AD. (1) The Board may remove the name of any person from the register of valuers where it is satisfied, after giving that person a reasonable opportunity of being heard and after such further inquiry, if any, as it thinks fit to make,—

Removal from register of names of valuers and restoration.

(i) that his name has been entered in the register by error or on account of misrepresentation or suppression of a material fact;

(ii) that he has been convicted of any offence and sentenced to a term of imprisonment or has been guilty of misconduct in his professional capacity which, in the opinion of the Board, renders him unfit to be kept in the register.

(2) The Board may, on application and on sufficient cause being shown, restore to the register the name of any person removed therefrom.”

15. In section 35 of the Wealth-tax Act,—

(a) in sub-section (1), after clause (a), the following clause shall be inserted, namely:—

Amendment of section 35.

“(aa) the Valuation Officer may amend any order passed by him under section 16A;”;

(b) in sub-section (3), in clause (b), for the words “Appellate Assistant Commissioner”, the words “Valuation Officer or the Appellate Assistant Commissioner” shall be substituted;

Repealed

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

“(6A) Where any amendment made by the Valuation Officer under clause (aa) of sub-section (1) has the effect of enhancing the valuation of any asset, he shall send a copy of his order to the Wealth-tax Officer who shall thereafter proceed to amend the order of assessment in conformity with the order of the Valuation Officer and the provisions of sub-section (6) shall apply accordingly.”;

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

“(7A) Notwithstanding anything contained in sub-section (7), where the valuation of any asset has been enhanced by the Valuation Officer under this section, the consequential amendment to the order of assessment may be made by the Wealth-tax Officer at any time before the expiry of one year from the date of the order of the Valuation Officer under this section.”.

Amend-
ment of
section 36.

16. In section 36 of the Wealth-tax Act, after sub-section (2A), the following sub-section shall be inserted, namely:—

“(2B) If a person makes a statement in a verification mentioned in section 34AB which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with imprisonment which may extend to six months or with fine or with both.”.

Amend-
ment of
section 37.

17. In section 37 of the Wealth-tax Act,—

(a) in sub-section (1), for the words “The Wealth-tax Officer,” the words “The Wealth-tax Officer, Valuation Officer,” shall be substituted;

(b) in sub-section (3), in the proviso, for the words “a Wealth-tax Officer”, the words “a Wealth-tax Officer or a Valuation Officer” shall be substituted.

Insertion of
new
section
38A.

18. After section 38 of the Wealth-tax Act, the following section shall be inserted, namely:—

Powers of
Valuation
Officer,
etc.

“38A. (1) For the purposes of this Act, a Valuation Officer or any overseer, surveyor or assessor authorised by him in this behalf may, subject to any rules made in this behalf and at such reasonable times as may be prescribed,—

(a) enter any land within the limits of the area assigned to the Valuation Officer, or

(b) enter any land, building or other place belonging to or occupied by any person in connection with whose assessment a reference has been made under section 16A to the Valuation Officer, or

(c) inspect any asset in respect of which a reference under section 16A has been made to the Valuation Officer,

and require any person in charge of, or in occupation or possession

Repealed

of, such land, building or other place or asset to afford him the necessary facility to survey or inspect such land, building or other place or asset or estimate its value or inspect any books of account, document or record which may be relevant for the valuation of such land, building or other place or asset and gather other particulars relating to such land, building or other place or asset:

Provided that no Valuation Officer, overseer, surveyor or assessor shall enter any building or place referred to in clause (b) or inspect any asset referred to in clause (c) (unless with the consent of the person in charge of, or in occupation or possession of, such building, place or asset) without previously giving to such person at least two days' notice in writing of his intention to do so.

(2) If a person who, under sub-section (1), is required to afford any facility to the Valuation Officer or the overseer, surveyor or assessor, either refuses or evades to afford such facility, the Valuation Officer shall have all the powers under sub-sections (1) and (2) of section 37 for enforcing compliance of the requirements made."

19. In section 46 of the Wealth-tax Act, in sub-section (2), for clause (e), the following clauses shall be substituted, namely:— Amendment of section 46.

"(e) the areas within which Valuation Officers may exercise jurisdiction;

(2) the manner in which and the conditions subject to which Valuation Officers, overseers, surveyors and assessors may exercise their powers under sub-section (1) of section 38A;"

CHAPTER IV

AMENDMENTS TO THE GIFT-TAX ACT, 1958

1958. 20. In section 2 of the Gift-tax Act, 1958 (hereinafter referred to as the Gift-tax Act), clause (xxv) shall be omitted. Amendment of section 2.

21. In section 15 of the Gift-tax Act, after sub-section (5), the following sub-section shall be inserted, namely:— Amendment of section 15.

'(6) Notwithstanding anything contained in section 6, for the purpose of making an assessment under this Act, the Gift-tax Officer may refer to a Valuation Officer, the valuation of any property transferred by way of gift—

(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 Gift-tax Officer is of opinion that the value so returned is less than its fair market value;

(b) in any other case, if the Gift-tax 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 Wealth-tax Officer under sub-section (1) of section 16A of that Act. 27 of

Explanation.—In this sub-section, “Valuation Officer” has the same meaning as in clause (r) of section 2 of the Wealth-tax Act, 1957.

Amend-
ment of
section 23.

22. In section 23 of the Gift-tax Act, sub-sections (6), (7) and (8) shall be omitted. 27 of

Amend-
ment of
section 25.

23. In section 25 of the Gift-tax Act, in sub-section (3), for the words, brackets and figures “sub-sections (3) and (5) to (10) inclusive”, the words, brackets and figures “sub-sections (3), (5), (9) and (10)” shall be substituted.

Insertion
of new
section
43A.

24. In the Gift-tax Act, after section 43, the following section shall be inserted, namely:—

Appear-
ance by
registered
valuer in
certain
matters.

‘43A. Any assessee who is entitled or required to attend before any Gift-tax Authority or the Appellate Tribunal in connection with any matter relating to the valuation of any asset, except where he is required under this Act to attend in person, may attend by a registered valuer.

Explanation.—In this section, “registered valuer” has the same meaning as in clause (aaa) of section 2 of the Wealth-tax Act, 1957. 27 of

CHAPTER V

MISCELLANEOUS

Saving and
special
provision.

25. (1) Notwithstanding the omission of sub-section (1A) of section 254 of the Income-tax Act, 1961, by section 3 of this Act, every requisition by an appellant for the making of a reference under that sub-section and every reference made under that sub-section before such omission shall be dealt with as if the said sub-section had not been omitted, and, save as aforesaid, no such reference shall be made after such omission. 43 of

(2) Notwithstanding the omission of sub-sections (6), (7), (8), (8A) and (8B) of section 24 of the Wealth-tax Act, 1957, by clause (b) of section 12 of this Act, every requisition by an appellant for the making of a reference under the said sub-section (6) and every reference made under that sub-section before such omission shall be dealt with as if the said sub-sections had not been omitted, and, save as aforesaid, no such reference shall be made after such omission. 27 of

(3) Notwithstanding the omission of sub-sections (6), (7) and (8) of section 23 of the Gift-tax Act, 1958, by section 22 of this Act, every requisition by an appellant for the making of a reference under the said sub-section (6) and every reference made under that sub-section before such omission shall be dealt with as if the said sub-sections had not been omitted, and, save as aforesaid, no such reference shall be made after such omission. 18 of

Rep. by Act 38 of 1978, S. 2 + Sch. I

THE INSECTICIDES (AMENDMENT) ACT, 1972

NO. 46 OF 1972

[3rd September, 1972]

An Act to amend the Insecticides Act, 1968.

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

1. (1) This Act may be called the Insecticides (Amendment) Act, 1972. Short title and commencement.
- (2) It shall be deemed to have come into force on the 1st day of August, 1971.
- 46 of 1968. 2. In sub-section (1) of section 9 of the Insecticides Act, 1968 (hereinafter referred to as the principal Act),— Amendment of section 9.
 - (a) in the proviso, for the words “six months”, the words “seventeen months” shall be substituted;
 - (b) after the proviso, the following further proviso shall be inserted, namely:—

“Provided further that where any person referred to in the preceding proviso fails to make an application under that proviso within the period specified therein, he may make such application at anytime thereafter on payment of a penalty of one hundred rupees for every month or part thereof after the expiry of such period for the registration of each such insecticide.”.
3. In the proviso to sub-section (1) of section 13 of the principal Act, for the words “three months”, the words “seventeen months” shall be substituted. Amendment of section 13.
4. In the proviso to sub-section (1) of section 17 of the principal Act, for the words “under the proviso”, the words “under any of the provisos” shall be substituted. Amendment of section 17.
5. In section 18 of the principal Act, in the *Explanation*, for the words “under the proviso”, the words “under any of the provisos” shall be substituted. Amendment of section 18.

Rep. by Act. 38 of 1972, S. 2 of Sch. I

THE RICE-MILLING INDUSTRY (REGULATION)
AMENDMENT ACT, 1972
No. 47 OF 1972

[3rd September, 1972]

An Act further to amend the Rice-Milling Industry (Regulation) Act, 1958.

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

1. (1) This Act may be called the Rice-Milling Industry (Regulation) Amendment Act, 1972.

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

2. In section 1 of the Rice-Milling Industry (Regulation) Act, 1958^{21 of 1958.} (hereinafter referred to as the principal Act),—

(i) in sub-section (2), the words “except the State of Jammu and Kashmir” shall be omitted;

(ii) to sub-section (3), the following proviso shall be added, namely:—

“Provided that it shall come into force in the State of Jammu and Kashmir on the date of commencement of the Rice-Milling Industry (Regulation) Amendment Act, 1972.”.

3. In the principal Act, after section 2, the following section shall be inserted, namely:—

“2A. (1) Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.

(2) Any reference in any provision of this Act (except section 3A) to the commencement of this Act or the commencement of the Rice-Milling Industry (Regulation) Amendment Act, 1968, shall, in relation to the State of Jammu and Kashmir, be construed as a reference to the commencement of the Rice-Milling Industry (Regulation) Amendment Act, 1972.

(3) Section 3A shall have effect in relation to the State of Jammu and Kashmir subject to the omission of the portion beginning with the words “subject to the modification” and ending with the words, brackets and figures “the Rice-Milling Industry (Regulation) Amendment Act, 1968”.

Short title and commencement.

Amendment of section 1.

Insertion of new section 2A. Rules of construction in relation to application of Act to Jammu and Kashmir.

29 of 1968.

Rep. by Act. 38 of 1978, s. 2 f Sch. I

THE DELHI UNIVERSITY (AMENDMENT) ACT, 1972

No. 48 OF 1972

[3rd September, 1972]

An Act further to amend the Delhi University Act, 1922.

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

1. (1) This Act may be called the Delhi University (Amendment) Act, 1972. Short title and commencement.

(2) It shall be deemed to have come into force on the 22nd day of June, 1972.

22. 2. In section 4 of the Delhi University Act, 1922 (hereinafter referred to as the principal Act), after clause (9), the following clauses shall be inserted, namely:— Amendment of section 4.

“(9A) to declare, with the consent of the colleges concerned, in the manner specified by the Academic Council, colleges conducting courses of study in the Faculties of Medicine, Technology, Music or Fine Arts, as autonomous colleges:

Provided that the extent of the autonomy which each such college may have, and the matters in relation to which it may exercise such autonomy, shall be such as may be prescribed by the Statutes;

(9B) to set up one or more College Administrative Councils for two or more colleges with such composition, powers and functions as may be laid down in the Statutes;”

3. In section 28 of the principal Act, after clause (h), the following clauses shall be inserted, namely:— Amendment of section 28.

Repealed

“(hh) the extent of the autonomy which a college, declared as an autonomous college under clause (9A) of section 4, may have and the matters in relation to which such autonomy may be exercised;

(hhh) the composition, powers and functions of College Administrative Councils;”.

Amend.
ment of
section
29.

4. in section 29 of the principal Act, for sub-sections (2), (3), (4), (5) and (6), the following sub-sections shall be substituted, namely:—

“(2) The Executive Council may, from time to time, make new or additional Statutes or may amend or repeal the Statutes:

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

Provided further that except with the prior concurrence of the Academic Council, the Executive Council shall not make, amend or repeal any Statute affecting all or any of the following matters, namely:—

(i) the constitution, powers and duties of the Academic Council, and the other powers which may be conferred, and duties which may be imposed on the Academic Council;

(ii) the authorities responsible for organising recognised teaching in connection with the University courses;

(iii) the withdrawal of Degrees, Diplomas, Certificates and other academic distinctions;

(iv) the establishment and abolition of Faculties, Departments, Halls, Colleges and Institutions;

(v) the conditions under which Colleges and other Institutions may be admitted to the privileges of the University and the withdrawal of such privileges;

(vi) the institution of Fellowships, Scholarships, Studentships, Exhibitions, Medals and Prizes;

(vii) the extent of the autonomy which a College may have and the matters in relation to which such autonomy may be exercised;

(viii) the composition, powers and functions of College Administrative Councils; and

(ix) the conditions on the fulfilment of which the teachers of Colleges and Institutions may be recognised as teachers of the University.

Repealed

OF 1972]

Delhi University (Amendment)

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(3) Every new Statute or addition to the Statutes or any amendment or repeal of a Statute shall require the previous approval of the Visitor who may sanction, disallow or return it to the Executive Council for further consideration."

72. **5. (1) The Delhi University (Amendment) Ordinance, 1972, 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 corresponding provisions of the principal Act as amended by this Act.

Rep. by Act 38 of 1978, S. 2 & Sch. 1

**THE PUNJAB NEW CAPITAL (PERIPHERY) CONTROL
(CHANDIGARH AMENDMENT) ACT, 1972**

No. 49 OF 1972

[3rd September, 1972]

An Act further to amend the Punjab New Capital (Periphery) Control Act, 1952 as in force in the Union territory of Chandigarh.

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

Sho
title.

1. This Act may be called the Punjab New Capital (Periphery) Control (Chandigarh Amendment) Act, 1972.

Amend-
ment of
section 6.

2. In section 6 of the Punjab New Capital (Periphery) Control Act, 1952, as in force in the Union territory of Chandigarh (hereinafter referred to as the principal Act), for sub-section (4), the following sub-section shall be substituted, namely:—

Pur
Ac
195

“(4) The Deputy Commissioner shall not refuse permission to the erection or re-erection of a building if such building is required for purposes subservient to agriculture:

Provided that where the Deputy Commissioner permits the erection or re-erection of a building under this sub-section, such building shall be erected or, as the case may be, re-erected only in accordance with such conditions as may be prescribed.”

Substi-
tution of
new sec-
tion for
section 12.

3. For section 12 of the principal Act, the following section shall substituted, namely:—

Offences
and
penalties.

“12. (1) Any person who—

(a) erects or re-erects any building or makes or extends any excavation or lays out any means of access to a road in contravention of the provisions of section 5 or in contravention of any conditions imposed by an order under sub-section (2) of section 6 or section 7 or of any conditions prescribed under the proviso to sub-section (4) of section 6; or

Repealed

(b) uses any land in contravention of the provisions of sub-section (1) of section 11.

shall be punishable with fine which may extend to five hundred rupees and in the case of a continuing contravention, with a further fine which may extend to fifty rupees for every day after the date of first conviction during which he is proved to have persisted in the contravention.

(2) Without prejudice to the provisions of sub-section (1), the Deputy Commissioner may order any person who has committed a breach of the provisions of the said sub-section to restore to its original state or to bring in conformity with the conditions which have been violated, as the case may be, any building or land in respect of which a contravention such as is described in the said sub-section has been committed, and if such person fails to do so within six weeks of the order, may, after making such enquiry as he considers necessary and after giving such person an opportunity of being heard in the matter, himself take such measures as may appear to him to be necessary to give effect to the order and the cost of such measures shall be recoverable from such person as an arrear of land revenue."

4. In section 15 of the principal Act, to clause (c), the following **Amendment of section 15.**
Explanation shall be added, namely:—

Explanation.—For the purposes of this clause, the expression "other operations" does not include erection of superstructures over tube-wells;".

5. In section 16 of the principal Act, in sub-section (2), after clause (b), the following clause shall be inserted, namely:— **Amendment of section 16.**

"(bb) the conditions subject to which any building required for purposes subservient to agriculture may be erected or re-erected under sub-section (4) of section 6;".

THE INDIAN IRON AND STEEL COMPANY (TAKING
OVER OF MANAGEMENT) ACT, 1972

No. 50 OF 1972

[3rd September, 1972]

An Act to provide for the taking over of the management of the undertaking of the Indian Iron and Steel Company Limited for a limited period in the public interest and in order to secure the proper management of the undertaking.

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

CHAPTER I

PRELIMINARY

Short
title and
com-
mence-
ment.

1. (1) This Act may be called the Indian Iron and Steel Company (Taking Over of Management) Act, 1972.

(2) It shall be deemed to have come into force on the 14th day of July, 1972.

Definitions.

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

(a) "appointed day" means the 14th day of July, 1972;

156. (b) "company" or "Indian Iron and Steel Company" means the Indian Iron and Steel Company Limited, being a company as defined in the Companies Act, 1956, having its registered office at Martin Burn House, 12, Mission Row, Calcutta;

(c) "Custodian" means the person appointed under section 4 to take over the management of the undertaking of the company;

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

(e) "undertaking", in relation to the company, means the property and assets of the company referred to in sub-section (2) of section 3;

956. (f) words and expressions used but not defined in this Act and defined in the Companies Act, 1956, shall have the meanings respectively assigned to them in that Act.

CHAPTER II

MANAGEMENT OF THE UNDERTAKING OF THE INDIAN IRON AND STEEL COMPANY.

3. (1) On and from the appointed day and for a period of ^[five years]~~two years~~ thereafter, the management of the undertaking of the company shall vest in the Central Government; Management of undertaking of the company to vest in Central Government.

(2) The undertaking of the company shall be deemed to include all assets, rights, leaseholds (including mining leases, if any), powers, authorities and privileges and all property, movable and immovable, including lands, buildings, works, mines, workshops, projects, washeries, smelters, ropeways, stores, instruments, machinery, aircraft, locomotives, automobiles and other vehicles, cash balances, reserve fund, investments and book debts and all other rights and interests arising out of such property as were immediately before the appointed day in the ownership, possession, power or control of the company in relation to the undertaking, whether within or without India, and all books of account, registers, maps, plans, sections, drawings, records of survey and all other documents of whatever nature relating thereto.

(3) Any contract, whether express or implied, or other arrangement, in so far as it relates to the management of the business and affairs of the company in relation to its undertaking and in force immediately before the appointed day, shall be deemed to have terminated on the appointed day.

(4) All persons in charge of the management, including persons holding offices as directors, managers or any other managerial personnel of the company immediately before the appointed day, shall be deemed to have vacated their offices as such on the appointed day.

4. (1) The Central Government shall, as from the appointed day, appoint a person as the Custodian of the undertaking of the company for the purpose of taking over the management thereof and the Custodian shall carry on the management of the undertaking of the company for and on behalf of the Central Government. Custodian of the company.

(2) The Central Government may issue such directions (including directions as to initiating, defending or continuing any legal proceedings before any court, tribunal or other authority) to the Custodian as to his powers and duties as the Central Government deems desirable and the

Custodian may apply to the Central Government at any time for instructions as to the manner in which the Custodian shall conduct the management of the undertaking of the company or in relation to any matter arising in the course of such management.

(3) Subject to the other provisions of this Act and to the control of the Central Government, the Custodian shall be entitled, notwithstanding anything contained in the Companies Act, 1956, to exercise all the powers of the Board of Directors of the company (including the powers to dispose of any properties or assets of the company) whether such powers are derived from the Companies Act, 1956, or from the memorandum and articles of association of the company or from any other source.

(4) Every person having possession, custody or control of any property forming part of the undertaking of the company shall deliver forthwith such property to the Custodian or to any officer or other employee of the Central Government or the company as may be authorised by the Central Government in this behalf.

(5) Any person who, on the appointed day, has in his possession or under his control any books, papers or other documents relating to the undertaking of the company, including the minutes books containing the resolutions of the persons in charge of the management before the appointed day, the current cheque books relating to the undertaking of the company, any letters, memoranda, notes or other communications between him and the company shall, notwithstanding anything contained in any law for the time being in force, be liable to account for the books, papers and other documents (including such minutes books, cheque books, letters, memoranda, notes or other communications) to the Custodian and shall deliver them up to the Custodian or to any such person (being an officer or other employee of the Central Government or the company) as may be authorised by the Central Government in this behalf.

(6) Every person in charge of the management of the undertaking of the company immediately before the appointed day shall, within ten days from that day or within such further period as the Central Government may allow in this behalf, furnish to the Custodian a complete inventory of all the properties and assets (including particulars of book debts and investments and belongings) forming part of the undertaking of the company immediately before the appointed day and of all the liabilities and obligations of the company in relation to its undertaking subsisting immediately before that day and also of all agreements entered into by the company in relation to its undertaking and in force immediately before that day.

(7) The Custodian shall receive from the funds of the undertaking of the company such remuneration as the Central Government may fix.

Advisory Board.

~~5. (1) The Central Government may, by notification in the Official Gazette, constitute a Board for considering such matters relating to the management of the undertaking of the company as may be placed before it by the Custodian and for discharging such other functions as may be prescribed.~~

~~(2) The Board shall consist of the Custodian, who shall be its Chairman, ex officio, and such number of members, not exceeding ten, as may be appointed to it by the Central Government.~~

4 Ins. Jay Act 368 (1974), S.4 (w.e.f. 28-6-1974).
3 Omitted by S.5, ibid.

(3) A member of the Board shall hold office till the expiry of one year from the date on which he enters upon his office or till the relinquishment of the management of the company by the Central Government under section 7, whichever is earlier.

(4) The remuneration payable to the members of the Board and the other conditions of service of the members of the Board shall be such as may be prescribed.

(5) All expenses incurred in connection with the Board (including remuneration payable to the members thereof) shall be met from out of the funds of the undertaking of the company.

(6) ~~Save as otherwise prescribed, the Board shall have the power to regulate its own procedure.~~

6. Notwithstanding anything contained in any law for the time being in force, no person in respect of whom any contract of management or other arrangement is terminated by reason of the provisions contained in sub-section (3) of section 3 or who ceases to hold any office by reason of the provisions contained in sub-section (4) of that section, shall be entitled to claim any compensation for the premature termination of the contract of management or other arrangement or for the loss of office. No right to compensation for termination of contract or office.

7. (1) Notwithstanding anything contained in sub-section (1) of section 3, if, at any time before the expiry of the ~~period of two years~~ referred to in that sub-section, it appears to the Central Government that the purposes of the vesting of the management of the undertaking of the company in that Government have been fulfilled or for any other reason it is not necessary that the management of the undertaking of the company should remain vested in that Government, it may by order published in the Official Gazette relinquish the management of the undertaking of the company with effect from such date as may be specified in the order. Relinquishment of management of the undertaking of the company.

of n 7
1 of 1956. (2) On and from the date specified in the order published under sub-section (1), the undertaking of the company shall be managed in accordance with the provisions of the Companies Act, 1956, so, however, that steps, if any, in relation to the management of the undertaking may be taken after the publication of the order under sub-section (1).

8. (1) Notwithstanding anything contained in the Companies Act, 1956, or in the memorandum or articles of association of the company, but subject to the provisions of sub-section (2) of section 7, so long as the management of the undertaking of the company remains vested in the Central Government,— Application of Act 1 of 1956.

(a) it shall not be lawful for the shareholders of the company or any other person to nominate or appoint any person to be a director of the company;

(b) no resolution passed at any meeting of the shareholders of the company on or after the appointed day shall be given effect to unless approved by the Central Government;

(c) no proceeding for the winding up of the company or for the appointment of a liquidator or receiver in respect thereof shall lie in any court except with the consent of the Central Government.

(2) Subject to the provisions contained in sub-section (1), and to the other provisions contained in this Act and subject to such other exceptions, restrictions and limitations, if any, as the Central Government may, by notification in the Official Gazette, specify in this behalf, the Companies Act, 1956, shall continue to apply to the company in the same manner as it applied thereto before the appointed day. 1 of 1956.

CHAPTER III

MISCELLANEOUS

Penalties. 9. (1) Any person, who—

(a) having in his possession or custody or under his control any property forming part of the undertaking of the company, wrongfully withholds such property from the Custodian or any person authorised under this Act, or

(b) wrongfully obtains possession of any such property, or

(c) wilfully retains any property forming part of the undertaking of the company or removes or destroys it, or

(d) wilfully withholds or fails to deliver any books, papers or other documents which may be in his possession or custody or under his control to the Custodian or any person authorised under this Act, or

(e) fails, without any reasonable cause, to furnish information or particulars as provided in sub-section (6) of section 4,

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.

(2) No court shall take cognizance of an offence punishable under this section except with the previous sanction of the Central Government or of an officer authorised by the Central Government in this behalf.

Offences
by compa-
nies.

10. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

4 Subs. by Act 36 of 1974, s. 7 (w.e.f. 28-6-1974).

4
Administrator,
Board of
management
or Custodian

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

11. In computing the period of limitation prescribed by law for the time being in force for any suit or application against any person by the company in respect of any matter arising out of any transaction in relation to the undertaking of the company, the time during which this Act is in force shall be excluded. Exclusion of period of operation of Act.

12. The provisions of this Act or any notification, ^[direction] order or rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any law other than this Act or in any instrument having effect by virtue of any law other than this Act or in any decree or order of any court. Act to have over-riding effect.

2
Ministrato,
board of
management
Custodian

13. (1) No suit, prosecution or other legal proceeding shall lie against the ~~Custodian~~ or any officer or other employee of the Central Government or the company for anything which is in good faith done or intended to be done under this Act. Protection of action taken in good faith.

(2) No suit or other legal proceeding shall lie against the Central Government or the ~~Custodian~~ or any of the officers or other employees of the Central Government or the company for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

14. (1) If the Central Government is satisfied, after such enquiry as it may think fit, that any contract or agreement entered into at any time within three years immediately preceding the appointed day, between the company or the managing agents of the company and any other person, in so far as such contract or agreement relates to the undertaking of the company, has been entered into in bad faith, or is detrimental to the interests of the undertaking of the company, it may make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) such contract or agreement and thereafter the contract or agreement shall have effect accordingly. Contracts in bad faith may be cancelled or varied.

Provided that no contract or agreement shall be cancelled or varied except after giving to the parties to the contract or agreement reasonable opportunity of being heard.

(2) Any person aggrieved by an order under sub-section (1) may make an application to the High Court at Calcutta for the variation or reversal of such order and thereupon such court may confirm, modify or reverse such order.

15. If the Custodian is of the opinion that any contract of employment entered into by the company or the managing agents of the company in relation to the undertaking of the company, at any time before the appointed day, is unduly onerous, he may, by giving to the employee one month's notice in writing or the salary or wages for one month in lieu thereof, terminate such contract of employment. Power to terminate contract of employment.

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

*4 Ins. by Act 36 of 1974, s. 8 (w.e.f. 28-6-1974).
2 Subs. by s. 9, Ibid.*

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

~~(a) the remuneration payable to, and other conditions of service of, the members of the Board referred to in section 5,~~

(b) the procedure to be followed by the said Board.

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

Repeal and savings.

17. (1) The Indian Iron and Steel Company (Taking Over of Management) Ordinance, 1972, is hereby repealed.

6 of 1972.

(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 provision of this Act.

4 Subs. by Act 36 of 1974, S. 10 (w.e.f. 28-6-1974)

THE APPROPRIATION (No. 4) ACT, 1972

No. 51 OF 1972

[5th September, 1972]

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 1972-73.

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

1. This Act may be called the Appropriation (No. 4) Act, 1972. 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 forty-eight crores, ninety-eight lakhs and fifty thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1972-73, in respect of the services specified in column 2 of the Schedule. Issue of Rs. 48,98,50,000 out of the Consolidated Fund of India for the year 1972-73.
3. The sums authorised to be paid and applied from and out of the Appropriation Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

THE SCHEDULE
(See Sections 2 and 3)

I No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
7	Education	1,000	..	1,000
21	Other Revenue Expenditure of the Ministry of Finance	4,62,000	16,000	4,78,000
40	Police	1,48,12,000	..	1,48,12,000
44	Other Revenue Expenditure of the Ministry of Home Affairs	10,75,00,000	..	10,75,00,000
58	Ministry of Irrigation and Power	5,00,000	..	5,00,000
63	Department of Rehabilitation . . . . .	..	77,000	77,000
74	Road and Inland Water Transport	1,95,00,000	..	1,95,00,000
76	Department of Mines	5,26,000	..	5,26,000
77	Geological Survey . . . . .	..	10,000	10,000
85	Department of Atomic Energy	7,33,000	..	7,33,000
100	Supplies and Disposals . . . . .	..	64,000	64,000
111	Other Capital Outlay of the Ministry of Finance	32,14,66,000	..	32,14,66,000
113	Loans and Advances by the Central Government	2,000	..	2,000
120	Capital Outlay of the Ministry of Industrial Development	1,000	..	1,000
125	Capital Outlay of the Ministry of Petroleum and Chemicals	75,29,000	..	75,29,000
129	Other Capital Outlay of the Ministry of Steel and Mines	1,66,51,000	..	1,66,51,000
	TOTAL	48,96,83,000	1,67,000	48,98,50,000

THE ANTIQUITIES AND ART TREASURES ACT, 1972

ARRANGEMENT OF SECTIONS

SECTIONS

1. Short title, extent and commencement.
2. Definitions.
3. Regulation of export trade in antiquities and art treasures.
4. Application of Act 52 of 1962.
5. Antiquities to be sold only under a licence.
6. Appointment of licensing officers.
7. Application for licence.
8. Grant of licence.
9. Renewal of licence.
10. Maintenance of records, photographs and registers by licensees.
11. Revocation, suspension and amendment of licences.
12. Persons whose licences have been revoked may sell antiquities to other licensees.
13. Power of Central Government to carry on the business of selling antiquities to the exclusion of others.
14. Registration of antiquities.
15. Appointment of registering officers.
16. Application for registration and grant of certificate of registration.
17. Transfer of ownership, etc., of antiquities to be intimated to the registering officer.
18. Provisions of sections 14, 16 and 17 not to apply in certain cases.
19. Power of Central Government to compulsorily acquire antiquities and art treasures.
20. Payment of compensation for antiquities and art treasures compulsorily acquired under section 19.
21. Appeals against decisions of licensing officers and registering officers.
22. Appeals against awards of arbitrators.
23. Powers of entry, search, seizure, etc.
24. Power to determine whether or not an article, etc., is antiquity or art treasure.
25. Penalty.
26. Cognizance of offences.
27. Magistrate's power to impose enhanced penalties.
28. Offences by companies.
29. Protection of action taken in good faith.
30. Application of other laws not barred.
31. Power to make rules.
32. Repeal.
33. Amendment of Act 24 of 1958.

THE ANTIQUITIES AND ART TREASURES ACT, 1972

No. 52 OF 1972

[9th September, 1972]

An Act to regulate the export trade in antiquities and art treasures to provide for the prevention of smuggling of, and fraudulent dealings in, antiquities, to provide for the compulsory acquisition of antiquities and art treasures for preservation in public places and to provide for certain other matters connected therewith or incidental or ancillary thereto.

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

Short title, extent and commencement.

1. (1) This Act may be called the Antiquities and Art Treasures Act, 1972.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and for different States 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.

Definitions.

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

(a) "antiquity" includes—

(I) (i) any coin, sculpture, painting, epigraph or other work of art or craftsmanship;

came into force in the whole of India (the State of Sikkim) w.e.f. 5.4.1976. In No.G.S.R.279(E), dt. 5.4.1976, Gaz. Pt.II, Sec.3(1), p.977.

(ii) any article, object or thing detached from a building or cave;

(iii) any article, object or thing illustrative of science, art, crafts, literature, religion, customs, morals or politics in bygone ages;

(iv) any article, object or thing of historical interest;

(v) any article, object or thing declared by the Central Government, by notification in the Official Gazette, to be an antiquity for the purposes of this Act,

which has been in existence for not less than one hundred years; and

(II) any manuscript, record or other document which is of scientific, historical, literary or aesthetic value and which has been in existence for not less than seventy-five years;

(b) "art treasure" means any human work of art, not being an antiquity, declared by the Central Government by notification in the Official Gazette, to be an art treasure for the purposes of this Act having regard to its artistic or aesthetic value:

Provided that no declaration under this clause shall be made in respect of any such work of art so long as the author thereof is alive;

(c) "export" means taking out of India to a place outside India;

(d) "licensing officer" means an officer appointed as such under section 6;

(e) "registering officer" means an officer appointed as such under section 15;

(f) "prescribed" means prescribed by rules made under this Act.

(2) Any reference in this Act to any law which is not in force in any area shall, in relation to that area, be construed as a reference to the corresponding law, if any, in force in that area.

3. (1) On and from the commencement of this Act, it shall not be lawful for any person, other than the Central Government or any authority or agency authorized by the Central Government in this behalf, to export any antiquity or art treasure.

Regulation of export trade in antiquities and art treasures.

(2) Whenever the Central Government or any authority or agency referred to in sub-section (1) intends to export any antiquity or art treasure such export shall be made only under and in accordance with the terms and conditions of a permit issued for the purpose by such authority as may be prescribed.

4. The Customs Act, 1962, shall have effect in relation to all antiquities and art treasures, the export of which by any person (other than the Central Government or any authority or agency authorized by the Central Government) is prohibited under section 3 save in so far as that Act is inconsistent with the provisions of this Act and except that (notwithstanding anything contained in section 125 of that Act) any confiscation authorized under that Act shall be made unless the Central Government on an application made to it in this behalf, otherwise directs.

Application of Act 52 of 1962.

Antiquities to be sold only under a licence.

5. On and from the expiry of a period of two months of the commencement of this Act, no person shall, himself or by any other person on his behalf, carry on the business of selling or offering to sell any antiquity except under and in accordance with the terms and conditions of a licence granted under section 8.

Explanation.—In this section and in sections 7, 8, 12, 13, 14, 17 and 18 “antiquity” does not include ancient and historical records other than those declared by or under law made by Parliament to be of national importance.

Appointment of licensing officers.

6. The Central Government may, by notified order,—

(a) appoint such persons, being gazetted officers of Government, as it thinks fit, to be licensing officers for the purposes of this Act;

(b) define the limits of the area within which a licensing officer shall exercise the powers conferred on licensing officers by or under this Act.

Application for licence.

7. (1) Any person desiring to carry on, himself or by any other person on his behalf, the business of selling or offering to sell antiquities may make an application for the grant of a licence to the licensing officer having jurisdiction.

(2) Every application under sub-section (1) shall be made in such form and shall contain such particulars as may be prescribed.

Grant of licence.

8. (1) On receipt of an application for the grant of a licence under section 7, the licensing officer may, after holding such inquiry as he deems fit, grant a licence to the applicant having regard to the following factors, namely:—

(a) the experience of the applicant with respect to trade in antiquities;

(b) the village, town or city where the applicant intends to carry on business;

(c) the number of persons already engaged in the business of selling, or offering for sale of, antiquities in the said village, town or city; and

(d) such other factors as may be prescribed:

Provided that no licence shall be granted to the applicant if he is convicted of an offence punishable under the Antiquities (Export Control) Act, 1947 unless a period of ten years has elapsed since the date of the conviction. 31 of 194

(2) Every licence granted under this section shall be on payment of such fees as may be prescribed.

(3) Every licence granted under this section shall be for such period, subject to such conditions and in such form and shall contain such particulars, as may be prescribed.

(4) No application for the grant of a licence made under section 7 shall be rejected unless the applicant has been given a reasonable opportunity of being heard in the matter.

9. (1) A licence granted under section 8 may, on an application made by the licensee, be renewed by the licensing officer for such period and on payment of such fees as may be prescribed.

Renewal of licence.

(2) No application made under this section shall be rejected unless the applicant has been given a reasonable opportunity of being heard in the matter.

10. (1) Every holder of a licence granted under section 8 or renewed under section 9 shall maintain such records, photographs and registers, in such manner and containing such particulars, as may be prescribed.

Maintenance of records, photographs and registers by licensees.

(2) Every record, photograph and register maintained under sub-section (1) shall, at all reasonable times, be open to inspection by the licensing officer or by any other gazetted officer of Government authorised in writing by the licensing officer in this behalf.

11. (1) If the licensing officer is satisfied either on a reference made to him in this behalf or otherwise that—

Revocation, suspension and amendment of licences.

(a) a licence granted under section 8 has been obtained by misrepresentation of an essential fact, or

(b) the holder of a licence has, without reasonable cause, failed to comply with the conditions subject to which the licence has been granted or has contravened any of the provisions of this Act or the rules made thereunder,

then, without prejudice to any other penalty to which the holder of the licence may be liable under this Act, the licensing officer may, after giving the holder of the licence an opportunity of showing cause, revoke or suspend the licence.

(2) Subject to any rules that may be made in this behalf, the licensing officer may also vary or amend a licence granted under section 8.

12. Notwithstanding anything contained in section 5, any person whose licence has been revoked under section 11 may, after making a declaration before the licensing officer, within such period, in such form and in such manner, as may be prescribed, of all the antiquities in his ownership, control or possession immediately before such revocation, sell such antiquities to any other person holding a valid licence under this Act:

Persons whose licences have been revoked may sell antiquities to other licensees.

Provided that no such antiquity shall be sold after the expiry of a period of six months from the date of revocation of the licence.

13. (1) If the Central Government is of opinion that with a view to conserving antiquities or in the public interest it is necessary or expedient so to do, it may, by notification in the Official Gazette, declare that with effect on and from such date as may be specified in the notification, the Central Government or any authority or agency authorised by the Central Government in this behalf shall alone be entitled to carry on the business of selling or offering for sale of antiquities.

Power of Central Government to carry on the business of selling antiquities to the exclusion of others.

(2) On the issue of a notification under sub-section (1),—

(a) it shall not be lawful for any person, authority or agency, other than the Central Government or any authority or agency authorized by the Central Government, to carry on the business of selling or offering for sale any antiquity on and from the date specified therein;

(b) the provisions of this Act, in so far as they relate to the licensing of persons carrying on the business of selling or offering for sale of antiquities shall cease to have effect except as respects things done or omitted to be done before such cesser of operation and section 6 of the General Clauses Act, 1897 shall apply upon such cesser of operation as if those provisions had been repealed by a Central Act: 10 of 1897.

Provided that every licence granted under section 8 and in force on the date aforesaid shall, notwithstanding that the period specified therein has not expired, cease to be in force.

(3) Every person whose licence has ceased to be in force under the proviso to clause (b) of sub-section (2) shall, within such period, in such form and in such manner as may be prescribed, make a declaration before the licensing officer of all the antiquities in his ownership, control or possession immediately before the date specified in the notification issued under sub-section (1).

Registra-
tion of
antiqui-
ties.

14. (1) The Central Government may, from time to time, by notification in the Official Gazette, specify those antiquities which shall be registered under this Act.

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

- (i) the necessity for conserving the objects of art;
- (ii) the need to preserve such objects within India for the better appreciation of the cultural heritage of India;
- (iii) such other factors as will, or are likely to, contribute to the safeguarding of the cultural heritage of India.

(3) Every person who owns, controls or is in possession of any antiquity specified in the notification issued under sub-section (1) shall register such antiquity before the registering officer—

(a) in the case of a person who owns, controls or possesses such antiquity on the date of issue of such notification, within three months of such date; and

(b) in the case of any other person, within fifteen days of the date on which he comes into ownership, control or possession of such antiquity,

and obtain a certificate in token of such registration.

Appoint-
ment of
register-
ing offi-
cers.

15. The Central Government may, by notified order,—

(a) appoint such persons, as it thinks fit, to be registering officers for the purposes of this Act; and

(b) define the limits of the area within which a registering officer shall exercise the powers conferred on registering officers by or under this Act.

16. (1) Every person required to register any antiquity before the registering officer under section 14 shall make an application to the registering officer for the grant of a certificate of registration.

Applica-
tion for
registra-
tion and
grant of
certificate
of registra-
tion.

(2) Every application under sub-section (1) shall be accompanied by such photographs of the antiquity which is to be registered and by such number of copies, not exceeding six, as may be prescribed and shall be made in such form and shall contain such particulars as may be prescribed.

(3) On receipt of an application under sub-section (1), the registering officer may, after holding such inquiry as he deems fit, grant a certificate of registration containing such particulars as may be prescribed.

(4) No application made under this section shall be rejected unless the applicant has been given a reasonable opportunity of being heard in the matter.

17. Whenever any person transfers the ownership, control or possession of any antiquity specified in any notification issued under sub-section (1) of section 14 such person shall intimate, within such period and in such form as may be prescribed, the fact of such transfer to the registering officer.

Transfer
of owner-
ship, etc.,
of anti-
quities to
be inti-
mated
to the
register-
ing offi-
cer.

18. Nothing in section 14 or section 16 or section 17 shall apply to any antiquity kept--

- (i) in a museum; or
- (ii) in an office; or
- (iii) in an archive; or
- (iv) in an educational or cultural institution,

owned, controlled or managed by the Government.

Provisions
of sections
14, 16 and
17 not to
apply in
certain
cases.

19. (1) If the Central Government is of opinion that it is desirable to preserve any antiquity or art treasure in a public place, that Government may make an order for the compulsory acquisition of such antiquity or art treasure.

Power of
Central
Govern-
ment to
compul-
sarily ac-
quire
anti-
quities
and art
treasures.

(2) On the making of an order under sub-section (1) the Collector of the district in which such antiquity or art treasure is kept shall give notice to the owner thereof intimating him of the decision of the Central Government to acquire the same and it shall be lawful for the Collector to take possession of such antiquity or art treasure, for which purpose the Collector may use such force as may be necessary.

(3) Where the owner of any antiquity or art treasure the possession of which has been taken over by the Collector under sub-section (2) objects to the taking over of such possession, he may, within a period of thirty days from the date on which such possession was taken over, make a representation to the Central Government putting forth his objections:

Provided that the Central Government may entertain the representation after the expiry of the said period of thirty days, if it is satisfied that the owner of such antiquity or art treasure was prevented by sufficient cause from making the representation in time.

(4) On receipt of any representation under sub-section (3), the Central Government, after making such inquiry as it deems fit and after giving to the objector an opportunity of being heard in the matter, shall, within a period of ninety days from the date of receipt of the representation, either rescind or confirm the order made by it under sub-section (1).

(5) Where any order made by the Central Government under sub-section (1) is rescinded under sub-section (4) the antiquity or art treasure shall be returned to the owner thereof without delay and at the expense of the Central Government.

(6) Where the order made by the Central Government under sub-section (1) is confirmed under sub-section (4) the antiquity or art treasure shall vest in the Central Government with effect from the date on which the possession thereof has been taken over by the Collector under sub-section (2).

(7) The power of compulsory acquisition conferred by this section shall not extend to any object, being an antiquity or art treasure, used for *bona fide* religious observances.

Explanation.—In this section, “public place” means any place which is open to the use of the public, whether on payment of fees or not, or whether it is actually used by the public or not.

Payment
of com-
pensation
for
antiqui-
ties and
art
treasures
compul-
sorily
acquired
under
section 19.

20. (1) Where any antiquity or art treasure is compulsorily acquired under section 19, there shall be paid compensation, the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,—

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;

(b) where no such agreement can be reached, the Central Government shall appoint as arbitrator a person who is, or has been, or is qualified for appointment as, a Judge of a High Court;

(c) the Central Government may, in any particular case, nominate a person having expert knowledge as to the nature of the antiquity or art treasure compulsorily acquired to assist the arbitrator and where such nomination is made, the person to be compensated may also nominate an assessor for the same purpose;

(d) at the commencement of the proceedings before the arbitrator, the Central Government and the person to be compensated shall state what, in their respective opinion, is a fair amount of compensation;

(e) the arbitrator shall, after hearing the dispute, make an award determining the amount of compensation which appears to him to be just and specifying the person or persons to whom such compensation shall be paid and in making the award he shall have regard to the circumstances of each case and the provisions of sub-section (2);

(f) where there is any dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such dispute and if the arbitrator finds that more persons than one are entitled to compensation, he shall apportion the amount thereof amongst such persons;

(g) nothing in the Arbitration Act, 1940 shall apply to arbitration under this section.

(2) While determining the compensation under sub-section (1), the arbitrator shall have regard to the following factors, namely:—

(i) the date or the period to which the antiquity or art treasure belongs;

(ii) the artistic, aesthetic, historical, architectural, archaeological or anthropological importance of the antiquity or art treasure;

(iii) the rarity of the antiquity or art treasure;

(iv) such other matters as are relevant to the dispute.

(3) The arbitrator appointed under sub-section (1), while holding arbitration proceedings under this section, shall have all the powers of a Civil Court, while trying a suit, under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

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

(b) requiring the discovery and production of any document;

(c) reception of evidence on affidavits;

(d) requisitioning any public record from any court or office;

(e) issuing commissions for the examination of witnesses.

21. (1) Any person aggrieved by a decision of a licensing officer under section 8 or section 9 or section 11 or by a decision of a registering officer under section 16 may, within thirty days from the date on which the decision is communicated to him, prefer an appeal to such authority as may be prescribed:

Appeals against decisions of licensing officers and registering officers.

Provided that the appellate authority may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard, pass such orders as it deems fit.

22. Any person aggrieved by an award of the arbitrator made under section 20 may, within thirty days from the date on which the award is communicated to him, prefer an appeal to the High Court within whose jurisdiction he resides:

Appeals against awards of arbitrators.

Provided that the High Court may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by a sufficient cause from filing the appeal in time.

23. (1) Any person, being an officer of Government, authorized in this behalf by the Central Government, may, with a view to securing compliance with the provisions of this Act or to satisfying himself that the provisions of this Act have been complied with—

Powers of entry, search, seizure, etc.

(i) enter and search any place;

(ii) seize any antiquity or art treasure in respect of which he suspects that any provision of this Act has been, is being, or is about to be, contravened and thereafter take all measures necessary for securing the production of the antiquity or art treasure so seized in a court and for its safe custody, pending such production.

(2) The provisions of sections 102 and 103 of the Code of Criminal Procedure, 1898 relating to search and seizure shall, so far as may be, apply to searches and seizures under this section.

Power to determine whether or not an article, etc., is antiquity or art treasure.

24. If any question arises whether any article, object or thing or manuscript, record or other document is or is not an antiquity or is or is not an art treasure for the purposes of this Act, it shall be referred to the Director General, Archaeological Survey of India, or to an officer not below the rank of a Director in the Archaeological Survey of India authorized by the Director General, Archaeological Survey of India and the decision of the Director General, Archaeological Survey of India or such officer, as the case may be, on such question shall be final.

Penalty.

25. (1) If any person, himself or by any other person on his behalf, exports or attempts to export any antiquity or art treasure in contravention of section 3, he shall, without prejudice to any confiscation or penalty to which he may be liable under the provisions of the Customs Act, 1962 as applied by section 4, be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine.

(2) If any person contravenes the provisions of section 5 or section 11 or sub-section (2) or sub-section (3) of section 13 or section 14 or section 17, he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both and the antiquity in respect of which the offence has been committed shall be liable to confiscation.

(3) If any person prevents any licensing officer from inspecting any record, photograph or register maintained under section 10 or prevent any officer authorized by the Central Government under sub-section (1) of section 23 from entering into or searching any place under that sub-section, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

Cognizance of offences.

26. (1) No prosecution for an offence under sub-section (1) of section 25 shall be instituted except by or with the sanction of such officer of Government as may be prescribed in this behalf.

(2) No court shall take cognizance of an offence punishable under sub-section (2) or sub-section (3) of section 25 except upon complaint in writing made by an officer generally or specially authorized in this behalf by the Central Government.

(3) No court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence punishable under this Act.

Magistrate's power to impose enhanced penalties.

27. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any Presidency Magistrate or any Magistrate of the First Class to pass any sentence under this Act in excess of his power under section 32 of the said Code.

28. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, or was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Offences
by
Com-
panies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge 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 with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

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

29. No suit, prosecution or other legal proceeding shall lie against the Government or any officer of the Government for anything which is in good faith done or is intended to be done under this Act. Protec-
tion of
action
taken in
good
faith.

30. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of the Ancient Monuments Preservation Act, 1904 or the Ancient Monuments and Archaeological Sites and Remains Act, 1958, or any other law for the time being in force. Applica-
tion of
other laws
not
barred.

31. (1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of giving effect to 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—

(a) the authority for issue of permit under sub-section (2) of section 3;

(b) the form in which an application for the grant of a licence may be made under sub-section (1) of section 7 and the particulars which such application shall contain;

(c) the factors to which regard may be had while granting a licence under sub-section (1) of section 8;

(d) the fees on payment of which, the period for which, the conditions subject to which and the form in which a licence may be granted under sub-section (1) of section 8 and the particulars which such licence shall contain;

(e) the fees on payment of which and the period for which a licence may be renewed under sub-section (1) of section 9;

(f) the records, photographs and registers which are to be maintained under section 10 and the manner in which such records, photographs and registers shall be maintained and the particulars which such records, photographs and registers shall contain;

(g) the nature of the photographs of the antiquity and the number of copies thereof which shall accompany an application for the grant of a certificate of registration to be made under sub-section (1) of section 16 and the form in which such application may be made and the particulars which such application shall contain;

(h) the particulars which a certificate of registration granted under sub-section (3) of section 16 shall contain;

(i) the authority to which an appeal may be preferred under sub-section (1) of section 21; and

(j) any other matter which has 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.

32. (1) The Antiquities (Export Control) Act, 1947 is hereby repealed.

(2) For the removal of doubts it is hereby declared that every licence issued under section 3 of the Act repealed under sub-section (1) and in force at the commencement of this Act shall, notwithstanding that the period specified therein has not expired, cease to be in force.

33. In the Ancient Monuments and Archaeological Sites and Remains Act, 1958,—

Amend-
ment of
Act 24
of 1958.

(i) in section 1, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) It extends to the whole of India.”;

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

“2A. Any reference in this Act to any law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law if any, in force in that State.”;

Construc-
tion of
references
to any law
not in
force in
the State
of Jammu
and
Kashmir.

(iii) in section 23,—

(a) in sub-sections (2) and (4), for the words “compulsory purchase”, the words “compulsory acquisition” shall be substituted;

(b) in sub-section (3), for the words "compulsory purchase of any such antiquities at their market value", the words "compulsory acquisition of any such antiquities" shall be substituted;

(iv) in section 26,—

(a) in sub-section (1), for the words "compulsory purchase of such antiquity at its market value", the words "compulsory acquisition of such antiquity" and for the words "to be purchased", the words "to be acquired" shall be substituted;

(b) in sub-sections (2) and (3), for the words "compulsory purchase", the words "compulsory acquisition" shall be substituted;

(v) in section 28, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) For every antiquity in respect of which an order for compulsory acquisition has been made under sub-section (3) of section 23 or under sub-section (1) of section 26, there shall be paid compensation and the provisions of sections 20 and 22 of the Antiquities and Art Treasures Act, 1972 shall so far as may be, apply in relation to the determination and payment of such compensation as they apply in relation to the determination and payment of compensation for any antiquity or art treasure compulsorily acquired under section 19 of that Act."

THE WILD LIFE (PROTECTION) ACT, 1972

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65. Rights of Scheduled Tribes to be protected.
66. Repeal and savings.

SCHEDULE I.

SCHEDULE II.

SCHEDULE III.

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SCHEDULE V.

THE WILD LIFE (PROTECTION)

No. 53 OF 1972

[9th September, 1972]

An Act to provide for the protection of wild animals and birds and for matters connected therewith or ancillary or incidental thereto

WHEREAS it is expedient to provide for the protection of wild animals and birds and for matters connected therewith or ancillary or incidental thereto;

AND WHEREAS Parliament has no power to make laws for the States with respect to any of the matters aforesaid except as provided in articles 249 and 250 of the Constitution;

AND WHEREAS in pursuance of clause (1) of article 252 of the Constitution resolutions have been passed by all the Houses of the Legislatures of the States of Andhra Pradesh, Bihar, Gujarat, Haryana, Himachal Pradesh, Madhya Pradesh, Manipur, Punjab, Rajasthan, Uttar Pradesh and West Bengal to the effect that the matters aforesaid should be regulated in those States by Parliament by law;

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Wild Life (Protection) Act, 1972.

(2) It extends, in the first instance, to the whole of the States of Andhra Pradesh, Bihar, Gujarat, Haryana, Himachal Pradesh, Madhya

Short
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ment.

Pradesh, Manipur, Punjab, Rajasthan, Uttar Pradesh and West Bengal and to all the Union territories; and it shall also extend to such other State as may adopt this Act by resolution passed in that behalf in pursuance of clause (1) of article 252 of the Constitution.

(3) It shall come into force in a State or Union territory to which it extends, or may become extended in future, on such date as the Central Government may, by notification, appoint, and different dates may be appointed for different provisions of this Act or for different States or Union territories.

Defini-
tions.

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

(1) "animal" includes amphibians, birds, mammals and reptiles and their young, and also includes, in the cases of birds and reptiles, their eggs;

(2) "animal article" means an article made from any captive animal or wild animal, other than vermin, and includes an article or object in which the whole or any part of such animal has been used;

(3) "big game" means any animal specified in Schedule III;

(4) "Board" means the Wild Life Advisory Board constituted under sub-section (1) of section 6;

(5) "captive animal" means any animal, specified in Schedule I, Schedule II, Schedule III or Schedule IV, which is captured or kept or bred in captivity;

(6) "cattle" includes buffaloes, bulls, bullocks, camels, cows, domestic elephants, donkeys, goats, horses, mules, pigs and sheep, and also includes their young;

(7) "Chief Wild Life Warden" means the person appointed as such under clause (a) of sub-section (1) of section 4;

(8) "closed area" means the area which is declared under sub-section (1) of section 37 to be closed to hunting;

(9) "Collector" means the chief officer in charge of the revenue administration of a district;

(10) "commencement of this Act", in relation to—

(a) a State, means commencement of this Act in that State,

(b) any provision of this Act, means the commencement of that provision in the concerned State;

(11) "dealer" means any person who carries on the business of buying and selling any captive animal, animal article, trophy, uncurd trophy or meat;

(12) "Director" means the person appointed as Director of Wild Life Preservation under clause (a) of sub-section (1) of section 3;

(13) "game reserve" means an area declared under section 36 to be a game reserve;

(14) "Government property" means any property referred to in section 39;

(15) "habitat" includes land, water or vegetation which is the natural home of any wild animal;

(16) "hunting", with its grammatical variations and cognate expressions, includes,—

(a) capturing, killing, poisoning, snaring and trapping of any wild animal and every attempt to do so,

(b) driving any wild animal for any of the purposes specified in sub-clause (a),

(c) injuring or destroying or taking any part of the body of any such animal or, in the case of wild birds or reptiles, damaging the eggs of such birds or reptiles, or disturbing the eggs or nests of such birds or reptiles;

(17) "land" includes canals, creeks and other water channels, reservoirs, rivers, streams and lakes, whether artificial or natural, and also includes boulders and rocks;

(18) "licence" means a licence granted under this Act;

(19) "manufacturer" means a manufacturer of animal articles;

(20) "meat" includes blood, bones, sinew, eggs, fat and flesh, whether raw or cooked, of any wild animal, other than vermin;

(21) "National Park" means an area declared, whether under section 35 or section 38, or deemed, under sub-section (3) of section 66, to be declared, as a National Park;

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

(23) "permit" means a permit granted under this Act or any rule made thereunder;

(24) "person" includes a firm;

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

(26) "sanctuary" means an area declared, whether under section 18 or section 38, or deemed, under sub-section (3) of section 66, to be declared, as a wild life sanctuary;

(27) "small game" means any animal specified in Schedule IV;

(28) "special game" means any animal specified in Schedule II;

(29) "State Government", in relation to a Union territory, means the Administrator of that Union territory appointed by the President under article 239 of the Constitution;

(30) "taxidermy", with its grammatical variations and cognate expressions, means the curing, preparation or preservation of trophies;

(31) "trophy" means the whole or any part of any captive animal or wild animal, other than vermin, which has been kept or preserved by any means, whether artificial or natural, and includes—

(a) rugs, skins and specimens of such animal mounted in whole or in part through a process of taxidermy, and

(b) antler, horn, rhinoceros horn, hair, feather, nail, tooth, musk, eggs and nests;

(32) "uncured trophy" means the whole or any part of any captive animal or wild animal, other than vermin, which has not undergone a process of taxidermy, and includes a freshly killed wild animal;

(33) "vehicle" means any conveyance used for movement on land, water or air and includes buffalo, bull, bullock, camel, donkey, elephant, horse and mule;

(34) "vermin" means any wild animal specified in Schedule V;

(35) "weapon" includes ammunition, bows and arrows, explosives, firearms, hooks, knives, nets, poison, snares and traps and any instrument or apparatus capable of anaesthetizing, decoying, destroying, injuring or killing an animal;

(36) "wild animal" means any animal found wild in nature and includes any animal specified in Schedule I, Schedule II, Schedule III, Schedule IV or Schedule V, wherever found;

(37) "wild life" includes any animal, bees, butterflies, crustacea, fish and moths; and aquatic or land vegetation which forms part of any habitat;

(38) "Wild Life Warden" means the person appointed as such under clause (b) of sub-section (1) of section 4.

CHAPTER II

AUTHORITIES TO BE APPOINTED OR CONSTITUTED UNDER THE ACT

Appoint-
ment of
Director
and other
officers.

3. (1) The Central Government may, for the purposes of this Act, appoint,—

- (a) A Director of Wild Life Preservation;
- (b) Assistant Directors of Wild Life Preservation; and
- (c) such other officers and employees as may be necessary.

(2) In the performance of his duties and exercise of his powers by or under this Act, the Director shall be subject to such general or special directions, as the Central Government may, from time to time, give.

(3) The Assistant Directors of Wild Life Preservation and other officers and employees appointed under this section shall be subordinate to the Director.

Appoint-
ment of

4. (1) The State Government may, for the purposes of this Act, appoint,—

Life
Warden
and other
officers.

- (a) a Chief Wild Life Warden;
- (b) Wild Life Wardens; and
- (c) such other officers and employees as may be necessary.

(2) In the performance of his duties and exercise of his powers by or under this Act, the Chief Wild Life Warden shall be subject to such general or special directions, as the State Government may, from time to time, give.

(3) The Wild Life Warden and other officers and employees appointed under this section shall be subordinate to the Chief Wild Life Warden.

5. (1) The Director may, with the previous approval of the Central Government, by order in writing, delegate all or any of his powers and duties under this Act to any officer subordinate to him subject to such conditions, if any, as may be specified in the order. Power to delegate.

(2) The Chief Wild Life Warden may, with the previous approval of the State Government, by order in writing, delegate all or any of his powers and duties under this Act, except those under clause (a) of sub-section (1) of section 11, to any officer subordinate to him subject to such conditions, if any, as may be specified in the order.

(3) Subject to any general or special direction given or condition imposed by the Director or the Chief Wild Life Warden, any person, authorised by the Director or the Chief Wild Life Warden to exercise any powers, may exercise those powers in the same manner and to the same effect as if they had been conferred on that person directly by this Act and not by way of delegation.

6. (1) The State Government, or, in the case of a Union territory, the Administrator, shall, as soon as may be after the commencement of this Act, constitute a Wild Life Advisory Board consisting of the following members, namely:— Constitution of Wild Life Advisory Board.

(a) the Minister in charge of forests in the State or Union territory, or, if there is no such Minister, the Chief Secretary to the State Government, or, as the case may be, the Chief Secretary to the Government of the Union territory, who shall be the Chairman;

(b) two members of the State Legislature or, in the case of a Union territory having a Legislature, two members of the Legislature of the Union territory, as the case may be;

(c) Secretary to the State Government, or the Government of the Union territory, in charge of forests;

(d) Chief Conservator of Forests, *ex officio*;

(e) an officer to be nominated by the Director;

(f) Chief Wild Life Warden, *ex officio*;

(g) such other officers and non-officials, not exceeding fifteen, who, in the opinion of the State Government, are interested in the protection of wild life.

(2) The State Government shall appoint Chief Conservator of Forests or Chief Wild Life Warden as the Secretary of the Board.

(3) The term of office of the members of the Board referred to in clause (g) of sub-section (1) and the manner of filling vacancies among them shall be such as may be prescribed.

(4) The members shall be entitled to receive such allowances in respect of expenses incurred in the performance of their duties as the State Government may prescribe.

7. (1) The Board shall meet at least twice a year at such place as the State Government may direct. Procedure to be followed by the Board.

(2) The Board shall regulate its own procedure (including the quorum).

(3) No act or proceeding of the Board shall be invalid merely by reason of the existence of any vacancy therein or any defect in the constitution thereof or any irregularity in the procedure of the Board not affecting the merits of the case.

Duties of
Wild Life
Advisory
Board.

8. It shall be the duty of the Wild Life Advisory Board to advise the State Government,—

(a) in the selection of areas to be declared as sanctuaries, National Parks, game reserves and closed areas and the administration thereof;

(b) in formulation of the policy in granting licences and permits under this Act;

(c) in any matter relating to the amendment of any Schedule; and

(d) in any other matter connected with the protection of wild life, which may be referred to it by the State Government.

CHAPTER III

HUNTING OF WILD ANIMALS

Hunting
of wild
animals.

9. (1) No person shall hunt any wild animal specified in Schedule I.

(2) No person shall hunt any wild animal specified in Schedule II, Schedule III, or Schedule IV, except under, and in accordance with, the conditions specified in a licence granted under sub-section (5).

(3) Any person desiring to obtain a licence referred to in sub-section (2) shall apply, in such form, and on payment of such fee, as may be prescribed, to the Chief Wild Life Warden or any other officer authorised by the State Government in this behalf (hereinafter referred to as the authorised officer).

(4) An application under sub-section (3) may be made for all or any of the following kinds of licences, namely:—

(a) Special game hunting licence.

(b) Big game hunting licence.

(c) Small game hunting licence.

(d) Wild animal trapping licence:

Provided that any such licence may be restricted to the hunting or trapping of such animal as may be specified therein.

(5) On receipt of an application under sub-section (3), the Chief Wild Life Warden or the authorised officer may, after making such inquiry as he may think fit with regard to the fitness or otherwise of the applicant to receive the licence, grant or refuse to grant such licence after recording in writing his reasons for such grant or refusal; and when the grant of a licence is refused, the fee paid therefor shall be refunded to the applicant.

(6) A licence granted under this section shall—

(a) be in such form as may be prescribed;

(b) be valid for such period as may be specified therein;

(c) be subject to such terms, conditions and restrictions as may be prescribed;

(d) not be transferable.

10. (1) The holder of every licence shall maintain a record, containing such particulars as may be prescribed, of the wild animals, other than vermin, killed or captured by him during the currency of the licence.

Maintenance of records of wild animals killed or captured.

(2) When any animal specified in Schedule II or Schedule III is killed, wounded, or captured by the holder of a licence, he shall, not later than fifteen days from the date of such killing, wounding or capture, or before leaving the area specified in the licence, whichever is earlier, intimate in writing to the Chief Wild Life Warden or the authorised officer, the prescribed particulars of such animal killed, wounded or captured by him.

(3) The holder of every licence shall, not later than fifteen days from the date of expiry of such licence, surrender the records maintained by him under sub-section (1) and the licence to the Chief Wild Life Warden or the authorised officer, and shall sign a declaration, in the prescribed form certifying the accuracy of the records maintained by him under sub-section (1).

11. (1) Notwithstanding anything contained in any other law for the time being in force and subject to the provisions of Chapter IV,—

Hunting of wild animals to be permitted in certain cases.

(a) the Chief Wild Life Warden may, if he is satisfied that any wild animal specified in Schedule I has become dangerous to human life or is so disabled or diseased as to be beyond recovery, by order in writing and stating the reasons therefor, permit any person to hunt such animal or cause such animal to be hunted;

(b) the Chief Wild Life Warden or the authorised officer may, if he is satisfied that any wild animal specified in Schedule II, Schedule III, or Schedule IV, has become dangerous to human life or to property (including standing crops on any land) or is so disabled or diseased as to be beyond recovery, by order in writing and stating the reasons therefor, permit any person to hunt such animal or cause such animal to be hunted.

(2) The killing or wounding in good faith of any wild animal in defence of oneself or of any other person shall not be an offence:

Provided that nothing in this sub-section shall exonerate any person who, when such defence becomes necessary, was committing any act in contravention of any provision of this Act or any rule or order made thereunder.

(3) Any wild animal killed or wounded in defence of any person shall be Government property.

12. Notwithstanding anything contained elsewhere in this Act, it shall be lawful for the Chief Wild Life Warden, to grant, with the previous permission of the State Government, a permit, by an order in writing stating the reasons therefor, to any person, on payment of such fee as may be prescribed, which shall entitle the holder of such permit to hunt, subject to such conditions as may be specified therein, any wild animal specified in such permit, for the purpose of,—

Grant of permit for special purposes.

(a) education;

(b) scientific research; or

(c) collection of specimens for zoological gardens, museums and similar institutions.

Suspension
or cancel-
lation of
licence.

13. The Chief Wild Life Warden or the authorised officer may, subject to any general or special orders of the State Government, for good and sufficient reason, to be recorded in writing, suspend or cancel any licence granted under this Chapter:

Provided that no such suspension or cancellation shall be made except after giving the holder of the licence a reasonable opportunity of being heard.

Appeals.

14. (1) An appeal from an order refusing to grant a licence under section 9, or an order suspending or cancelling a licence under section 13, shall lie,—

(a) if the order is made by the authorised officer, to the Chief Wild Life Warden, or

(b) if the order is made by the Chief Wild Life Warden, to the State Government.

(2) In the case of an order passed in appeal by the Chief Wild Life Warden under sub-section (1), a second appeal shall lie to the State Government.

(3) Subject as aforesaid, every order passed in appeal under this section shall be final.

(4) No appeal shall be entertained unless it is preferred within fifteen days from the date of the communication to the applicant of the order appealed against:

Provided that the appellate authority may admit any appeal after the expiry of the period aforesaid, if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time.

Hunting
of young
and female
of wild
animals.

15. No person shall, unless specially authorised by a licence, hunt the young of any wild animal, other than vermin, or any female of such animal, or any deer with antlers in velvet.

Declara-
tion of
closed
time.

16. (1) The State Government may, by notification, declare the whole year or any part thereof, to be a closed time throughout the State, or any part thereof, for such wild animal as may be specified in the notification and no hunting of such animal shall be permitted, during the said period in the area specified in the notification.

(2) The provisions of sub-section (1) shall not apply to vermin unless otherwise specified by the State Government in this behalf.

Restric-
tions on
hunting

17. (1) No person shall—

(a) hunt any wild animal, from or by means of, a wheeled or mechanically propelled vehicle on water or land, or by aircraft;

(b) use an aircraft, motor vehicle or launch for the purpose of driving or stampeding any wild animal;

(c) hunt any wild animal with chemicals, explosives, nets, pit falls, poisons, poisoned-weapons, snares or traps, except in so far as they relate to the capture of wild animals under a Wild Animals Trapping Licence;

(d) hunt any special game or big game other than with a rifle unless specially authorised by the licence to hunt with a shot-gun using single-slug bullets;

- (e) for the purpose of hunting, set fire to any vegetation;
- (f) use any artificial light for the purpose of hunting, except when specially authorised to do so under a licence in the case of carnivora over a kill;
- (g) hunt any wild animal during the hours of night, that is to say, between sun-set and sun-rise, except when specially authorised to do so under a licence in the case of carnivora over a kill;
- (h) hunt any wild animal on a salt-lick or water hole or other drinking place or on path or approach to the same, except sand-grouse and water-birds;
- (i) hunt any wild animal on any land not owned by Government, without the consent of the owner or his agent or the lawful occupier of such land;
- (j) notwithstanding that he holds a licence for the purpose, hunt any wild animal during the closed time referred to in section 16;
- (k) hunt, with the help of dogs, any wild animal except water-bird, chakor, partridge or quail.

(2) The provisions of sub-section (1) shall not apply to vermin.

CHAPTER IV

SANCTUARIES, NATIONAL PARKS, GAME RESERVES AND CLOSED AREAS

Sanctuaries

18. (1) The State Government may, by notification, declare any area to be a sanctuary if it considers that such area is of adequate ecological, faunal, floral, geomorphological, natural or zoological significance, for the purpose of protecting, propagating or developing wild life or its environment.

Decla-
ration of
sanctuary.

(2) The notification referred to in sub-section (1) shall specify, as nearly as possible, the situation and limits of such area.

Explanation.—For the purposes of this section, it shall be sufficient to describe the area by roads, rivers, ridges or other well-known or readily intelligible boundaries.

19. Whenever any area is declared to be a sanctuary, the Collector shall inquire into, and determine, the existence, nature and extent of the rights of any person in or over the land comprised within the limits of the sanctuary.

Collector
to deter-
mine
rights.

20. After the issue of a notification under section 18, no right shall be acquired in, on or over the land comprised within the limits of the area specified in such notification, except by succession, testamentary or intestate.

Bar of
accrual
of rights.

21. When a notification has been issued under section 18, the Collector shall publish in the regional language in every town and village in or in the neighbourhood of the area comprised therein, a proclamation—

Procla-
mation
by
Collector.

(a) specifying, as nearly as possible, the situation and the limits of the sanctuary; and

(b) requiring any person, claiming any right mentioned in section 19, to prefer before the Collector, within two months from the

date of such proclamation, a written claim in the prescribed form, specifying the nature and extent of such right with necessary details and the amount and particulars of compensation, if any, claimed in respect thereof.

Inquiry
by
Collector.

22. The Collector shall, after service of the prescribed notice upon the claimant, expeditiously inquire into—

(a) the claim preferred before him under clause (b) of section 21, and

(b) the existence of any right mentioned in section 19 and not claimed under clause (b) of section 21,

so far as the same may be ascertainable from the records of the State Government and the evidence of any person acquainted with the same.

Powers
of
Collector.

23. For the purpose of such inquiry, the Collector may exercise the following powers, namely:—

(a) the power to enter in or upon any land and to survey, demarcate and make a map of the same or to authorise any other officer to do so;

(b) the same powers as are vested in a civil court for the trial of suits.

Acquisi-
tion of
rights.

24. (1) In the case of a claim to a right in or over any land referred to in section 19, the Collector shall pass an order admitting or rejecting the same in whole or in part.

(2) If such claim is admitted in whole or in part, the Collector may either—

(a) exclude such land from the limits of the proposed sanctuary, or

(b) proceed to acquire such land or rights, except where by an agreement between the owner of such land or holder of rights and the Government, the owner or holder of such rights has agreed to surrender his rights to the Government, in or over such land, and on payment of such compensation, as is provided in the Land Acquisition Act, 1894.

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Acquisi-
tion
proceed-
ings.

25. (1) For the purpose of acquiring such land, or rights in or over such land,—

(a) the Collector shall be deemed to be a Collector, proceeding under the Land Acquisition Act, 1894;

1 of

(b) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section 9 of that Act;

(c) the provisions of the sections, preceding section 9 of that Act, shall be deemed to have been complied with;

(d) where the claimant does not accept the award made in his favour in the matter of compensation, he shall be deemed, within the meaning of section 18 of that Act, to be a person interested who has not accepted the award, and shall be entitled to proceed to claim relief against the award under the provisions of Part III of that Act;

(e) the Collector, with the consent of the claimant, or the court, with the consent of both the parties, may award compensation in land or money or partly in land and partly in money; and

(f) in the case of the stoppage of a public way or a common pasture, the Collector may, with the previous sanction of the State Government, provide for an alternative public way or common pasture, as far as may be practicable or convenient.

(2) The acquisition under this Act of any land or interest therein shall be deemed to be acquisition for a public purpose.

26. The State Government may, by general or special order, direct that the powers exercisable or the functions to be performed by the Collector under sections 19 to 25 (both inclusive) may be exercised and performed by such other officer as may be specified in the order. Delegation of Collector's powers.

27. (1) No person other than,—

(a) a public servant on duty,

(b) a person who has been permitted by the Chief Wild Life Warden or the authorised officer to reside within the limits of the sanctuary,

(c) a person who has any right over immovable property within the limits of the sanctuary,

(d) a person passing through the sanctuary along a public highway, and

(e) the dependants of the person referred to in clause (a), clause (b) or clause (c),

shall enter or reside in the sanctuary, except under and in accordance with the conditions of a permit granted under section 28.

(2) Every person shall, so long as he resides in the sanctuary, be bound—

(a) to prevent the commission, in the sanctuary, of an offence against this Act;

(b) where there is reason to believe that any such offence against this Act has been committed in such sanctuary, to help in discovering and arresting the offender;

(c) to report the death of any wild animal and to safeguard its remains until the Chief Wild Life Warden or the authorised officer takes charge thereof;

(d) to extinguish any fire in such sanctuary of which he has knowledge or information and to prevent from spreading, by any lawful means in his power, any fire within the vicinity of such sanctuary of which he has knowledge or information; and

(e) to assist any forest officer, Chief Wild Life Warden, Wild Life Warden or police officer demanding his aid for preventing the commission of any offence against this Act or in the investigation of any such offence.

Restriction on entry in sanctuary.

Grant of
permit.

28. (1) The Chief Wild Life Warden may, on application, grant to any person a permit to enter or reside in a sanctuary for all or any of the following purposes, namely:—

(a) investigation or study of wild life and purposes ancillary or incidental thereto;

(b) photography;

(c) scientific research;

(d) tourism;

(e) transaction of lawful business with any person residing in the sanctuary.

(2) A permit to enter or reside in a sanctuary shall be issued subject to such conditions and on payment of such fee as may be prescribed.

Hunting
in sanc-
tuary
without
permit
prohibited.

29. (1) Notwithstanding anything contained elsewhere in this Act, no person shall hunt any wild animal in a sanctuary or remove therefrom any wild animal, whether alive or dead, or any trophy, uncured trophy, or meat derived from such animal:

Provided that if the Chief Wild Life Warden is satisfied that it is necessary that any wild animal in a sanctuary should be hunted or removed,—

(a) for the better protection of wild life, or

(b) for any other good and sufficient reason,

he may, with the previous approval of the State Government, grant a permit authorising any person to hunt or remove such wild animal under the direction of an officer authorised by him or cause it to be hunted or removed.

(2) A permit granted under sub-section (1) shall specify the kind and number of wild animals that may be hunted or removed by the holder of such permit.

(3) The Chief Wild Life Warden may, for good and sufficient reason, to be recorded in writing, cancel any permit granted under section 28 or under this section:

Provided that no such cancellation shall be made except after giving the holder of the permit a reasonable opportunity of being heard.

(4) Any person aggrieved by the cancellation of a permit under sub-section (3) may, within fifteen days from the date of such cancellation, appeal to the State Government, whose decision shall be final:

Provided that the State Government may admit any appeal preferred after the expiry of the period aforesaid if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time.

Causing
fire
prohibited.

30. No person shall set fire to a sanctuary, or kindle any fire, or leave any fire burning, in a sanctuary, in such manner as to endanger such sanctuary.

Prohibi-
tion of
entry
into sanc-
tuary with
weapon.

31. No person shall enter a sanctuary with any weapon except with the previous permission in writing of the Chief Wild Life Warden or the authorised officer.

32. No person shall use, in a sanctuary, chemicals, explosives or any other substances which may cause injury to, or endanger, any wild life in such sanctuary.

Ban on use of injurious substances.

33. The Chief Wild Life Warden shall be the authority who shall control, manage and maintain all sanctuaries and for that purpose, within the limits of any sanctuary,—

Control of sanctuaries.

(a) may construct such roads, bridges, buildings, fences or barrier gates, and carry out such other works as he may consider necessary for the purposes of such sanctuary;

(b) shall take such steps as will ensure the security of wild animals in the sanctuary and the preservation of the sanctuary and wild animals therein;

(c) may take such measures, in the interests of wild life, as he may consider necessary for the improvement of any habitat;

(d) may regulate, control or prohibit, in keeping with the interests of wild life, the grazing or movement of cattle;

(e) may regulate, control or prohibit, any fishing.

of 1959.

34. (1) Within three months from the declaration of any area as a sanctuary, every person residing in or within ten kilometres of any such sanctuary and holding a licence granted under the Arms Act, 1959, for the possession of arms or exempted from the provisions of that Act and possessing arms, shall apply in such form, on payment of such fee and within such time as may be prescribed, to the Chief Wild Life Warden or the authorised officer, for the registration of his name.

Registration of certain persons in possession of arms.

(2) On receipt of an application under sub-section (1), the Chief Wild Life Warden or the authorised officer shall register the name of the applicant in such manner as may be prescribed.

National Parks

35. (1) Whenever it appears to the State Government that an area, whether within a sanctuary or not, is, by reason of its ecological, faunal, floral, geomorphological or zoological association or importance, needed to be constituted as a National Park for the purpose of protecting, propagating or developing wild life therein or its environment, it may, by notification, declare its intention to constitute such area as a National Park.

Declaration of National Parks.

(2) The notification referred to in sub-section (1) shall define the limits of the area which is intended to be declared as a National Park.

(3) Where any area is intended to be declared as a National Park, the provisions of sections 19 to 26 (both inclusive) shall, as far as may be, apply to the investigation and determination of claims, and extinguishment of rights, in relation to any land in such area as they apply to the said matters in relation to any land in a sanctuary.

(4) When the following events have occurred, namely,—

(a) the period for preferring claims has elapsed, and all claims, if any, made in relation to any land in an area intended to be declared as a National Park, have been disposed of by the State Government, and

(b) all rights in respect of lands proposed to be included in the National Park have become vested in the State Government,

the State Government shall publish a notification specifying the limits of the area which shall be comprised within the National Park and declare that the said area shall be a National Park on and from such date as may be specified in the notification.

(5) No alteration of the boundaries of a National Park shall be made except on a resolution passed by the Legislature of the State.

(6) No person shall destroy, exploit or remove any wild life from a National Park or destroy or damage the habitat of any wild animal or deprive any wild animal of its habitat within such National Park except under and in accordance with a permit granted by the Chief Wild Life Warden and no such permit shall be granted unless the State Government, being satisfied that such destruction, exploitation or removal of wild life from the National Park is necessary for the improvement and better management of wild life therein, authorises the issue of such permit.

(7) No grazing of any cattle shall be permitted in a National Park and no cattle shall be allowed to enter therein except where such cattle is used as a vehicle by a person authorised to enter such National Park.

(8) The provisions of sections 27 and 28, sections 30 to 32 (both inclusive), and clauses (a), (b) and (c) of section 33, and section 34 shall, as far as may be, apply in relation to a National Park as they apply in relation to a sanctuary.

Game Reserve

Declaration of game reserve.

36. (1) The State Government may, by notification, declare any area to be a game reserve.

(2) No hunting of any wild animal shall be permitted in such reserve except under and in accordance with a licence issued under this section by the Chief Wild Life Warden or the authorised officer.

Closed Area

Declaration of closed area.

37. (1) The State Government may, by notification, declare any area closed to hunting for such period as may be specified in the notification.

(2) No hunting of any wild animal shall be permitted in a closed area during the period specified in the notification referred to in sub-section (1).

Sanctuaries or National Parks declared by Central Government

Power of Central Government to declare areas as sanctuaries or National Parks.

38. (1) Where the State Government leases or otherwise transfers any area under its control, not being an area within a sanctuary, to the Central Government, the Central Government may, if it is satisfied that the conditions specified in section 18 are fulfilled in relation to the area so transferred to it, declare such area, by notification, to be a sanctuary and the provisions of sections 19 to 35 (both inclusive), 54 and 55 shall apply in relation to such sanctuary as they apply in relation to a sanctuary declared by the State Government.

(2) The Central Government may, if it is satisfied that the conditions specified in section 35 are fulfilled in relation to any area referred to in sub-section (1), whether or not such area has been declared, to be a sanctuary by the Central Government or the State Government, declare such area, by notification, to be a National Park and the provisions of sections 35, 54 and 55 shall apply in relation to such National Park as they apply in relation to a National Park declared by the State Government.

(3) In relation to a sanctuary or National Park declared by the Central Government, the powers and duties of the Chief Wild Life Warden under the sections referred to in sub-sections (1) and (2), shall be exercised and discharged by the Director or by such other officer as may be authorised by the Director in this behalf and references, in the sections aforesaid, to the State Government shall be construed as references to the Central Government and reference therein to the Legislature of the State shall be construed as a reference to Parliament.

CHAPTER V

TRADE OR COMMERCE IN WILD ANIMALS, ANIMAL ARTICLES AND TROPHIES

39. (1) Every—

(a) wild animal, other than vermin, which is hunted under section 11 or sub-section (1) of section 29 or sub-section (6) of section 35 or kept or bred in captivity in contravention of any provision of this Act or any rule or order made thereunder or found dead, or killed without a licence or by mistake; and

(b) animal article, trophy or uncured trophy or meat derived from any wild animal referred to in clause (a) in respect of which any offence against this Act or any rule or order made thereunder has been committed,

shall be the property of the State Government, and, where such animal is hunted in a sanctuary or National Park declared by the Central Government, such animal or any animal article, trophy, uncured trophy or meat derived from such animal, shall be the property of the Central Government.

(2) Any person who obtains, by any means, the possession of Government property, shall, within forty-eight hours from obtaining such possession, make a report as to the obtaining of such possession to the nearest police station or the authorised officer and shall, if so required, hand over such property to the officer-in-charge of such police station or such authorised officer, as the case may be.

(3) No person shall, without the previous permission in writing of the Chief Wild Life Warden or the authorised officer—

(a) acquire or keep in his possession, custody or control, or

(b) transfer to any person, whether by way of gift, sale or otherwise, or

(c) destroy or damage,

such Government property.

40. (1) Every person having at the commencement of this Act the control, custody or possession of any captive animal specified in Schedule I or Part II of Schedule II, or any uncured trophy derived from such animal or salted or dried skins of such animal or the musk of a musk deer or the horn of a rhinoceros, shall, within thirty days from the commencement of this Act, declare to the Chief Wild Life Warden or the authorised officer the number and description of the animal, or article of the foregoing description under his control, custody or possession and the place where such animal or article is kept.

(2) No person shall, after the commencement of this Act, acquire, receive, keep in his control, custody or possession, sell, offer for sale or

Wild animals, etc., to be Government property.

Declarations.

otherwise transfer or transport any animal specified in Schedule I or Part II of Schedule II or any uncured trophy or meat derived from such animal, or the salted or dried skins of such animal or the musk of a musk deer or the horn of a rhinoceros, except with the previous permission in writing of the Chief Wild Life Warden or the authorised officer.

(3) Nothing in sub-section (1) or sub-section (2) shall apply to a public museum or zoo.

(4) The State Government may, by notification, require any person to declare to the Chief Wild Life Warden or the authorised officer any animal article or trophy (other than a musk of a musk deer or horn of a rhinoceros) or salted or dried skins derived from an animal specified in Schedule I or Part II of Schedule II in his control, custody or possession in such form, in such manner, and within such time, as may be prescribed.

Inquiry
and prepara-
tion of
inventor-
ies.

41. (1) On receipt of a declaration made under section 40, the Chief Wild Life Warden or the authorised officer may, after such notice, in such manner and at such time, as may be prescribed,—

(a) enter upon the premises of a person referred to in section 40;

(b) make inquiries and prepare inventories of animal articles, trophies, uncured trophies, salted and dried skins and captive animals specified in Schedule I and Part II of Schedule II and found thereon; and

(c) affix upon the animals, animal articles, trophies or uncured trophies identification marks in such manner as may be prescribed.

(2) No person shall obliterate or counterfeit any identification mark referred to in this Chapter.

Certi-
ficate of
ownership.

42. The Chief Wild Life Warden may, for the purposes of section 40, issue a certificate of ownership in such form, as may be prescribed, to any person who, in his opinion, is in lawful possession of any wild animal or any animal article, trophy, uncured trophy and may, where possible, mark, in the prescribed manner, such animal article, trophy or uncured trophy for purposes of identification.

Regula-
tion of
transfer of
animal,
etc.

43. (1) Subject to the provisions of sub-section (2), sub-section (3) and sub-section (4), a person (other than a dealer) who does not possess a certificate of ownership shall not—

(a) sell or offer for sale or transfer whether by way of sale, gift or otherwise, any wild animal specified in Schedule I or Part II of Schedule II or any captive animal belonging to that category or any animal article, trophy, uncured trophy or meat derived therefrom;

(b) make animal articles containing part or whole of such animal;

(c) put under a process of taxidermy an uncured trophy of such animal,

except with the previous permission in writing of the Chief Wild Life Warden or the authorised officer.

(2) Where a person transfers or transports from the State in which he resides to another State or acquires by transfer from outside the State any such animal, animal article, trophy or uncured trophy as is referred to in sub-section (1) in respect of which he has a certificate of ownership, he shall, within thirty days of the transfer or transport, report the transfer or transport to the Chief Wild Life Warden or the authorised officer within whose jurisdiction the transfer or transport is effected.

(3) No person who does not possess a certificate of ownership shall transfer or transport from one State to another State or acquire by transfer from outside the State any such animal, animal article, trophy or uncured trophy as is referred to in sub-section (1) except with the previous permission in writing of the Chief Wild Life Warden or the authorised officer within whose jurisdiction the transfer or transport is to be effected.

(4) Before granting any permission under sub-section (1) or sub-section (3), the Chief Wild Life Warden or the authorised officer shall satisfy himself that the animal or article referred to therein has been lawfully acquired.

(5) While permitting the transfer or transport of any animal, animal article, trophy or uncured trophy, as is referred to in sub-section (1), the Chief Wild Life Warden or the authorised officer—

(a) shall issue a certificate of ownership after such inquiry as he may deem fit;

(b) shall, where the certificate of ownership existed in the name of the previous owner, issue a fresh certificate of ownership in the name of the person to whom the transfer has been effected;

(c) may affix an identification mark on any such animal, animal article, trophy or uncured trophy.

(6) Nothing in this section shall apply—

(a) to animal articles or trophies made out of feathers of peacocks;

(b) to any transaction entered into by a public museum or zoo with any other public museum or zoo.

44. (1) Except under, and in accordance with, a licence granted under sub-section (4), no person shall—

(a) commence or carry on the business as—

(i) a manufacturer of or dealer in, any animal article; or

(ii) a taxidermist; or

(iii) a dealer in trophy or uncured trophy; or

(iv) a dealer in captive animals; or

(v) a dealer in meat; or

(b) cook or serve meat in any eating-house:

Dealings
in trophy
and animal
articles
without
licence
prohibit-
ed.

Provided that nothing in this sub-section shall prevent a person, who, immediately before the commencement of this Act was carrying on the business or occupation specified in this sub-section, from carrying on such business or occupation for a period of thirty days from such commencement, or where he has made an application within that period for the grant of a licence to him, until the licence is granted to him or he is informed in writing that a licence cannot be granted to him:

Provided further that nothing in this sub-section shall apply to manufacturers of, and dealers in, articles made of ivory and feathers of peacocks.

Explanation.—For the purposes of this section, “eating-house” includes a hotel, restaurant or any other place where any eatable is served on payment, whether or not such payment is separately made for such eatable or is included in the amount charged for board and lodging.

(2) Every manufacturer of, or dealer in, animal article, or every dealer in captive animals, trophies or uncured trophies, or every taxidermist shall, within fifteen days from the commencement of this Act, declare to the Chief Wild Life Warden his stocks of animals articles, captive animals, trophies and uncured trophies, as the case may be, as on the date of such declaration and the Chief Wild Life Warden or the authorised officer may place an identification mark on every animal article, captive animal, trophy or uncured trophy, as the case may be.

(3) Every person referred to in sub-section (1) who intends to obtain a licence, shall, within fifteen days from the commencement of this Act, make an application to the Chief Wild Life Warden or the authorised officer for the grant of a licence.

(4) (a) Every application referred to in sub-section (3) shall be made in such form and on payment of such fee as may be prescribed, to the Chief Wild Life Warden or the authorised officer.

(b) No licence referred to in sub-section (1) shall be granted unless the Chief Wild Life Warden, or the authorised officer having regard to such matters as may be prescribed in this behalf and after making such inquiry in respect of those matters as he may think fit, is satisfied that the licence should be granted.

(5) Every licence granted under this section shall specify the premises in which and the conditions, if any, subject to which the licensee shall carry on his business.

(6) Every licence granted under this section shall—

(a) be valid for one year from the date of its grant;

(b) not be transferable; and

(c) be renewable for a period not exceeding one year at a time.

(7) No application for the renewal of a licence shall be rejected unless the holder of such licence has been given a reasonable opportunity of presenting his case and unless the Chief Wild Life Warden or the authorised officer is satisfied that—

(i) the application for such renewal has been made after the expiry of the period specified therefor, or

(ii) any statement made by the applicant at the time of the grant or renewal of the licence was incorrect or false in material particulars, or

(iii) the applicant has contravened any term or condition of the licence or any provision of this Act or any rule made thereunder, or

(iv) the applicant does not fulfil the prescribed conditions.

(8) Every order granting or rejecting an application for the grant or renewal of a licence shall be made in writing.

(9) Nothing in the foregoing sub-sections shall apply in relation to vermin.

45. Subject to any general or special order of the State Government, the Chief Wild Life Warden or the authorised officer may, for reasons to be recorded by him in writing, suspend or cancel any licence granted or renewed under section 44:

Suspension or cancellation of licences.

Provided that no such suspension or cancellation shall be made except after giving the holder of the licence a reasonable opportunity of being heard.

46. (1) An appeal from an order refusing to grant or renew a licence under section 44 or an order suspending or cancelling a licence under section 45 shall lie—

Purchase

(a) if the order is made by the authorised officer, to the Chief Wild Life Warden; or

(b) if the order is made by the Chief Wild Life Warden, to the State Government.

(2) In the case of an order passed in appeal by the Chief Wild Life Warden under clause (a) of sub-section (1), a second appeal shall lie to the State Government.

(3) Subject as aforesaid, every order passed in appeal under this section shall be final.

(4) An appeal under this section shall be preferred within thirty days from the date of the communication, to the applicant, of the order appealed against:

Provided that the appellate authority may admit any appeal preferred after the expiry of the period aforesaid if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time.

47. A licensee under this Chapter shall—

(a) keep records, and submit such returns of his dealings, as may be prescribed,—

Maintenance of records.

(i) to the Director or any other officer authorised by him in this behalf, and

(ii) to the Chief Wild Life Warden or the authorised officer; and

(b) make such records available on demand for inspection by such officers.

Purchase
of
animal,
etc., by
licensee.

48. No licensee under this Chapter shall—

(a) keep in his control, custody or possession,—

(i) any animal, animal article, trophy or uncured trophy in respect of which a declaration under the provisions of sub-section (2) of section 44 has to be made but has not been made;

(ii) any animal or animal article, trophy, uncured trophy or meat which has not been lawfully acquired under the provisions of this Act or any rule or order made thereunder;

(b) (i) capture any wild animal, or

(ii) acquire, receive, keep in his control, custody or possession, or sell, offer for sale or transport, any captive animal specified in Schedule I or Part II of Schedule II or any animal article, trophy, uncured trophy or meat derived therefrom or serve such meat, or put under a process of taxidermy or make animal article containing part or whole of such animal,

except in accordance with such rules as may be made under this Act;

Provided that where the acquisition or, possession, control or custody of such animal or animal article, trophy or uncured trophy entails the transfer or transport from one State to another, no such transfer or transport shall be effected except with the previous permission in writing of the Director or any other officer authorised by him in this behalf:

Provided further that no such permission under the foregoing proviso shall be granted unless the Director or the officer authorised by him is satisfied that the animal or article aforesaid has been lawfully acquired.

Purchase of
captive
animal,
etc.,
by a
person
other
than a
licensee.

49. No person shall purchase, receive or acquire any captive animal, wild animal, other than vermin, or any animal article, trophy, uncured trophy or meat derived therefrom otherwise than from a dealer or from a person authorised to sell or otherwise transfer the same under this Act:

Provided that nothing in this section shall apply to any transaction entered into by a public museum or zoo with any other public museum or zoo.

CHAPTER VI

PREVENTION AND DETECTION OF OFFENCES

Power
of entry,
search,
arrest
and
deten-
tion.

50. (1) Notwithstanding anything contained in any other law for the time being in force, the Director or any other officer authorised by him in this behalf or the Chief Wild Life Warden or the authorised officer or any forest officer or any police officer not below the rank of a sub-inspector, may, if he has reasonable grounds for believing that any person has committed an offence against this Act,—

(a) require any such person to produce for inspection any captive animal, wild animal, animal article, meat, trophy or uncured trophy in his control, custody or possession, or any licence, permit or other document granted to him or required to be kept by him under the provisions of this Act;

(b) stop any vehicle or vessel in order to conduct search or inquiry or enter upon and search any premises, land, vehicle or vessel, in the occupation of such person, and open and search any baggage or other things in his possession;

(c) seize any captive animal, wild animal, animal article, meat, trophy or uncured trophy in the possession of any person and appearing to him to be Government property, together with any trap, tool, vehicle, vessel or weapon used for committing any such offence, and unless he is satisfied that such person will appear and answer any charge which may be preferred against him, arrest him without warrant, and detain him.

(2) Any officer of a rank not inferior to that of an Assistant Director of Wild Life Preservation or Wild Life Warden, who, or whose subordinate, has seized any trap, tool, vehicle, vessel or weapon under clause (c) of sub-section (1), may release the same, on the execution by the owner thereof of a bond for the production of the property so released, if and when so required, before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.

(3) It shall be lawful for any of the officers referred to in sub-section (1) to stop and detain any person, whom he sees doing any act for which a licence or permit is required under the provisions of this Act, for the purposes of requiring such person to produce the licence or permit and if such person fails to produce the licence or permit, as the case may be, he may be arrested without warrant, unless he furnishes his name and address, and otherwise satisfies the officer arresting him that he will duly answer any summons or other proceedings which may be taken against him.

(4) Any person detained, or things seized under the foregoing power, shall forthwith be taken before a Magistrate to be dealt with according to law.

(5) Any person who, without reasonable cause, fails to produce anything, which he is required to produce under this section, shall be guilty of an offence against this Act.

(6) (a) Where any meat or uncured trophy is seized under the provisions of this section, the Assistant Director of Wild Life Preservation or any other officer of a gazetted rank authorised by him in this behalf or the Chief Wild Life Warden or the authorised officer may arrange for the sale of the same and deal with the proceeds of such sale in such manner as may be prescribed.

(b) Where it is proved that the meat or uncured trophy seized under the provisions of this section is not Government property, the proceeds of the sale shall be returned to the owner.

(7) Whenever any person is approached by any of the officers referred to in sub-section (1) for assistance in the prevention or detection of an offence against this Act, or in apprehending persons charged with the violation of this Act, or for seizure in accordance with clause (c) of sub-section (1), it shall be the duty of such person or persons to render such assistance.

51. (1) Any person who contravenes any provision of this Act or any rule or order made thereunder or who commits a breach of any of the conditions of any licence or permit granted under this Act, shall be guilty of an offence against this Act, and shall, on conviction, be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both: Penalties.

Provided that where the offence committed is in relation to any animal specified in Schedule I or Part II of Schedule II or meat of any such animal or animal article, trophy or uncured trophy derived from such animal or where the offence relates to hunting in a sanctuary or a National Park, such offence shall be punishable with imprisonment for a term which shall not be less than six months but may extend to six years and also with fine which shall not be less than five hundred rupees:

Provided further that in the case of a second or subsequent offence of the nature mentioned in the foregoing proviso, the term of imprisonment shall not be less than one year and the amount of the fine shall not be less than one thousand rupees.

(2) When any person is convicted of an offence against this Act, the Court trying the offence may order that any captive animal, wild animal, animal article, trophy, uncured trophy or meat in respect of which the offence has been committed, and any trap, tool, vehicle, vessel or weapon, used in the commission of the said offence be forfeited to the State Government and that any licence or permit, held by such person under the provisions of this Act, be cancelled.

(3) Such cancellation of licence or permit or such forfeiture shall be in addition to any other punishment that may be awarded for such offence.

(4) Where any person is convicted of an offence against this Act, the Court may direct that the licence, if any, granted to such person under the Arms Act, 1959, for possession of any arm with which an offence against this Act has been committed, shall be cancelled and that such person shall not be eligible for a licence under the Arms Act, 1959, for a period of five years from the date of conviction.

54 of 1959.

Attempts
and
abetment.

52. Whoever attempts to contravene, or abets the contravention of, any of the provisions of this Act or of any rule or order made thereunder shall be deemed to have contravened that provision or rule or order, as the case may be.

Punish-
ment for
wrong-
ful sei-
zure.

53. If any person, exercising powers under this Act, vexatiously and unnecessarily seizes the property of any other person on the pretence of seizing it for the reasons mentioned in section 50, he shall, on conviction, 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.

Power
to com-
pound
offen-
ces.

54. (1) The State Government may, by notification, empower the Chief Wild Life Warden or any officer of a rank not inferior to that of a Deputy Conservator of Forests,—

(a) to accept, from any person against whom a reasonable suspicion exists that he has committed an offence against this Act, payment of a sum of money by way of composition of the offence which such person is suspected to have committed; and

(b) when any property has been seized as liable to be forfeited, to release the same on payment of the value thereof as estimated by such officer.

(2) On payment of such sum of money or such value, or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, and the property, other than Government property, if any, seized, shall be released and no further proceedings in respect of the offence shall be taken against such person.

(3) The officer compounding any offence may order the cancellation of any licence or permit granted under this Act to the offender, or if not empowered to do so, may approach an officer so empowered, for the cancellation of such licence or permit.

(4) The sum of money accepted or agreed to be accepted as composition under clause (b) of sub-section (1) shall, in no case, exceed the sum of two thousand rupees:

Provided that no offence, for which a minimum period of imprisonment has been prescribed in sub-section (1) of section 51, shall be compounded.

55. No court shall take cognizance of any offence against this Act except on the complaint of the Chief Wild Life Warden or such other officer as the State Government may authorise in this behalf.

Cogni-
zance
of off-
ences.

56. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for the time being in force, for any act or omission which constitutes an offence against this Act or from being liable under such other law to any higher punishment or penalty than that provided by this Act:

Opera-
tion of
other
laws
not
barred.

Provided that no person shall be punished twice for the same offence.

57. Where, in any prosecution for an offence against this Act, it is established that a person is in possession, custody or control of any captive animal, animal article, meat, trophy or uncured trophy, it shall be presumed, until the contrary is proved, the burden of proving which shall lie on the accused, that such person is in unlawful possession, custody or control of such captive animal, animal article, meat, trophy or uncured trophy.

Presump-
tion to be
made in
certain
cases.

58. (1) Where an offence against this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offen-
ces by
companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence against this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall 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.

CHAPTER VII

MISCELLANEOUS

Officers
to be
public
ser-
vants.

59. Every officer referred to in Chapter II and every other officer exercising any of the powers conferred by this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 45 of

Protec-
tion of
action
taken in
good
faith.

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

(2) No suit or other legal proceeding shall lie against the Central Government or the State Government or any of its officers or other employees for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

Power to
alter
entries in
Schedules.

61. (1) The Central Government may, if it is of opinion that it is expedient so to do, by notification, add any entry to any Schedule or transfer any entry from one Part of a Schedule to another Part of the same Schedule or from one Schedule to another.

(2) The State Government may, if it is of opinion that it is expedient so to do, by notification, transfer any entry from Schedule II, Schedule III, Schedule IV or Schedule V to Schedule I and may also transfer any entry from Part I of Schedule II, or Schedule III, Schedule IV or Schedule V, to any other Schedule.

(3) On the issue of a notification under sub-section (1) or sub-section (2), the relevant Schedule shall be deemed to be altered accordingly, provided that every such alteration shall be without prejudice to anything done or omitted to be done before such alteration.

(4) If any alteration of any Schedule made by the State Government under sub-section (2) is repugnant to any alteration made therein by the Central Government under sub-section (1), then, the alteration made by the Central Government, whether made before or after the notification made by the State Government, shall prevail and the alteration made by the State Government shall, to the extent of the repugnancy, be void:

Provided that any such alteration made by the State Government, if it has been made with the previous consent of the Central Government, shall prevail in that State:

Provided further that nothing in the foregoing proviso shall prevent the Central Government from modifying or cancelling, at any time, the alteration made by the State Government.

62. Subject to the provisions of section 61, the State Government may, by notification, declare any wild animal other than those specified in Schedule I and Part II of Schedule II to be vermin for any area and for such period as may be specified therein and so long as such notification is in force, such wild animal shall be deemed to have been included in Schedule V.

Declaration of certain wild animals to be vermin.

63. (1) The Central Government may, by notification, make rules for all or any of the following, namely:—

Power of Central Government to make rules.

(a) the form in which declaration shall be made under sub-section (2) of section 44;

(b) the terms and conditions which shall govern transactions referred to in clause (b) of section 48;

(c) matters specified in sub-section (2) of section 64 in so far as they relate to sanctuaries and National Parks declared by the Central Government.

(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.

64. (1) The State Government may, by notification, make rules for carrying out the provisions of this Act in respect of matters which do not fall within the purview of section 63.

Power of State Government 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 term of office of the members of the Board referred to in clause (g) of sub-section (1) of section 6 and the manner of filling vacancies among them;

(b) allowances referred to in sub-section (4) of section 6;

(c) the forms to be used for any application, certificate, claim, declaration, licence, permit, registration, return or other document, made, granted, or submitted under the provisions of this Act and the fees, if any, therefor;

(d) the conditions subject to which any licence or permit may be granted under this Act;

(e) the particulars of the record of wild animals (captured or killed) to be kept and submitted by the licensee;

(f) regulation of the possession, transfer and the sale of captive animals, meat, animal articles, trophies and uncured trophies;

(g) regulation of taxidermy;

(h) any other matter which has to be, or may be, prescribed under this Act.

Rights
of Sched-
uled
Tribes
to be
protected

65. Nothing in this Act shall affect the hunting rights conferred on the Scheduled Tribes of the Nicobar Islands in the Union territory of Andaman and Nicobar Islands by notification of the Andaman and Nicobar Administration, No. 40/67/F, No. G635, Vol. III, dated the 28th April, 1967, published at pages 1 to 5 of the Extraordinary issue of the Andaman and Nicobar Gazette, dated the 28th April, 1967.

Repeal
and
sayings.

66. (1) As from the commencement of this Act, every other Act relating to any matter contained in this Act and in force in a State shall, to the extent to which that Act or any provision contained therein corresponds, or is repugnant, to this Act or any provision contained in this Act, stand repealed:

Provided that such repeal shall not,—

(i) affect the previous operation of the Act so repealed, or anything duly done or suffered thereunder;

(ii) affect any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed;

(iii) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against the Act so repealed; or

(iv) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture and punishment may be imposed, as if the aforesaid Act had not been repealed.

(2) Notwithstanding such repeal,—

(a) anything done or any action taken under the Act so repealed (including any notification, order, certificate, notice or receipt issued, application made, or permit granted) which is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act as if this Act were in force at the time such thing was done or action was taken, and shall continue to be in force, unless and until superseded by anything done or any action taken under this Act;

(b) every licence granted under any Act so repealed and in force immediately before the commencement of this Act shall be deemed to have been granted under the corresponding provisions of this Act and shall, subject to the provisions of this Act, continue to be in force for the unexpired portion of the period for which such licence had been granted.

(3) For the removal of doubts, it is hereby declared that any sanctuary or National Park declared by a State Government under any Act repealed under sub-section (1) shall be deemed to be a sanctuary or National Park, as the case may be, declared by the State Government under this Act and where any right in or over any land in any such National Park which had not been extinguished under the said Act, at or before the commencement of this Act, the extinguishment of such right shall be made in accordance with the provisions of this Act.

SCHEDULE I

(See sections 2, 8, 9, 11, 40, 41, 43, 48, 51, 61 and 62)

PART I : MAMMALS

1. Binturong (*Arctictis binturong*).
2. Black buck (*Antelope cervicapra*).
3. Brow-antlered deer or Thamin (*Cervus eldi*).
4. Caracal (*Felis caracal*).
5. Cheetah (*Acinonyx jubatus*).
6. Clouded leopard (*Neofelis nebulosa*).
7. Dugong (*Dugong dugon*).
8. Fishing cat (*Felis viverrina*).
9. Golden cat (*Felis temmincki*).
10. Golden langur (*Presbytis geei*).
11. Hispid hare (*Caprolagus hispidus*).
12. Hoolock (*Hylobates hoolock*).
13. Indian lion (*Panthera leo persica*).
14. Indian Wild Ass (*Equus hemionus khur*).
15. Indian Wolf (*Canis lupus*).
16. Kashmir Stag (*Cervus elaphus hanglu*).
17. Leopard cat (*Felis bengalensis*).
18. Lesser or Red panda (*Ailurus fulgens*).
19. Lion-tailed macaque (*Macaca silenus*).
20. Loris (*Loris tardigradus*).
21. Lynx (*Felis lynx isabellinus*).
22. Malabar Civet (*Viverra megaspila*).
23. Marbled cat (*Felis marmorata*).
24. Markhor (*Capra falconeri*).
25. Musk deer (*Moschus moschiferus*).
26. Ovis Ammon or Nyan (*Ovis ammon hodgsoni*).
27. Pallas's cat (*Felis manul*).
28. Pangolin (*Manis crassicaudata*).
29. Pygmy hog (*Sus salvanius*).
30. Rhinoceros (*Rhinoceros unicornis*).
31. Rusty spotted cat (*Felis rubiginosa*).
32. Slow Loris (*Nycticebus coucang*).
33. Snow leopard (*Panthera uncia*).
34. Spotted linsang (*Prionodon pardicolor*).
35. Swamp deer (all sub-species of *Cervus duvauceli*).
36. Takin or Mishmi Takin (*Budorcas taxicolor*).
37. Tibetan Gazelle (*Procapra picticaudata*).
38. Tibetan Wild Ass (*Equus hemionus kiang*).
39. Tiger (*Panthera tigris*).

40. Urial or Shapu (*Ovis vignei*).
41. Wild buffalo (*Bubalus bubalis*).

✓ PART II : AMPHIBIANS AND REPTILES

1. Crocodiles (including the Estuarne or salt water crocodile) (*Crocodilus porosus* and *Crocodilus palustris*).
2. Gharial (*Gavialis gangeticus*).

— PART III : BIRDS

1. Bazas (*Aviceda jeordoni* and *Aviceda leuphotes*).
2. Cheer Pheasant (*Catreus wallichii*).
3. Great Indian Bustard (*Choriotis nigriceps*).
4. Great Indian Hornbill (*Buceros bicornis*).
5. Jerdon's Courser (*Cursorius bitorquatus*).
6. Lammergeier (*Gypaetus barbatus*).
7. Large Falcons (*Falco peregrinus*, *Falco biarmicus* and *Falco chicquera*).
8. Mountain Quail (*Ophrysia superciliosa*).
9. Narcondom Hornbill [*Rhyticeros (undulatus) narcondami*].
10. Nicobar Megapode (*Megapodius freycinet*).
11. Peafowl (*Pavo cristatus*).
12. Pinkheaded duck (*Rhodonessa caryophyllacea*).
13. Sclater's Monal (*Lophophorus sclateri*).
14. Siberian White crane (*Grus leucogeranus*).
15. Tragopan Pheasants (*Tragopan melanocephalus*, *Tragopan blythii*, *Tragopan satyra*, *Tragopan temmincki*).
16. Whitebellied Sea Eagle (*Haliaetus leucogaster*).
17. White-eared Pheasant (*Crossoptilon crossoptilon*).
18. White-winged Wood Duck (*Cairina Scutulata*).

SCHEDULE II

(See sections 2, 8, 9, 10, 11, 40, 41, 43, 48, 51, 61 and 62)

SPECIAL GAME

PART I

1. Agra Monitor Lizard [*Varanus griseus* (Daudin)].
2. Bengal Porcupine (*Atherurus macrourus assamensis*).
3. Bison or Gaur (*Bos gaurus*).
4. Capped Langur (*Presbytis pileatus*).
5. Crab-eating Macaque (*Macaca irus umbrosa*).
6. Dolphins (*Dolphinus delphis*, *Platanista gangetica*).
7. Ferret Badgers (*Melogale moschata* and *Melogale personata*).
8. Flying squirrels (All species of the genus *Hylopetes*, *Petaurista*, *Belomys* and *Eupetaurus*).

9. Giant squirrels (*Ratufa macroura*, *Ratufa indica* and *Ratufa bicolor*).
10. Himalayan Brown bear (*Ursus arctos*).
11. Himalayan crestless Porcupine (*Hystrix hodgsoni*).
12. Hog badger (*Arctonyx collaris*).
13. Indian elephant (*Elephas maximus*).
14. Leaf Monkey (*Presbytis phayrei*).
15. Malay or Sun bear (*Helarctos malayanus*).
16. Pig-tailed Macaque (*Macaca nemestrina*).
17. Pythons (Genus *Python*).
18. Serow (*Capricornis sumatraensis*).
19. Stump-tailed Macaque (*Macaca speciosa*).
20. Tibetan Antelope or Chiru (*Pantheops hodgsoni*).
21. Water Lizard (*Varanus salvator*).
22. Wild Dog or Dhole (*Cuon alpinus*).
23. Wild yak (*Bos grunniens*).

PART II

1. Leopard or Panther (*Panthera pardus*).
2. Nilgiri langur (*Presbytis johni*).
3. Nilgiri Thar (*Hemitragus hylacrius*).

SCHEDULE III

(See sections 2, 8, 9, 10, 11 and 61)

BIG GAME

1. Andaman Wild Pig (*Sus andamanensis*).
2. Barking deer or Muntjac (*Muntiacus muntjak*).
3. Bharal (*Ovis nahura*).
4. Chinkara or Indian Gazelle (*Gazella gazella bennetti*).
5. Chital (*Axis axis*).
6. Four-horned antelope (*Tetraceros quadricornis*).
7. Goral (*Nemorhaedus goral*, *Nemorhaedus hodgsoni*).
8. Himalayan black bear (*Selenarctos thibetanus*).
9. Himalayan Ibex (*Capra ibex*).
10. Himalayan thar (*Hemitragus jemlahicus*).
11. Hog deer (*Axis porcinus*).
12. Hyaena (*Hyaena hyaena*).
13. Mouse deer (*Tragulus meminna*).
14. Nilgai (*Boselaphus tragocamelus*).
15. Ratel (*Mellivora capensis*).
16. Sambar (*Cervus unicolor*).
17. Sloth bear (*Melursus ursinus*).
18. Tibetan wolf (*Canis lupus*).
19. Wild pig (*Sus scrofa*).

SCHEDULE IV

(See sections 2, 8, 9, 11 and 61)

SMALL GAME

1. Desert cat (*Felis libyca*).
2. Desert fox (*Vulpes bucopus*).
3. Ermine (*Mustela erminea*).
4. Hares (Black naped, Common Indian, Desert, Himalayan Mouse-hare).
5. Marmots (*Marmota bobak himalayana*, *Marmota Caudata*).
6. Martens (*Martes foina intermedia*, *Martes flavigula*, *Martes gwatkinsii*).
7. Otters (*Lutra lutra*, *Lutra perspicillata*, *Aonyx cinerea*).
8. Red fox (*Vulpes vulpes*).
9. Tibetan fox (*Vulpes ferrilatus*).
10. Weasels (*Mustela sibirica*, *Mustela kathiah* and *Mustela altaica*).
11. Birds (other than those sub-species and species mentioned in Part III of Schedule I or in Schedule V, and belonging to the families listed below:—
 - (i) Barbets (*Capitonidae*).
 - (ii) Barn Owls (*Tytoninae*).
 - (iii) Blue-birds (*Irenidae*).
 - (iv) Bustards (*Otididae*).
 - (v) Bustard-Quail (*Turnicidae*).
 - (vi) Chaffinches (*Fringillinae*).
 - (vii) Cranes (*Gruidae*).
 - (viii) Ducks (*Anatidae*).
 - (ix) Emerald Dove (*Columbidae*).
 - (x) Falcons (*Falconidae*).
 - (xi) Finches (*Fringillidae*).
 - (xii) Flamingoes (*Phoenicopteridae*).
 - (xiii) Flycatchers (*Muscicapidae*).
 - (xiv) Geese (*Anatidae*).
 - (xv) Goldfinches and allies (*Carduelinae*).
 - (xvi) Grouse (*Pteroclididae*).
 - (xvii) Hawks (*Accipitridae*).
 - (xviii) Hornbills (*Bucerotidae*).
 - (xix) Ioras (*Irenidae*).
 - (xx) Jungle and Spur fowl (*Phasianidae*).
 - (xxi) Megapodes (*Megapodiidae*).
 - (xxii) Minivets (*Campephagidae*).
 - (xxiii) Orioles (*Oriolidae*).
 - (xxiv) Owls (*Strigidae*).

- (xxv) Oystercatchers (*Haematopodidae*).
- (xxvi) Partridges (*Phasianidae*).
- (xxvii) Pelicans (*Pelecanidae*).
- (xxviii) Pheasants (*Phasianidae*).
- (xxix) Pigeons (except Blue Rock pigeon) (*Columbidae*).
- (xxx) Pittas (*Pittidae*).
- (xxxi) Quail (*Phasianidae*).
- (xxxii) Snipe (*Charadriidae*).
- (xxxiii) Sunbirds (*Nectariniidae*).
- (xxxiv) Swans (*Anatidae*).
- (xxxv) Thrushes (*Muscicapidae*).
- (xxxvi) Trogons (*Trogonidae*).

SCHEDULE V

(See sections 2, 8, 61 and 62)

VERMIN

1. Common crow.
2. Common fox.
3. Fruit bats.
4. Jackal.
5. Mice.
6. Rats.
7. Voles.

Rep. by Act 38 of 1978, S. 2 + Sch. I

THE RULERS OF INDIAN STATES (ABOLITION OF PRIVILEGES) ACT, 1972

No. 54 OF 1972

[9th September, 1972]

An Act further to amend certain enactments consequent on derecognition of Rulers of Indian States and abolition of privy purses, so as to abolish the privileges of Rulers and to make certain transitional provisions to enable the said Rulers to adjust progressively to the changed circumstances.

Enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Rulers of Indian States (Abolition of Privileges) Act, 1972.

(2) Save as otherwise provided in this Act, it shall come into force at once.

Amendment of Act 5 of 1898.

2. In section 197A of the Code of Criminal Procedure, 1898,—

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

‘(b) “commencement of the Constitution” means the 26th day of January, 1950; and

Repealed

OF 1972]

Rulers of Indian States (Abolition of Privileges)

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(c) "Ruler", in relation to a former Indian State, has the same meaning as in article 363 of the Constitution.;

(b) in sub-section (2), after the words "Ruler of a former Indian State", the words "before the commencement of the Constitution" shall be inserted;

(c) in sub-section (3), after the words "Ruler of a former Indian State", the words "for such offence" shall be inserted.

3. In section 87B of the Code of Civil Procedure, 1908,—

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

"(1) In the case of any suit by or against the Ruler of any former Indian State which is based wholly or in part upon a cause of action which arose before the commencement of the Constitution or any proceeding arising out of such suit, the provisions of section 85 and sub-sections (1) and (3) of section 86 shall apply in relation to such Ruler as they apply in relation to the Ruler of a foreign State.;"

(b) in sub-section (2),—

(i) the word "and" at the end of clause (a) shall be omitted;

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

(b) "commencement of the Constitution" means the 26th day of January, 1950; and

(c) "Ruler", in relation to a former Indian State, has the same meaning as in article 363 of the Constitution.;"

4. Section 168 of the Representation of the People Act, 1951, shall be omitted.

5. In the Wealth-tax Act, 1957, in section 5, in sub-section (1),—

(a) in clause (iii), for the words "any one building in the occupation of a Ruler declared by the Central Government as his official residence", the words, brackets and figures "any one building in the occupation of a Ruler, being a building which immediately before the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, was his official residence by virtue of a declaration by the Central Government" shall be substituted with effect from the 28th day of December, 1971;

(b) to clause (xiv), the following provisos shall be added, namely:—

"Provided that in the case of jewellery recognised by the Central Government as aforesaid, such recognition shall be subject to the following conditions, namely:—

(i) that the jewellery shall be permanently kept in India and shall not be removed outside India except for a purpose and period approved by the Board;

Amendment of Act 5 of 1908.

Amendment of Act 43 of 1951.

Amendment of Act 27 of 1957.

Repealed

(ii) that reasonable steps shall be taken for keeping the jewellery substantially in its original shape;

(iii) that reasonable facilities shall be allowed to any officer of Government authorised by the Board in this behalf to examine the jewellery as and when necessary; and

(iv) that if any of the conditions hereinbefore specified is not being duly fulfilled, the Board may, for reasons to be recorded in writing, withdraw the recognition retrospectively with effect from the date of commencement of clause (b) of section 5 of the Rulers of Indian States (Abolition of Privileges) Act, 1972 and in such a case, wealth-tax shall become payable by the Ruler for all the assessment years after such commencement for which the jewellery was exempted on account of the recognition.

Explanation.—For the purposes of clause (iv) of the foregoing proviso, the fair market value of any jewellery on the date of the withdrawal of the recognition in respect thereof shall be deemed to be the fair market value of such jewellery on each successive valuation date relevant for the assessment years referred to in the said proviso:

Provided further that the aggregate amount of wealth-tax payable in respect of any jewellery under clause (iv) of the foregoing proviso for all the assessment years referred to therein shall not in any case exceed fifty per cent. of its fair market value on the valuation date relevant for the assessment year in which recognition was withdrawn;”

Amend-
ment of
Act 18 of
1958.

6. In section 5 of the Gift-tax Act, 1958, in sub-section (1), clause (xvi) shall be omitted with effect from the 1st day of April, 1973.

Amend-
ment of
Act 43 of
1961.

7. In the Income-tax Act, 1961,—

(a) in section 10,—

(i) after clause (18), the following clause shall be inserted, namely:—

“(18A) any *ex gratia* payments made by the Central Government consequent on the abolition of privy purse;”;

(ii) clause (19) shall be omitted with effect from the 2nd day of April, 1973;

(iii) before clause (20), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 28th day of December, 1971, namely:—

“(19A) the annual value of any one palace in the occupation of a Ruler, being a palace, the annual value whereof was

Repealed

exempt from income-tax before the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, by virtue of the provisions of the Merged States (Taxation Concessions) Order, 1949 or the Part B States (Taxation Concessions) Order, 1950 or, as the case may be, the Jammu and Kashmir (Taxation Concessions) Order, 1958:

Provided that for the assessment year commencing on the 1st day of April, 1972, the annual value of every such palace in the occupation of such Ruler during the relevant previous year shall be exempt from income-tax;"

(b) in section 297, in sub-section (2),—

(i) in clause (l), the words "until rescinded by the Central Government" shall be omitted;

(ii) to clause (l) as so amended, the following proviso shall be added, namely:—

"Provided that the Central Government may rescind any such notification or amend it so as to rescind any exemption, reduction in rate or other modification made thereunder;"

Rep. by Act 38 of 1978, S. 2 & Sch. I

THE SEEDS (AMENDMENT) ACT, 1972

No. 55 OF 1972

[9th September, 1972]

An Act to amend the Seeds Act, 1966.

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

Short title and commencement.

1. (1) This Act may be called the Seeds (Amendment) Act, 1972.
(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 2.

2. In section 2 of the Seeds Act, 1966 (hereinafter referred to as the principal Act); in clause (11), after sub-clause (iii), the following sub-clause shall be inserted, namely:—

“(iv) jute seeds.”

Insertion of new sections 8A to 8E.

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

The Central Seed Certification Board.

“8A. (1) The Central Government shall, by notification in the Official Gazette, establish a Central Seed Certification Board (hereinafter referred to as the Board) to advise the Central Government and the State Governments on all matters relating to certification,

Repealed

and to co-ordinate the functioning of the agencies established under section 8.

(2) The Board shall consist of the following members, namely:—

(i) a Chairman, to be nominated by the Central Government;

(ii) four members, to be nominated by the Central Government from out of the persons employed by the State Governments as Directors of Agriculture;

(iii) three members, to be nominated by the Central Government from out of the persons employed by the Agricultural Universities as Directors of Research;

(iv) thirteen persons, to be nominated by the Central Government to represent such interests as that Government thinks fit, of whom not less than four persons shall be representatives of seed producers or tradesmen.

(3) A member of the Board shall, unless his seat becomes vacant earlier by resignation or otherwise, be entitled to hold office for two years from the date of his nomination:

Provided that a person nominated under clause (ii) or clause (iii) of sub-section (2) shall hold office only for so long as he holds the appointment by virtue of which his nomination was made.

8B. The Board may appoint as many Committees as it deems fit consisting wholly of the members of the Board or wholly of other persons or partly of members of the Board and partly of other persons as it thinks fit to exercise such powers and perform such duties as may be delegated to them, subject to such conditions as it may think fit, by the Board.

Other Committees.

8C. No proceeding of the Board or any Committee thereof shall become invalid merely by reason of the existence of any vacancy therein or any defect in the constitution thereof.

Proceedings of Board or Committee not to be invalid by reason of any vacancy therein.

8D. The Board may, subject to the previous approval of the Central Government, make bye-laws for the purpose of regulating its own procedure and the procedure of any Committee thereof and the conduct of all business to be transacted by it or such Committee.

Procedure for Board.

8E. The Central Government shall—

Secretary and other officers.

(i) appoint a person to be the Secretary of the Board, and

(ii) provide the Board with such technical and other staff as the Central Government considers necessary."

Repeated

Amend-
ment of
section 9.

4. In section 9 of the principal Act,—

(i) in sub-section (3), for the words, brackets, letter and figure “minimum limits of germination and purity specified for that seed under clause (a) of section 6”, the words “prescribed standards” shall be substituted;

(ii) to sub-section (3), the following proviso shall be added, namely:—

“Provided that such standards shall not be lower than the minimum limits of germination and purity specified for that seed under clause (a) of section 6.”

Amend-
ment of
section
25.

5. In section 25 of the principal Act,—

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

“(ff) the standards to which seeds should conform;”;

(b) in sub-section (3), for the words “in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following”, the words “in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid” shall be substituted.

Rep. by Act 38 of 1978, S. 2 & Sch. I

THE MINES AND MINERALS (REGULATION AND DEVELOPMENT) AMENDMENT ACT, 1972

No 56 OF 1972

[12th September, 1972]

An Act further to amend the Mines and Minerals (Regulation and Development) Act, 1957.

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

1. This Act may be called the Mines and Minerals (Regulation and Development) Amendment Act, 1972. Short title.

67 of 1957. 2. In the Mines and Minerals (Regulation and Development) Act, 1957 (hereinafter referred to as the principal Act), after section 4, the following section shall be inserted, namely:— Insertion of new section 4A.

“4A. (1) Where the Central Government, after consultation with the State Government, is of opinion that it is expedient in the interest of regulation of mines and mineral development so to do, it may request the State Government to make a premature termination of a mining lease in respect of any mineral, other than a minor mineral, and, on receipt of such request, the State Government shall make an order making a premature termination of such mining lease and granting a fresh mining lease in favour of such Government company or corporation owned or controlled by Government as it may think fit. Termination of mining leases.

(2) Where the State Government, after consultation with the Central Government, is of opinion that it is expedient in the interest of regulation of mines and mineral development so to do, it may, by an order, make premature termination of a mining lease in respect of any minor mineral and grant a fresh lease in respect of such mineral in favour of such Government company or corporation owned or controlled by Government as it may think fit.”

3. In section 6 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:— Amendment of section 6.

“(1) No person shall acquire in any one State in respect of any mineral or prescribed group of associated minerals—

(a) one or more prospecting licences covering a total area of more than twenty-five square kilometres; or

(b) one or more mining leases covering a total area of more than ten square kilometres:

Provided that if the Central Government is of opinion that in the interests of the development of any mineral, it is necessary so to do, it may, for reasons to be recorded by it in writing, permit any person to acquire one or more prospecting licences or mining leases covering an area in excess of the aforesaid total area;

(c) any mining lease or prospecting licence in respect of an area which is not compact or contiguous:

Provided that if the Central Government is of opinion that in the interests of the development of any mineral, it is necessary so to do, it may, for reasons to be recorded in writing, permit any person to acquire a prospecting licence or mining lease in relation to any area which is not compact or contiguous.”;

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

“(3) For the purposes of determining the total area referred to in sub-section (1), the area held under a prospecting licence or mining lease by a person as a member of a co-operative society, company or other corporation, or a Hindu undivided family or a partner of a firm, shall be deducted from the area referred to in sub-section (1) so that the sum total of the area held by such person, under a prospecting licence or mining lease, whether as such member or partner, or individually, may not, in any case, exceed the total area specified in sub-section (1).”.

Amend-
ment
of sec-
tion 9.

4. In section 9 of the principal Act,—

(i) in sub-sections (1) and (2), for the words “mineral removed by him”, wherever they occur, the words “mineral removed or consumed by him or by his agent, manager, employee, contractor or sub-lessee” shall be substituted;

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

“(2A) The holder of a mining lease, whether granted before or after the commencement of the Mines and Minerals (Regulation and Development) Amendment Act, 1972, shall not be liable to pay any royalty in respect of any coal consumed by a workman engaged in a colliery provided that such consumption by the workman does not exceed one-third of a tonne per month.”;

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

“Provided that the Central Government shall not enhance the rate of royalty in respect of any mineral more than once during any period of four years.”.

Repealed

5. After section 9 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section 9A.

“9A. (1) The holder of a mining lease, whether granted before or after the commencement of the Mines and Minerals (Regulation and Development) Amendment Act, 1972, shall, notwithstanding anything contained in the instrument of lease or in any other law for the time being in force, pay to the State Government, every year, dead rent at such rate as may be specified, for the time being, in the Third Schedule, for all the areas included in the instrument of lease:

Dead
rent to
be paid
by the
lessee.

Provided that where the holder of such mining lease becomes liable, under section 9, to pay royalty for any mineral removed or consumed by him or by his agent, manager, employee, contractor or sub-lessee from the leased area, he shall be liable to pay either such royalty or the dead rent in respect of that area, whichever is greater.

(2) The Central Government may, by notification in the Official Gazette, amend the Third Schedule so as to enhance or reduce the rate at which the dead rent shall be payable in respect of any area covered by a mining lease and such enhancement or reduction shall take effect from such date as may be specified in the notification:

Provided that the Central Government shall not enhance the rate of the dead rent in respect of any such area more than once during any period of four years.”.

6. After section 13 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section
13A.

“13A. (1) The Central Government may, by notification in the Official Gazette, make rules for the grant of prospecting licences or mining leases in respect of any minerals underlying the ocean within the territorial waters or the continental shelf of India.

Power of
Central
Government
to make
rules for
the grant
of pros-
pecting
licences
or mining
leases
in res-
pect of
territorial
waters
or conti-
nental
shelf of
India.

(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 conditions, limitations and restrictions subject to which such prospecting licences or mining leases may be granted;

(b) regulation of exploration and exploitation of minerals within the territorial waters or the continental shelf of India;

(c) ensuring that such exploration or exploitation does not interfere with navigation; and

(d) any other matter which is required to be, or may be, prescribed.”.

7. In section 14 of the principal Act, for the words “prospecting licences and mining leases”, the words “quarry leases, mining leases or other mineral concessions” shall be substituted.

Amend-
ment of
section
14.

Repealed

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Mines and Minerals (Regulation and Development)
Amendment

[ACT 5

Amend-
ment of
section
15.

8. In section 15 of the principal Act,—

(i) in sub-sections (1) and (2), for the words “prospecting licence and mining leases”, wherever they occur, the words “quarry lease mining leases or other mineral concessions” shall be substituted;

(ii) after sub-section (2), the following sub-section shall be inserted and shall be deemed always to have been inserted, namely:—

“(3) The holder of a mining lease or any other mineral concession granted under any rule made under sub-section (1) shall pay royalty in respect of minor minerals removed or consumed by him or by his agent, manager, employee, contractor or sub-lessee at the rate prescribed for the time being in the rule framed by the State Government in respect of minor minerals:

Provided that the State Government shall not enhance the rate of royalty in respect of any minor mineral for more than once during any period of four years.”.

Amend-
ment of
section
16.

9. In section 16 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) (a) All mining leases granted before the commencement of the Mines and Minerals (Regulation and Development) Amendment Act, 1972, if in force at such commencement, shall be brought into conformity with the provisions of this Act, and the rules made thereunder, within six months from such commencement, or such further time as the Central Government may, by general or special order, specify in this behalf.

(b) Where the rights under any mining lease, granted by the proprietor of an estate or tenure before the commencement of the Mines and Minerals (Regulation and Development) Amendment Act, 1972, have vested, on or after the 25th day of October, 1949, in the State Government in pursuance of the provisions of any Act of any Provincial or State Legislature which provides for the acquisition of estates or tenures or provides for agrarian reform, such mining lease shall be brought into conformity with the provisions of this Act and the rules made thereunder within six months from the commencement of the Mines and Minerals (Regulation and Development) Amendment Act, 1972, or within such further time as the Central Government may, by general or special order, specify in this behalf.”.

Amend-
ment of
section
17.

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

(i) the word “only” shall be omitted;

(ii) after the words “Government of a State”, the words “or any other person” shall be inserted.

Repealed

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Amendment

11. After section 18 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 18A.

"18A. (1) Where the Central Government is of opinion that for the conservation and development of minerals in India, it is necessary to collect as precise information as possible with regard to any mineral available in or under any land in relation to which any prospecting licence or mining lease has been granted, whether by the State Government or by any other person, the Central Government may authorise the Geological Survey of India, or such other authority or agency as it may specify in this behalf, to carry out such detailed investigations for the purpose of obtaining such information as may be necessary.

Power to authorise Geological Survey of India, etc., to make investigation.

Provided that in the cases of prospecting licences or mining leases granted by a State Government, no such authorisation shall be made except after consultation with the State Government.

(2) On the issue of any authorisation under sub-section (1), it shall be lawful for the Geological Survey of India or the specified authority or agency, and its servants and workmen—

- (a) to enter upon such land,
- (b) to dig or bore into the sub-soil,
- (c) to do all other acts necessary to determine the extent of any mineral available in or under such land,
- (d) to set out boundaries of the land in which any mineral is expected to be found,
- (e) to mark such boundaries and line placing marks,
- (f) where otherwise the survey cannot be completed on the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle:

Provided that no such authority or agency shall enter into any building or upon 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 seven days' notice in writing of its intention to do so.

(3) Whenever any such action of the nature specified in sub-section (2) is to be taken, the Central Government shall, before or at the time when such action is taken, pay or tender payment for all necessary damage which is likely to be caused, and in case of dispute as to the sufficiency of the amount so paid or tendered or as to the person to whom it should be paid or tendered, the Central Government shall refer the dispute to the principal civil court of original jurisdiction having jurisdiction over the land in question.

(4) The fact that there exists any such dispute as is referred to in sub-section (3) shall not be a bar to the taking of any action under sub-section (2).

(5) After the completion of the investigation, the Geological Survey of India or the specified authority or agency by which the investigation was made shall submit to the Central Government a detailed report indicating therein the extent and nature of any mineral which lies deposited in or under the land.

Repealed

(6) The costs of the investigation made under this section shall be borne by the Central Government:..

Provided that where the State Government or other person in whom the minerals are vested or the holder of any prospecting licence or mining lease applies to the Central Government to furnish to it or him a copy of the report submitted under sub-section (5), that State Government or other person or the holder of a prospecting licence or mining lease, as the case may be, shall bear such reasonable part of the costs of investigation as the Central Government may specify in this behalf and shall, on payment of such part of the costs of investigation, be entitled to receive from the Central Government a true copy of the report submitted to it under sub-section (5)."

Amendment of section 21.

12. In section 21 of the principal Act,—

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

"(1) Whoever contravenes the provisions of sub-section (1) of section 4 shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to five thousand rupees, or with both.";

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

"(3) Where any person trespasses into any land in contravention of the provisions of sub-section (1) of section 4, such trespasser may be served with an order of eviction by the State Government or any authority authorised in this behalf by that Government and the State Government or such authorised authority may, if necessary, obtain the help of the police to evict the trespasser from the land.

(4) Whenever any person raises, without any lawful authority, any mineral from any land, and, for that purpose, brings on the land any tool, equipment, vehicle or any other thing, such mineral, tool, equipment, vehicle or other thing shall be liable to be seized by a magistrate specially empowered in this behalf.

(5) Whenever any person raises, without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised, or, where such mineral has already been disposed of, the price thereof, and may also recover from such person, rent, royalty or tax, as the case may be, for the period during which the land was occupied by such person without any lawful authority."

Insertion of new section 23A.

13. After section 23 of the principal Act, the following section shall be inserted, namely:—

Compounding of offences.

"23A. (1) Any offence punishable under this Act or any rule made thereunder may, either before or after the institution of the prosecution, be compounded by the person authorised under section 22 to make a complaint to the court with respect to that offence, on payment to that person, for credit to the Government, of such sum as that person may specify:

Repealed

Provided that in the case of an offence punishable with fine only, no such sum shall exceed the maximum amount of fine which may be imposed for that offence.

(2) Where an offence is compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken against the offender in respect of the offence so compounded, and the offender, if in custody, shall be released forthwith."

14. Section 25 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:—

Amendment of section 25.

"(2) Any rent, royalty, tax, fee or other sum due to the Government either under this Act or any rule made thereunder or under the terms and conditions of any prospecting licence or mining lease may, on a certificate of such officer as may be specified by the State Government in this behalf by general or special order, be recovered in the same manner as if it were an arrear of land revenue and every such sum which becomes due to the Government after the commencement of the Mines and Minerals (Regulation and Development) Amendment Act, 1972, together with the interest due thereon, shall be a first charge on the assets of the holder of the prospecting licence or mining lease, as the case may be."

15. In section 28 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment of section 28.

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

16. After the Second Schedule to the principal Act, the following Schedule shall be inserted, namely:—

Insertion of Third Schedule.

"THE THIRD SCHEDULE

(See section 9A)

DEAD RENT

<i>Period of the mining lease</i>	<i>Rate of dead rent per hectare</i>
1. 1st year	Nil
2. 2nd year to 5th year	Rs. 12.50
3. 6th year to 10th year	Rs. 25.00
4. 11th year onwards	Rs. 37.50."

THE GENERAL INSURANCE BUSINESS (NATIONALI-
SATION) ACT, 1972

ARRANGEMENT OF SECTIONS

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THE SCHEDULE.

BY APPOINTMENT

OF THE PRESIDENT OF INDIA

BY APPOINTMENT

OF THE PRESIDENT OF INDIA

THE GENERAL INSURANCE BUSINESS (NATIONALISATION) ACT, 1972

No. 57 OF 1972

[20th September 1972]

An Act to provide for the acquisition and transfer of shares of Indian insurance companies and undertakings of other existing insurers in order to serve better the need of the economy by securing the development of general insurance business in the best interests of the community and to ensure that the operation of the economic system does not result in the concentration of wealth to the common detriment, for the regulation and control of such business and for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

Short title. 1. This Act may be called the General Insurance Business (Nationalisation) Act, 1972.

Declaration as to the policy of the State. 2. It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in clause (c) of article 39 of the Constitution.

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

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

Defini-
tions.

- (a) “acquiring company” means any Indian insurance company and, where a scheme has been framed involving the merger of one Indian insurance company in another or the amalgamation of two or more such companies, means the Indian insurance company in which any other company has been merged or the company which has been formed as a result of the amalgamation;
- (b) “appointed day” means such day, not being a day later than the 2nd day of January, 1973, as the Central Government may, by notification, appoint;
- 1 of 1956. (c) “Companies Act” means the Companies Act, 1956;
- (d) “Corporation” means the General Insurance Corporation of India formed under section 9;
- 17 of 1971. (e) “existing insurer” means every insurer the management of whose undertaking has vested in the Central Government under section 3 of the General Insurance (Emergency Provisions) Act, 1971, and includes the undertaking of the Life Insurance Corporation in so far as it relates to the general insurance business carried on by it;
- (f) “foreign insurer” means an existing insurer incorporated under the law of any country outside India;
- (g) “general insurance business” means fire, marine or miscellaneous insurance business, whether carried on singly or in combination with one or more of them, but does not include capital redemption business and annuity certain business;
- (h) “Government company” means a Government company as defined in section 617 of the Companies Act;
- (i) “Indian insurance company” means an existing insurer having a share capital who is a company within the meaning of the Companies Act;
- 4 of 1938. (j) “Insurance Act” means the Insurance Act, 1938;
- 31 of 1956. (k) “Life Insurance Corporation” means the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956;
- (l) “notification” means a notification published in the Official Gazette;
- (m) “prescribed” means prescribed by rules made under this Act;
- (n) “Schedule” means the Schedule to this Act;
- (o) “scheme” means the scheme framed under section 16;
- (p) words and expressions used in this Act but not defined herein and defined in the Insurance Act, shall have the meanings respectively assigned to them in that Act;

(q) words and expressions used in this Act but not defined herein or in the Insurance Act and defined in the Companies Act, shall have the meanings respectively assigned to them in the Companies Act.

CHAPTER II

TRANSFER TO PUBLIC OWNERSHIP OF GENERAL INSURANCE BUSINESS

Transfer of shares of Indian insurance companies. 4. (1) On the appointed day all the shares in the capital of every Indian insurance company shall, by virtue of this Act, stand transferred to and vested in the Central Government free of all trusts, liabilities and encumbrances affecting them.

(2) Out of the shares so transferred and vested, the Central Government shall, immediately thereafter, by notification, provide for the transfer of not less than ten shares of every such company to such persons as may be specified in the notification to enable the Indian insurance company to function as a Government company.

(3) Every notification made under sub-section (2) shall specify the names and description of the persons to whom the shares are transferred and the particulars of the shares which are transferred to each such person.

(4) A copy of every notification made under sub-section (2) shall, as soon as may be after it is made, be sent by the Central Government to the concerned Indian insurance company, who shall, on receipt of such copy, and notwithstanding anything contained in the Companies Act or in its articles of association, forthwith rectify its register of members by including therein the persons mentioned in the notification as the holders of the shares specified therein.

(5) For the removal of doubts it is hereby declared that the transfer and vesting of shares effected under sub-section (1) shall not be deemed to affect any right of the Indian insurance company subsisting immediately before the appointed day against any shareholder to recover from him any sum of money on the ground that that shareholder has not paid or credited to the insurer the whole or any part of the value of the shares held by him or on any other ground whatsoever.

Transfer of undertakings of other existing insurers. 5. (1) On the appointed day, the undertaking of every existing insurer who is not an Indian insurance company shall stand transferred to and vested in the Central Government and the Central Government shall immediately thereafter provide, by notification, for the transfer to and vesting in such Indian insurance company, as it may specify in the notification, of that undertaking.

(2) Any notification made under sub-section (1) may provide that any of the undertakings aforesaid may be transferred to and vested in more than one Indian insurance company in such manner and subject to such conditions as may be specified in the notification.

Effect of transfer of undertakings. 6. (1) The undertaking of every such existing insurer as is referred to in section 5 shall be deemed to include all assets, rights, powers, authorities and privileges and all property, movable and immovable, cash balances, reserve funds, investments and all other rights and interests in, or arising out of, such property as were immediately before the

appointed day in the ownership, possession, power or control of such existing insurer in relation to the undertaking, whether within or without India, and all books of accounts, registers, records and all other documents of whatever nature relating thereto, and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the existing insurer in relation to the undertaking.

(2) Unless otherwise expressly provided by this Act, all deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature subsisting or having effect immediately before the appointed day and to which any such insurer as is referred to in section 5 is a party or which are in favour of such existing insurer shall be of as full force and effect against or in favour of the Indian insurance company in which the undertaking or the part to which the instrument relates has vested and may be enforced or acted upon as fully and effectually as if, in the place of the existing insurer referred to in section 5, the Indian insurance company in which the undertaking or any part thereof has vested had been a party thereto, or as if they had been issued in its favour.

(3) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to any business of the undertaking which has been transferred under section 5 is pending by or against any such existing insurer as is referred to in that section, the same shall not abate, be discontinued or be in any way prejudicially affected by reason of the transfer of the undertaking or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Indian insurance company in which the undertaking or the part to which the proceeding relates has vested.

(4) For the removal of doubts it is hereby declared that in the case of a foreign insurer or, as the case may be, the Life Insurance Corporation, the provisions of section 5 and of the preceding sub-sections shall only apply to the extent to which any property appertains, in the former case, to the general insurance business carried on in India and, in the latter case, to the general insurance business carried on, whether within or without India, and to rights and powers acquired, and to debts, liabilities and obligations incurred and to contracts, agreements and other instruments made by the foreign insurer or the Life Insurance Corporation, as the case may be, for the purpose of such general insurance business and to legal proceedings relating to those purposes, and the said provisions shall be construed accordingly.

(5) If any question arises as to whether any property appertains to any such general insurance business as is referred to in this section or whether any rights, powers, liabilities or obligations were acquired or incurred or any contract, agreement or other instrument was made by the foreign insurer or the Life Insurance Corporation, as the case may be, for the purposes of any such business or whether any documents relate to those purposes, the question shall be referred to the Central Government which shall, after giving an opportunity of being heard to the persons interested in the matter, decide it in such manner as it thinks fit.

Transfer of service of existing employees in certain cases.

7. (1) Every whole-time officer or other employee of an existing insurer other than an Indian insurance company who was employed by that insurer wholly or mainly in connection with his general insurance business immediately before the appointed day shall, on the appointed day, become an officer or other employee, as the case may be, of the Indian insurance company in which the undertaking of that insurer or that part of the undertaking to which the service of the officer or other employee relates has vested, and shall hold his office or service under the Indian insurance company on the same terms and conditions and with the same rights to pension, gratuity and other matters as would have been admissible to him if there had been no such vesting, and shall continue to do so unless and until his employment in the Indian insurance company in which the undertaking or part has vested is terminated or until his remuneration, terms and conditions are duly altered by that Indian insurance company:

Provided that nothing in this sub-section shall apply to any such officer or other employee who has given, in writing, notice to the Central Government or to any person nominated in this behalf by that Government before the appointed day intimating his intention of not becoming an officer or employee of the Indian insurance company in whom the undertaking or part thereof to which his service relates has vested.

(2) If any question arises as to whether any person was a whole-time officer or employee, or as to whether any officer or employee, was employed wholly or mainly in connection with the general insurance business of the existing insurer referred to in sub-section (1), immediately before the appointed day, the question shall be referred within a period of two years from the appointed day and not thereafter, to the Central Government which shall, after giving an opportunity of being heard to the person concerned in the matter, decide it in such manner as it thinks fit and such decision shall be final.

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the transfer of the services of any officer or other employee under sub-section (1) shall not entitle any such officer or other employee to any compensation under that Act or such other law, and no such claim shall be entertained by any court, tribunal or other authority.

Provident, super-annuation, welfare and other funds.

8. (1) Where an existing insurer has established a provident, super-annuation, welfare or any other fund for the benefit of his employees and constituted a trust in respect thereof (hereafter in this section referred to as an existing trust), the moneys standing to the credit of such fund on the appointed day, together with any other assets belonging to such fund, shall stand transferred to and vested in the Indian insurance company on the appointed day free from any such trust.

(2) Where all the employees of the Life Insurance Corporation or any other existing insurer do not become employees of an Indian insurance company, the monies and other assets belonging to any such fund as is referred to in sub-section (1), shall be apportioned between the trustees of the fund and the Indian insurance company in the prescribed manner; and in case of any dispute about such apportionment the decision of the Central Government thereon shall be final.

(3) Where the undertaking of an existing insurer has vested in more than one Indian insurance company, the Central Government may, by order, provide for the apportionment among such Indian insurance companies of monies and other assets belonging to any existing trust relating to that undertaking in such manner as in its opinion may be appropriate.

(4) The Indian insurance company shall as soon as may be after the appointed day constitute in respect of the moneys and other assets which are transferred to and vested in it under this section one or more trusts having objects as similar to the objects of the existing trusts as in the circumstances may be practicable.

(5) Where all the moneys and other assets belonging to an existing trust are transferred to and vested in an Indian insurance company under this section, the trustees of such trust shall, as from the appointed day, stand discharged from the trust, except as respects things done or omitted to be done before the appointed day.

CHAPTER III

GENERAL INSURANCE CORPORATION OF INDIA

9. (1) As soon as may be after the commencement of this Act, the Central Government shall form a Government company in accordance with the provisions of the Companies Act, to be known as the General Insurance Corporation of India for the purpose of superintending, controlling and carrying on the business of general insurance.

(2) The authorised capital of the Corporation shall be rupees seventy-five crores, divided into seventy-five lakhs fully paid-up shares of one hundred rupees each, out of which rupees five crores shall be the initial subscribed capital of the Corporation.

1 of 1956.

(3) Notwithstanding anything contained in the Companies Act, 1956, it shall not be necessary to add the word "Limited" as the last word of the name of the Corporation.

10. All the shares in the capital of every Indian insurance company which stand transferred to and vested in the Central Government by virtue of section 4 [with the exception of the shares transferred to any person under sub-section (2) of that section] shall, immediately after such vesting, stand transferred to and vested in the Corporation and every Indian insurance company shall forthwith give effect to such transfer of shares and rectify its register of members by including therein the Corporation as the holder of such shares.

CHAPTER IV

AMOUNTS TO BE PAID FOR ACQUISITIONS

11. (1) For the transfer of the shares of each Indian insurance company to, and vesting in, the Central Government, under section 4, there shall be paid by the Central Government to the Corporation, for distribution to the shareholders of each such company, the amount specified against such company in the corresponding entry under column (3) of Part A of the Schedule.

(2) For the transfer to, and vesting in, the Central Government, under section 5, of the undertaking of each existing insurer, who is not an Indian insurance company, there shall be paid by the Central Government to the Corporation, for payment to each such existing insurer,

the amount specified against such insurer in the corresponding entry under column (3) of Part B of the Schedule.

Disbursement of amounts by Corporation.

12. (1) The total amount paid by the Central Government under section 11 shall be treated as additional contribution to the subscribed capital of the Corporation and such additional subscribed capital shall stand allotted to, and vested in, the Central Government.

(2) The Corporation shall distribute the amount paid to it under section 11, to the shareholders of each Indian insurance company and to each existing insurer, who is not an Indian insurance company, in accordance with their rights and interests, and, if there is any doubt or dispute as to the right, or extent of the right, of any person to receive the whole or any part of such amount, refer such doubt or dispute to the Central Government for determination and thereafter act in accordance with the determination made by that Government.

(3) Save as otherwise provided in sub-section (2), the amount referred to in section 11 shall be given in accordance with the provisions of section 13, section 14 or section 15, as the case may be.

Mode of payment.

13. (1) Where the amount referred to in section 11 is to be given—

(a) to the members of an Indian insurance company, the amount due to each such member shall be paid in full, where it does not exceed twenty-five thousand rupees, and where it exceeds twenty-five thousand rupees, each such member shall be paid twenty-five thousand rupees and the balance of the amount due to such member shall be paid to him in three equal annual instalments, the first of which shall fall due on the appointed day;

(b) to a foreign insurer, it shall be given to him in cash within three months from the appointed day;

(c) to the Life Insurance Corporation, it shall be given to it in three equal annual instalments, the first of which shall fall due on the appointed day;

(d) to an existing insurer who is a co-operative society, it shall be distributed as soon as may be after the appointed day in accordance with the rules of the society which will apply in case of dissolution of the society;

(e) to an existing insurer not falling within any of the foregoing provisions, it shall be apportioned by the acquiring company among the individual policy-holders of the insurer whose policies with that insurer were in force on the appointed day and were comprised in the undertaking of such insurer in proportion to the premiums paid by the policy-holders under such policies and every such payment shall be made either—

(i) in cash, to be sent by postal money order, or

(ii) at the option of the policy-holder, as a deduction in the premium due at the time of the renewal of the policy and such option shall be exercised by the policy-holder before the expiry of three months from the appointed day (or within such further time not exceeding three months as the Central Government may, on the application of the policy-holder, allow); and the

option so exercised shall be final and shall not be altered or rescinded after it has been exercised:

Provided that if any policy-holder fails to exercise his option within the time allowed, he shall be deemed to have exercised his option in favour of payment in cash by postal money order.

(2) Where any amount is payable whether in instalments or otherwise under the provisions of this section, the unpaid amount, where its payment has become due, shall carry interest at the rate of four per cent. per annum from the appointed day.

14. (1) Notwithstanding anything contained elsewhere in this Act, if a majority in number of the persons, who, immediately before the appointed day, were registered in the books of an Indian insurance company as the members thereof, and representing two-thirds in value of the amount payable to the Indian insurance company, agree either in person or by proxy at a meeting specially convened for the purpose that the amount so payable instead of being distributed among the members, shall be given to any such person or body of persons as the members may nominate either at that meeting or subsequently for the purpose of carrying on any business, and the Central Government is satisfied that due provision has been or will be made for the payment of the value of their respective shares to persons who have dissented from the resolution, the amount may be given to the person or body of persons so nominated in such manner and subject to such conditions as the Central Government may think fit.

Amount payable to shareholders may be paid to named persons instead in certain cases.

(2) No resolution passed at any such meeting as is referred to in subsection (1) held after the appointed day shall have any effect unless the meeting has been convened after obtaining the approval of the Central Government.

15. Where a claim to the amount payable under section 11 is made by two or more persons adversely to one another, the Corporation may cause the amount to be deposited in any civil court having jurisdiction in that behalf and the court shall decide as to whom the payment shall be made.

Payment into court in case of rival claims.

CHAPTER V

SCHEME FOR REORGANISATION OF GENERAL INSURANCE BUSINESS

16. (1) If the Central Government is of opinion that for the more efficient carrying on of general insurance business it is necessary so to do, it may, by notification, frame one or more schemes providing for all or any of the following matters:—

Schemes for mergers of companies, etc.

(a) the merger in one Indian insurance company of any other Indian insurance company, or the formation of a new company by the amalgamation of two or more Indian insurance companies;

(b) the transfer to and vesting in the acquiring company of the undertaking (including all its business, properties, assets and liabilities) of any Indian insurance company which ceases to exist by reason of the scheme;

(c) the constitution, name and registered office and the capital structure of the acquiring company and the issue and allotment of shares;

(d) the constitution of a board of management by whatever name called for the management of the acquiring company;

(e) the alteration of the memorandum and articles of association of the acquiring company for such purposes as may be necessary to give effect to the scheme;

(f) the continuance in the acquiring company of the services of all officers and other employees of the Indian insurance company which has ceased to exist by reason of the scheme, on the same terms and conditions which they were getting or, as the case may be, by which they were governed immediately before the commencement of the scheme;

(g) the rationalisation or revision of pay scales and other terms and conditions of service of officers and other employees wherever necessary;

(h) the transfer to the acquiring company of the provident, superannuation, welfare and other funds relating to the officers and other employees of the Indian insurance company which has ceased to exist by reason of the scheme;

(i) the continuance by or against the acquiring company of legal proceedings pending by or against any Indian insurance company which has ceased to exist by reason of the scheme, and the initiation of such legal proceedings, civil or criminal, as the Indian insurance company might have initiated if it had not ceased to exist;

(j) such incidental, consequential and supplemental matters as are necessary to give full effect to the scheme.

(2) In framing schemes under sub-section (1), the object of the Central Government shall be to ensure that ultimately there are only four companies (excluding the Corporation) in existence and that they are so situate as to render their combined services effective in all parts of India.

(3) Where a scheme under sub-section (1) provides for the transfer of any property or liabilities, then, by virtue of the scheme, the property shall stand transferred to and vested in, and those liabilities shall be transferred to and become the liabilities of, the acquiring company.

(4) If the rationalisation or revision of any pay scale or other terms and conditions of service under any scheme is not acceptable to any officer or other employee, the acquiring company may terminate his employment by giving him compensation equivalent to three months remuneration, unless the contract of service with such employee provides for a shorter notice of termination.

Explanation.—The compensation payable to an officer or other employee under this sub-section shall be in addition to, and shall not affect, any pension, gratuity, provident fund or other benefit to which the employee may be entitled under his contract of service.

(5) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the transfer of the services of any officer or other employee of an Indian insurance

company to the acquiring company shall not entitle any such officer or other employee to any compensation under that Act or other law, and no such claim shall be entertained by any court, tribunal or other authority.

(6) The Central Government may, by notification, add to, amend or vary any scheme framed under this section.

(7) The provisions of this section and of any scheme framed under it shall have effect notwithstanding anything to the contrary contained in any other law or any agreement, award or other instrument for the time being in force.

17. A copy of every scheme and every amendment thereto framed under section 16 shall be laid, as soon as may be after it is made, before each House of Parliament.

Schemes
to be
laid be-
fore
Parlia-
ment.

CHAPTER VI

FUNCTIONS OF CORPORATION AND ACQUIRING COMPANIES AND THEIR MANAGEMENT

18. (1) The functions of the Corporation shall include—

Functions
of Cor-
poration.

(a) the carrying on of any part of the general insurance business, if it thinks it desirable to do so;

(b) aiding, assisting and advising the acquiring companies in the matter of setting up of standards of conduct and sound practice in general insurance business and in the matter of rendering efficient service to holders of policies of general insurance;

(c) advising the acquiring companies in the matter of controlling their expenses including the payment of commission and other expenses;

(d) advising the acquiring companies in the matter of the investment of their funds;

(e) issuing directions to acquiring companies in relation to the conduct of general insurance business.

(2) In issuing any directions under sub-section (1), the Corporation shall keep in mind the desirability of encouraging competition amongst the acquiring companies as far as possible in order to render their services more efficient.

19. (1) Subject to the rules, if any, made by the Central Government in this behalf and to its memorandum and articles of association, it shall be the duty of every acquiring company to carry on general insurance business.

Functions
of acquir-
ing com-
panies.

(2) Each acquiring company shall so function under this Act as to secure that general insurance business is developed to the best advantage of the community.

(3) In the discharge of any its functions, each acquiring company shall act so far as may be on business principles and where any directions have been issued by the Corporation, shall be guided by such directions.

(4) For the removal of doubts it is hereby declared that the Corporation and any acquiring company may, subject to the rules, if any, made by the Central Government in this behalf, enter into such contracts of reinsurance or reinsurance treaties as it may think fit for the protection of its interests.

Balance of profit how to be utilised.

20. (1) After making provision for bad and doubtful debts, depreciation in assets, provident, superannuation, welfare and other funds, debts due to Government and all other matters for which provision is necessary under any law or which are usually provided for by insurance companies, every acquiring company shall distribute the balance of profit as dividends.

(2) Any profit made by the Corporation and any sums received by the Corporation by way of dividends or otherwise shall be dealt with by it in such manner as may be prescribed.

Interim provisions for management of Indian insurance companies.

21. (1) Notwithstanding anything contained in the Companies Act, or in the memorandum and articles of association of any Indian insurance company, on and from the appointed day and until a new board of directors of the Indian insurance company is duly constituted, the management of the company shall continue to vest in the Custodian in charge of the management of the undertaking of that company immediately before the appointed day by virtue of the provisions contained in the General Insurance (Emergency Provisions) Act, 1971, and the Custodian shall be entitled, subject to such directions as the Central Government may issue in this behalf, to exercise all the powers and do all acts and things as may be exercised or done by the company or by its board of directors. 17 of 1971

(2) Nothing contained in sub-section (1) shall be deemed to prevent the Central Government from appointing any other person to take charge of the management of the undertaking of any Indian insurance company during the period referred to in that sub-section if for any reason it becomes necessary so to do, and any person so appointed may exercise all the powers and do all acts and things which a Custodian may exercise or do under sub-section (1).

(3) The Custodian referred to in sub-section (1) and the person appointed under sub-section (2) shall be entitled to such salaries and other allowances as the Central Government may specify in this behalf and shall hold office during the pleasure of the Central Government.

Power of Central Government to transfer employees.

22. Every officer of the Central Government and every officer or employee from an acquiring company or the Corporation to any other acquiring company or the Corporation, as the case may be, and the officer or employee so transferred, shall continue to have the same terms and conditions of service as were applicable to him immediately before such transfer.

Power of Central Government to issue directions.

23. The Corporation and every acquiring company shall, in the discharge of its functions, be guided by such directions in regard to matters of policy involving public interest as the Central Government may give.

CHAPTER VII

MISCELLANEOUS

24. (1) Except to the extent expressly provided in this Act, on and from the appointed day, the Corporation and the acquiring companies shall have the exclusive privilege of carrying on general insurance business in India.

Acquiring companies to have the exclusive privilege of carrying on general insurance business.

(2) Subject to the provisions of section 36, any certificate of registration granted under the Insurance Act to any insurer other than an insurer referred to in sub-section (1) shall, on and from the appointed day, cease to have effect:

Provided that nothing in this sub-section shall apply to the carrying on by the Life Insurance Corporation of life insurance business and capital redemption and annuity certain business.

25. (1) No person shall take out or renew any policy of insurance in respect of any property in India or any ship or other vessel or aircraft registered in India with an insurer whose principal place of business is outside India save with the prior permission of the Central Government.

Properties in India not to be insured with foreign insurers except with permission of Central Government.

(2) If any person contravenes any provision of sub-section (1), he shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

1961. 26. For the purposes of the Income-tax Act, 1961, every acquiring company shall be deemed to be an Indian company and a company in which the public are substantially interested.

Acquiring companies and income-tax.

27. An acquiring company may, having regard to its financial condition on the 13th day of May, 1971 or the financial condition on the said date of any existing insurer whose undertaking has been transferred to and vested in it under this Act reduce the liabilities which have arisen under contracts of general insurance entered into before the said date in such manner and subject to such conditions as it thinks fit:

Power to reduce amounts of insurance in certain cases.

Provided that no such reduction shall be made except in accordance with specific proposals made by the acquiring company in this behalf and approved by the Central Government.

28. (1) Where an existing insurer has at any time within five years before the 13th day of May, 1971—

Right of acquiring company to seek relief in respect of certain transactions.

(a) made any payment to any person without consideration,

(b) sold or disposed of any property of the insurer without consideration or for an inadequate consideration,

(c) acquired any property or rights for an excessive consideration,

(d) entered into or varied any agreement so as to require an excessive consideration to be paid or given by the insurer,

(e) entered into any other transaction of such an onerous nature as to cause a loss to, or impose a liability on, the insurer exceeding any benefit accruing to the insurer,

and the payment, sale, disposal, acquisition, agreement or variation thereof or other transaction was not reasonably necessary for the pur-

pose of the general insurance business of the insurer or was made with an unreasonable lack of prudence on the part of the insurer, regard being had in either case to the circumstances at the time, the acquiring company may apply for relief to the court in respect of such transaction, and all parties to the transaction shall, unless the court otherwise directs, be made parties to the application.

(2) The court may make such order against any of the parties to the application as it thinks just having regard to the extent to which those parties were respectively responsible for the transaction or benefited from it and all the circumstances of the case.

(3) Where an application is made to the court under this section in respect of any transaction and the application is determined in favour of the acquiring company, the court shall have exclusive jurisdiction to determine any claim outstanding in respect of the transaction.

Duty to deliver possession of property and documents relating thereto.

29. (1) Where any property appertaining to an existing insurer has been transferred to and vested in an Indian insurance company under section 5,—

(a) every person in whose possession, custody or control any such property may be, shall deliver the property to the Indian insurance company forthwith,

(b) any person who immediately before such vesting has in his possession, custody or control any books, documents or other papers relating to an existing insurer shall be liable to account for the said books, documents and papers to the Indian insurance company, and shall deliver them to that company or to such person as that company may direct.

(2) In particular, all the assets of an existing insurer appertaining to the undertaking held in deposit by the Reserve Bank of India under the Insurance Act or by trustees in trust shall be delivered to the Indian insurance company.

(3) Without prejudice to the other provisions contained in this section, it shall be lawful for each Indian insurance company to take all necessary steps for taking possession of all properties which have been transferred to and vested in it under this Act.

Penalty for withholding property, etc.

30. If any person wilfully withholds or fails to deliver to an Indian insurance company as required by section 29 any property or any books, documents or other papers which may be in his possession or unlawfully retains possession of any property of an existing insurer which has been transferred to and vested in an Indian insurance company under section 5 or wilfully applies any such property to purposes other than those expressed in or authorised by this Act, he shall, on the complaint of the Indian insurance company, be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Officers and employees of Corporation or of acquiring companies to be public servants.

31. Every officer or other employee of the Corporation or of an acquiring company shall be deemed to be a public servant for the purposes of Chapter IX of the Indian Penal Code.

32. Every officer of the Central Government and every officer or other employee of the Corporation and of any acquiring company shall be indemnified by the Central Government or the Corporation or the acquiring company, as the case may be, against all losses and expenses incurred by him in, or in relation to, the discharge of his duties under this Act except such as have been caused by his own wilful act or default.

Indem-
nity.

33. No provision of law relating to the winding up of companies shall apply to the Corporation or to an acquiring company, and neither the Corporation nor any such company shall be placed in liquidation save by order of the Central Government and in such manner as it may direct.

Dissolution
of Corpora-
tion and
acquiring
companies.

34. Any reference to an existing insurer in any law other than this Act or any contract or other instrument shall, in so far as it relates to an acquiring company, be construed as a reference to that company.

Reference
to existing
insurer in
other
laws.

35. Subject to such exceptions, restrictions and limitations, if any, as the Central Government may, by notification, specify in this behalf, the Insurance Act shall apply to or in relation to the Corporation and every acquiring company as if the Corporation or the acquiring company, as the case may be, were an insurer carrying on general insurance business within the meaning of that Act.

Applica-
tion of
Insurance
Act.

36. (1) Nothing contained in this Act shall apply in relation to—

Exemptions.

(a) any general insurance business carried on by a State Government, to the extent to which such insurance relates to properties belonging to it or undertakings owned wholly or mainly by the State Government; or to properties belonging to semi-government bodies, or any Board or body corporate established by the State Government under any statute or any industrial or commercial undertaking in which the State Government has substantial financial interest, whether as shareholder, lender or guarantor;

(b) any general insurance business not falling within clause (a) which has been carried on by a State Government before the commencement of this Act, to the extent to which it is necessary to allow such business to run off:

Provided that nothing contained in this clause shall be deemed to authorise the State Government to issue any new policies or renew any existing policies;

(c) any insurer whose business is being voluntarily wound up or is being wound up by a court;

(d) the insurance business carried on by the Calcutta Hospital and Nursing Home Benefits Association Limited;

(e) the insurance business carried on by the Export Credit and Guarantee Corporation Limited and the Deposit Insurance Corporation established under section 3 of the Deposit Insurance Corporation Act, 1961;

(f) any scheme in existence immediately before the 14th day of May, 1971 or any scheme framed after the said day with the

approval of the Central Government for the insurance of crops or of cattle or of flood risks or of war or emergency risks.

(2) If the Central Government is satisfied that an insurer, whether established before or after the appointed day, carries on only such general insurance business as is not carried on ordinarily by insurers, it may, by notification, direct that nothing contained in this Act shall apply to such insurer.

Vacancies, etc., not to invalidate proceedings.

37. No act or proceeding of the Corporation or of an acquiring company shall be called in question merely on the ground of the existence of any vacancy in, or defect in the constitution of, the Corporation or the company.

Protection of action taken in good faith.

38. No suit, prosecution or other legal proceeding shall lie against any officer of the Central Government or officer or other employee of the Corporation or of the acquiring company for anything which is in good faith done or intended to be done under this Act.

Power to make rules.

39. (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, rules made under this section may provide for—

(a) the manner in which the profits, if any, and other moneys received by the Corporation may be dealt with;

(b) the conditions, if any, subject to which the Corporation and the acquiring companies shall carry on general insurance business;

(c) the terms and conditions subject to which any reinsurance contracts or treaties may be entered into;

(d) the form and manner in which any notice or application may be given or made to the Central Government;

(e) the reports which may be called for by the Central Government from the Corporation and the acquiring companies;

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

(3) Every rule made under this section and every notification issued under section 35 shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

Omission of section 14 of Act 17 of 1971.

~~40. Section 14 of the General Insurance (Emergency Provisions) Act, 1971, is omitted.~~ (4) x x

4 Repealed by Act 38 of 1978, S. 2 + Sch. I

THE SCHEDULE

(See section II)

Amounts to be paid

PART-A

Serial Number	Name of Indian insurance company	Amount to be paid
(1)	(2)	(3)
		Rs.
1	All India General Insurance Company Ltd.	10,00,000
2	Anand Insurance Company Ltd.	Preference Shares 3,50,000
		Equity Shares 2,00,000
3	Bhabha Marine Insurance Company Ltd.	54,448
4	Bharat General Reinsurance Ltd.	Preference Shares 8,18,000
		Ordinary Shares 13,49,844
5	British India General Insurance Company Ltd.	37,50,000
6	Calcutta Insurance Limited	7,49,442
7	Central Mercantile Assurance Company Ltd.	3,38,499
8	Clive Insurance Company Ltd.	26,12,600
9	Commonwealth Assurance Company Ltd.	1,000
10	Concord of India Insurance Company Ltd.	39,77,100
11	Devkaran Nanjee Insurance Company Ltd.	16,80,000
12	General Assurance Society Ltd.	8,06,000
13	Hercules Insurance Company Ltd.	87,48,000
14	Hindusthan General Insurance Society Ltd.	15,52,500
15	Hindusthan Ideal Insurance Company Ltd.	25,20,605
16	Howrah Insurance Company Ltd.	975
17	Hukumchand Insurance Company Ltd.	10,00,000
18	India Reinsurance Corporation Ltd.	2,05,02,200
19	Indian Guarantee & General Insurance Company Ltd.	1,95,69,760
20	Indian Mercantile Insurance Company Ltd.	50,33,195
21	Indian Merchants' Marine Insurance Company Ltd.	2,28,753
22	Indian Ocean Insurance Company Ltd.	1,00,000
23	Indian Trade & General Insurance Company Ltd.	61,21,200
24	Jalanath Insurance Ltd.	10,42,955
25	Jupiter General Insurance Company Ltd.	26,24,445
26	Kalyan Marine Insurance Company Ltd.	1,79,880
27	Liberty Insurance Company Ltd.	1,000
28	Madras Motor and General Insurance Company Ltd.	1,77,69,600
29	Madura Insurance Company Ltd.	Preference Shares 700
		Ordinary Shares 15,83,900
		Deferred Shares 12,500

Serial Number	Name of Indian insurance company	Amount to be paid
(1)	(2)	(3)
		Rs.
30	Marine & General Insurance Company Ltd.	8,95,300
31	Mother India Fire & General Insurance Company Ltd.	7,44,345
32	Motor Owners' Insurance Company Ltd.	1,65,575
33	Naranji Bhanabhai & Company Ltd.	49,200
34	Narhari Marine Insurance Company Ltd.	2,36,400
35	National Insurance Company Ltd.	60,58,150
36	Neptune Assurance Company Ltd.	10,00,000
37	New Great Insurance Company of India Ltd.	43,50,000
38	New India Assurance Company Limited	8,20,37,678
39	New Merchants' Insurance Company Ltd.	68,912
40	New Premier Insurance Company Ltd.	1,21,110
41	Northern India General Insurance Company Ltd.	998
42	Oriental Fire & General Insurance Company Ltd.	2,43,98,000
43	Pandyan Insurance Company Ltd.	90,00,000
44	Pioneer Fire & General Insurance Company Ltd.	11,82,610
45	Porbandar Insurance Company Ltd.	59,194
46	Prachi Insurance Company Ltd.	21,375
47	Ruby General Insurance Company Ltd.	1,38,74,000
48	Shree Mahasagar Vima Company Ltd.	1,18,252
49	South India Insurance Company Ltd.	60,63,000
50	Sterling General Insurance Company Ltd.	Preference Shares 23,000
		Ordinary Shares 16,08,139
51	Friton Insurance Company Ltd.	47,07,180
52	United India Fire & General Insurance Company Ltd.	21,39,991
53	Universal Fire & General Insurance Company Ltd.	24,71,618
54	Vanguard Insurance Company Ltd.	896
55	Vulcan Insurance Company Ltd.	32,49,617

PART-B

Serial Number	Name of insurer	Amount to be paid
(1)	(2)	(3)
		Rs.
1	Co-operative Fire & General Insurance Society Ltd.	18,69,000
2	Co-operative General Insurance Society Ltd.	5,93,000
3	Indian Mutual General Insurance Society Ltd.	1,40,000
4	Life Insurance Corporation of India	2,81,34,000
5	Millowners' Mutual Insurance Association Ltd.	12,89,000
6	Orissa Co-operative Insurance Society Ltd.	2,83,000
7	Reinsurance Association of India (International) Ltd.	13,000
8	Union Co-operative Insurance Society Ltd.	37,60,000

Serial Number	Name of insurer	Amount to be paid
(1)	(2)	(3)
		Rs.
9	Alliance Assurance Company Ltd.	36,65,000
10	American Insurance Company	3,30,000
11	Atlas Assurance Company Ltd.	64,85,000
12	Baloise Insurance Company Limited	22,67,000
13	British Aviation Insurance Company Ltd.	1,000
14	Caledonian Insurance Company	81,000
15	Century Insurance Company Ltd.	6,04,000
16	Commercial Union Assurance Company Ltd.	85,20,000
17	Eagle Star Insurance Company Ltd.	37,12,000
18	Gerling Global Reinsurance Company Ltd.	1,000
19	Great American Insurance Company	3,81,000
20	Guardian Assurance Company Ltd.	19,98,000
21	Hanover Insurance Company	42,13,000
22	Hartford Fire Insurance Company	2,96,000
23	Home Insurance Company	3,73,000
24	Legal & General Assurance Society Ltd.	5,28,000
25	Liverpool and London and Globe Insurance Company Ltd.	8,23,000
26	London Assurance	12,30,000
27	London Guarantee & Accident Company Ltd.	40,000
28	London & Lancashire Insurance Company Ltd.	47,70,000
29	L'Union Fire, Accident and General Insurance Company Ltd.	1,000
30	National Employers' Mutual General Insurance Association Ltd.	3,17,003
31	National Insurance Company of New Zealand Ltd.	1,000
32	New Hampshire Insurance Company	19,08,000
33	New Zealand Insurance Company Ltd.	10,84,000
34	Norwich Union Fire Insurance Society Ltd.	31,43,000
35	Phoenix Assurance Company Ltd.	2,63,000
36	Provincial Insurance Company Ltd.	1,000
37	Queensland Insurance Company Ltd.	10,31,000
38	Royal Exchange Assurance	49,62,000
39	Royal Insurance Company Ltd.	73,28,000
40	Scottish Union & National Insurance Company	43,15,000
41	Skandia Insurance Company Ltd.	1,000
42	South British Insurance Company Ltd.	18,42,000
43	Sun Insurance Office Ltd.	25,86,000
44	Switzerland General Insurance Company Ltd.	6,35,000
45	Threadneedle Insurance Company Ltd.	1,000
46	Tokio Marine & Fire Insurance Company Ltd.	92,000
47	Union Insurance Society of Canton Ltd.	5,89,000
48	United Scottish Insurance Company Ltd.	83,000
49	Welfare Insurance Company Ltd.	1,000
50	Western Assurance Company	13,92,000
51	Yorkshire Insurance Company Ltd.	16,31,000
52	Zurich Insurance Company Ltd.	1,000

THE INDIAN COPPER CORPORATION (ACQUISITION
OF UNDERTAKING) ACT, 1972

No. 58 OF 1972

[21st September, 1972]

An Act to provide for the acquisition of the undertaking of the Indian Copper Corporation Limited for the purpose of enabling the Central Government to conserve and exploit, in a scientific and rational manner, to the maximum advantage of the nation, the copper deposits in the Singhbhum belt in the State of Bihar, to utilise the copper deposits in such manner as to subserve the common good, in the context of the requirements of copper in the country, and for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

Short
title.

1. This Act may be called the Indian Copper Corporation (Acquisition of Undertaking) Act, 1972.

Declara-
tion as to
the policy
of the
State.

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

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

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

Defini-
tions.

(a) “appointed day” means the date of commencement of this Act;

(b) “company” means the Indian Copper Corporation Limited, being a company incorporated in England and having its principal place of business, in India, at Gillander House, Netaji Subhas Road, Calcutta-1;

(c) “Hindustan Copper” means the Hindustan Copper Limited, being a Government company as defined in section 617 of the Companies Act, 1956, and having its registered office at Khetri Nagar in the State of Rajasthan;

1 of 1956.

(d) “undertaking of the company” means the undertaking of the company in India.

CHAPTER II

ACQUISITION OF THE UNDERTAKING OF THE INDIAN COPPER CORPORATION LIMITED

4. On the appointed day, the undertaking of the company shall, by virtue of this Act, stand transferred to, and vested in, the Central Government.

Under-
taking of
the
company
to vest
in Central
Govern-
ment.

5. (1) The undertaking of the company shall be deemed to include all assets, rights, leaseholds (including mining leases, if any); powers, authorities and privileges; and all property, movable and immovable, including lands, buildings, works, mines, workshops, projects, smelters, refineries, stores, instruments, machinery, locomotives, automobiles and other vehicles; mined or extracted copper and other ores, concentrates and metals, in process or in stock or in transit; cash balances, cash on hand, reserve fund, investments and book debts; and all other rights and interests arising out of such property as were immediately before the appointed day in the ownership, possession, power or control of the company in relation to its undertaking in India; and all books of account, registers, maps, plans, sections, drawings, records of survey and all other documents of whatever nature relating thereto; and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the company in relation to its undertaking in India.

General
effect of
vesting
under
section 4.

(2) All property included as aforesaid in the undertaking of the company which has vested in the Central Government under section 4 shall, by force of such vesting, be freed and discharged from any trusts, obligations, mortgages, charges, liens and other incumbrances affecting it, and any attachment, injunction or any decree or order of any court restricting the use of such property in any manner shall be deemed to have been withdrawn.

(3) Subject to the other provisions contained in this Act, all contracts and working arrangements which are subsisting immediately before the appointed day and affecting the company shall, in so far as they relate to the undertaking of the company, cease to have effect or be enforceable

against the company or any person who was surety, or had guaranteed the performance thereof, and shall be of as full force and effect against or in favour of the Central Government and enforceable as fully and effectually as if instead of the company, the Central Government had been named therein or had been a party thereto.

(4) Subject to the other provisions contained in this Act, any proceeding or cause of action pending or existing immediately before the appointed day by or against the company in relation to its undertaking in India may, as from such commencement, be continued and enforced by or against the Central Government as it might have been enforced by or against the company if this Act had not been passed, and shall cease to be enforceable by or against the company, its surety or guarantor.

Power of Central Government to direct vesting of the undertaking in Hindustan Copper.

6. (1) Notwithstanding anything contained in sections 4 and 5, the Central Government may, by order in writing, direct that the undertaking of the company together with all its properties, assets, liabilities and obligations specified in sub-section (1) of section 5 shall, instead of continuing to vest in the Central Government, vest in Hindustan Copper either on the date of publication of the direction or on such earlier or later date (not being a date earlier than the appointed day) as may be specified in that direction.

(2) Where an order vesting the undertaking of the company in Hindustan Copper is made under sub-section (1), all the rights, liabilities and obligations of the Central Government in relation to the undertaking of the company shall, on and from the date of such vesting, be deemed to have become the rights, liabilities and obligations, respectively of Hindustan Copper.

(3) Hindustan Copper shall, in the management and administration of the undertaking of the company, act in accordance with such directions, if any, as may be issued by the Central Government in this behalf.

(4) Hindustan Copper may also apply to the Central Government at any time for instructions as to the manner in which the management of the undertaking of the company or in relation to any matter arising in the course of such management shall be conducted.

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

7. (1) Where any property has vested in the Central Government or Hindustan Copper under this Act, every person in whose possession or custody or under whose control the property may be, shall deliver the property to the Central Government or Hindustan Copper, as the case may be, forthwith.

(2) Any person who, on the appointed day, has in his possession or under his control, any books, documents or other papers relating to the undertaking of the company, which have vested in the Central Government or Hindustan Copper under this Act and which belong to the company or would have so belonged if the undertaking of the company had not vested in the Central Government or Hindustan Copper, shall be liable to account for the said books, documents and papers to the Central Government or Hindustan Copper, as the case may be, and shall deliver them up to the Central Government or Hindustan Copper.

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

8. The company shall, within one month from the appointed day or such further period as the Central Government may allow in this behalf, furnish, in respect of the undertaking of the company, as on the appointed day, a complete inventory of—

Duty to furnish particulars.

(i) all the properties and assets;

(ii) all the liabilities and obligations; and

(iii) all agreements entered into by the company and in force on that day (including agreements, whether express or implied, relating to leave, pension, gratuity and other terms of service of any officer or other employee of the company), under which, by virtue of this Act, the Central Government or Hindustan Copper has, or will have, or may have, liabilities or obligations,

and for this purpose, the Central Government or Hindustan Copper shall afford the company all reasonable facilities.

9. (1) Every officer or other employee employed, immediately before the appointed day, in connection with the affairs of the undertaking of the company, shall, as from that day, become an officer or other employee of the Central Government and shall, as from the date of publication of the direction made under sub-section (1) of section 6 or the date specified therein, become an officer or other employee of Hindustan Copper and shall hold his office by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, gratuity and other matters as he would have held under the company, if this Act had not been passed, and shall continue to do so, unless and until his employment in the Central Government or, as the case may be, in Hindustan Copper, is terminated or until his remuneration, terms and conditions are duly altered by the Central Government or Hindustan Copper:

Transfer of service of existing employees.

Provided that nothing contained in this sub-section shall apply to any officer or other employee, who has, by notice in writing given to the Central Government within thirty days from the appointed day, intimated his intention of not becoming an officer or other employee of the Central Government or Hindustan Copper.

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 employee of the company to the Central Government or Hindustan Copper by reason of the provisions of this Act shall not entitle any such officer or other employee to any compensation under that Act or other law, and no such claim shall be entertained by any court, tribunal or other authority.

10. (1) Where the company has established a provident, superannuation, welfare or any other fund for the benefit of its officers or other employees and constituted a trust in respect thereof, the moneys relatable to the officers or other employees, whose services have become transferred, by or under this Act, to the Central Government or Hindustan Copper, shall, out of the moneys standing on the appointed day, to the credit of such provident, superannuation, welfare or other fund, stand transferred to, and vested in, the Central Government, or Hindustan Copper, as the case may be, free from any such trust.

Provident, superannuation, welfare and other funds.

(2) The moneys which stand transferred under sub-section (1) to the Central Government or Hindustan Copper shall be dealt with by that Government or Hindustan Copper, as the case may be, in such manner as may be prescribed by rules made under this Act.

CHAPTER III

PAYMENT OF AMOUNT

Amount to be paid for transfer and vesting of the undertaking of the company.

11. (1) The company shall be given by the Central Government, in cash; an amount of rupees seven and a half crores, for vesting in it, under section 4, of the undertaking of the company.

(2) The amount payable under sub-section (1) shall carry simple interest at the rate of four per cent. per annum from the appointed day.

CHAPTER IV

MISCELLANEOUS

Penalties.

12. (1) Any person, who—

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

(b) wrongfully obtains possession of any property forming part of the undertaking of the company which has vested in the Central Government or Hindustan Copper under this Act; or

(c) wilfully withholds or fails to furnish to the Central Government or Hindustan Copper, as required by sub-section (2) of section 7, any document which may be in his possession, custody or control; or

(d) wilfully fails to furnish an inventory as required under section 8; or

(e) when required to furnish such inventory furnishes any particulars therein which are false and which he either knows or believes to be false, or does not believe to be true,

shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both:

Provided that the court trying any offence under clause (a) or clause (b) or clause (c) of this sub-section may, at the time of convicting the accused person, order him to deliver up or refund, within a time to be fixed by the court, any property or cash wrongfully withheld or obtained or any document wilfully withheld or not furnished.

(2) No court shall take cognizance of an offence punishable under this section except with the previous sanction of the Central Government or of an officer authorised by that Government in this behalf.

Offences by companies.

13. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

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

14. No proceeding for the appointment of a Receiver in respect of the business of the company in so far as it relates to its undertaking in India, shall lie in any court except with the consent of the Central Government.

Receiver not to be appointed in relation to the business of the company.

15. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any law other than this Act 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 over-riding effect.

16. (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or Hindustan Copper or any of its officers or other employees for anything which is in good faith done or intended to be done under this Act.

Protection of action taken in good faith.

(2) No suit or other legal proceeding shall lie against the Central Government or Hindustan Copper or any of its officers or other employees 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.

17. (1) If the Central Government is satisfied, after such inquiry as it may think fit, that any contract or agreement entered into at any time within twelve months immediately preceding the 10th day of March, 1972, between the company or the managing agents of the company or any other person, in so far as such contract or agreement relates to the undertaking of the company, has been entered into in bad faith or is detrimental to the interests of the undertaking of the company, it may make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) such contract or agreement and thereafter the contract or agreement shall have effect accordingly:

Contracts in bad faith may be cancelled or varied.

Provided that no contract or agreement shall be cancelled or varied except after giving to the parties to the contract or agreement reasonable opportunity of being heard.

(2) Any person aggrieved by an order under sub-section (1) may make an application to the High Court within the local limits of whose jurisdiction the principal place of business of the company in India is situated, for the variation or reversal of such order and thereupon such court may confirm, modify or reverse such order.

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

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

~~4 + 11) 19. The Indian Copper Corporation (Taking Over of Management) Act, 1972, is hereby repealed.~~ Repeal of Act 11 of 1972.

~~4~~ Repealed by Act 38 of 1978, S. 2 + Sch. I

THE FORMER SECRETARY OF STATE SERVICE OFFICERS
(CONDITIONS OF SERVICE) ACT, 1972

No. 59 OF 1972

[21st September, 1972]

An Act to provide for the variation or revocation of the conditions of service of former Secretary of State Service officers in respect of certain matters and for matters connected therewith or incidental thereto.

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

1. (1) This Act may be called the Former Secretary of State Service Officers (Conditions of Service) Act, 1972. Short title and commencement.

(2) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

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

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

(b) "former Secretary of State Service officer" means a person referred to in sub-clause (a) or sub-clause (b) of clause (1) of article 312A of the Constitution;

(c) "I.C.S. member of the Indian Administrative Service" means a person who was appointed to the Civil Service of the Crown in India known as the Indian Civil Service and who on the appointed day is a member of the Indian Administrative Service;

¹1-10-1972: *vide* Notification No. GSR 420(E) dated the 28th September, 1972. See Gazette of India, Extraordinary, Part II, Sec. 3(i), p. 1159.

(d) "I.P. member of the Indian Police Service" means a person who was appointed to the Police Service of the Crown in India known as the Indian Police and who on the appointed day is a member of the Indian Police Service;

(e) "pension" has the meaning assigned to it in clause (17) of article 366 of the Constitution.

Condi-
tions of
service
of I.C.S.
mem-
bers
of the
Indian
Adminis-
trative
Service.

3. Subject to the other provisions of this Act, on and from the appointed day,—

(a) the conditions of service as respects,—

(i) remuneration,

(ii) leave, and

(iii) pension;

(b) the rights as respects disciplinary matters; and

(c) the conditions of service and the rights as respects all other matters,

of the I.C.S. members of the Indian Administrative Service shall be the same as those of the other members of that Service and accordingly and subject as aforesaid, the provisions of the All-India Services Act, 1951^{61 of 1951.} and the rules and regulations made or deemed to have been made thereunder, as in force from time to time, shall apply to and in relation to the I.C.S. members of the Indian Administrative Service, as they apply to and in relation to the other members of that Service.

Condi-
tions of
Service
of I.P.
mem-
bers
of the
Indian
Police
Service.

4. Subject to the other provisions of this Act, on and from the appointed day,—

(a) the conditions of service as respects,—

(i) remuneration,

(ii) leave, and

(iii) pension;

(b) the rights as respects disciplinary matters; and

(c) the conditions of service and the rights as respects all other matters,

of the I.P. members of the Indian Police Service shall be the same as those of the other members of that Service and accordingly and subject as aforesaid, the provisions of the All-India Services Act, 1951^{61 of 1951.} and the rules and regulations made or deemed to have been made thereunder, as in force from time to time, shall apply to and in relation to the I.P. members of the Indian Police Service as they apply to and in relation to the other members of that Service.

Pay of
I.C.S.
mem-
bers of
Indian
Adminis-
trative
Service
and I.P.
members
of Indian
Police
Service.

5. Notwithstanding anything contained in section 3 or section 4, an I.C.S. member of the Indian Administrative Service or an I.P. member of the Indian Police Service, as the case may be, holding a post specified in the Schedule or a post declared by the Central Government to be equivalent to such post shall, for so long as he holds that post, be entitled to draw pay as indicated against the post in the Schedule.

6. Notwithstanding anything contained in section 3 or section 4,—

(a) an I.C.S. member of the Indian Administrative Service, unless his service has been extended before the appointed day in accordance with the rules and regulations then applicable or is extended on or after that day in accordance with the rules and regulations applicable to the other members of the Indian Administrative Service, shall retire compulsorily,—

(i) where he attains the age of fifty-eight years before the expiry of six months from the appointed day, on the date of expiry of the said period of six months or on the date on which he shall retire compulsorily in accordance with the rules applicable to him immediately before the appointed day, whichever date is earlier;

(ii) in any other case, on his attaining the age of fifty-eight years;

(b) the Central Government shall have and shall be deemed always to have had the power to require an I.C.S. member of the Indian Administrative Service or an I.P. member of the Indian Police Service, in consultation with the Government of the State on whose cadre he is borne and after giving to such member at least three months' previous notice in writing, to retire in public interest from service on the date on which such member completes thirty years of qualifying service or attains fifty years of age or on any date thereafter to be specified in the notice;

(c) an I.C.S. member of the Indian Administrative Service or an I.P. member of the Indian Police Service may, after giving at least three months' previous notice in writing to the Government of the State on whose cadre he is borne, retire from service on the date on which such member completes thirty years of qualifying service or attains fifty years of age or on any date thereafter to be specified in the notice:

Provided that no member under suspension shall retire from service except with the specific approval of the Government of the State on whose cadre he is borne.

Explanation.—For the purposes of clause (b) and clause (c), "qualifying service" means service qualifying for purposes of pension.

7. Notwithstanding anything contained in section 3,—

(a) an I.C.S. member of the Indian Administrative Service shall, subject to the provisions of section 8 and subject to the same provisions in regard to the right of the Central Government to withdraw the whole or any part of pension or to order recovery of pension and the same conditions for grant of retirement benefits, as are applicable

Retire-
ment of
I.C.S.
members
of Indian
Adminis-
trative
Service
and I.P.
members
of Indian
Police
Service.

Pension
of I. C. S.
members
of Indian
Adminis-
trative
Service.

for the time being in the case of other members of the Indian Administrative Service, be entitled on his retirement from service in accordance with the provisions of section 6, to receive by way of annuity rupees thirteen thousand three hundred and thirty-three and one-third;

(b) no death-cum-retirement gratuity benefits shall be available to or in respect of an I.C.S. member of the Indian Administrative Service unless such member has exercised his option for such benefits before the appointed day in accordance with the orders of the Central Government in that behalf and the benefits admissible to or in relation to an I.C.S. member of the Service who so exercised his option shall be subject to the conditions specified in the said orders and to the same conditions for grant of retirement benefits as are applicable for the time being in the case of other members of the Indian Administrative Service;

(c) no family pension benefits shall be admissible in relation to an I.C.S. member of the Indian Administrative Service unless such member exercised his option in respect of such benefits before the appointed day in accordance with the orders of the Central Government in that behalf and the benefits admissible in relation to an I.C.S. member of the service who so exercised his option shall be subject to the conditions specified in the said orders;

(d) the Provident Fund account of an I.C.S. member of the Indian Administrative Service shall be credited, on his retirement or previous death, with the same amount, if any, as would have been credited by way of contribution in accordance with the rules in force immediately before the appointed day.

Pension payable to former Secretary of State Service officers in Indian currency only.

8. (1) No former Secretary of State Service officer shall be entitled, or be deemed ever to have been entitled, to claim,—

(a) pension in sterling; or

(b) that his pension shall be paid outside India; or

(c) where his pension was expressed in sterling or a fixed sterling minimum was applicable in respect of the pension payable to him, that his pension shall be computed in the rupee equivalent of the amount fixed in sterling at a rate of exchange exceeding the rate of rupees thirteen and one-third to the pound sterling.

(2) Notwithstanding any judgment, decree or order of any court, every former Secretary of State Service officer who has been paid the rupee equivalent or, as the case may be, the pound sterling equivalent of his pension by calculating such pension with reference to a rate of exchange exceeding the rate of exchange of rupees thirteen and one-third to the pound sterling, shall refund to the Central Government or, as the case may be, the State Government, the sum by which the amount paid to him exceeds the amount which would have been payable to him if the calculation had been made at the rate of exchange of rupees thirteen and one-third to the pound sterling and the Central Government or the State Government may set off, in such manner as it may deem fit, the amount required to be so refunded to it by any such officer against any sum (including pension) which is or which may become due from that Government to such officer.

(3) For the removal of doubts, it is hereby declared that the provisions of sub-sections (1) and (2) shall apply to a former Secretary of State Service officer who is holding or has held the office of the Chief Justice or other Judge of the Supreme Court or a High Court, the Comptroller and Auditor-General of India, the Chairman or other member of the Union or a State Public Service Commission or the Chief Election Commissioner as they apply to other former Secretary of State Service officers.

61 of 1951. 9. (1) For the purpose of bringing the provisions of any rules and regulations made or deemed to have been made under the All-India Services Act, 1951 or any rules, regulations or orders (including any other instrument having the force of law) applicable immediately before the appointed day to or in relation to former Secretary of State Service officers into accord with the provisions of this Act, the Central Government may, before the expiry of two years from the appointed day, by order published in the Official Gazette, make such adaptations and modifications of such rules, regulations or orders, whether by way of repeal or amendment, as may be necessary.

Power of Central Government to adapt certain rules, regulations and orders.

(2) The provisions of sub-section (1) shall be in addition to and not in derogation of any power under any other law to amend or repeal the rules, regulations and orders referred to in that sub-section.

10. Notwithstanding that no provision or insufficient provision has been made under section 9 for the adaptation of any rule, regulation or order referred to in that section, any court, tribunal or authority, required or empowered to enforce such rule, regulation or order may construe it with such modifications as may be necessary to bring it into accord with the provisions of this Act.

Power to construe rules, regulations and orders.

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

Power to remove difficulties.

Provided that no such order shall be made under this sub-section after the expiry of three years from the appointed day.

(2) Every order made under sub-section (1) shall, as soon as may be after it is made, be laid before each House of Parliament.

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

Act to have overriding effect.

13. Any order in respect of disciplinary matters in relation to any I.C.S. member of the Indian Administrative Service or any I.P. member of the Indian Police Service in force immediately before the appointed day shall continue in force as from the appointed day:

Saving of orders in respect of disciplinary matters.

Provided that nothing in this section shall derogate from the powers of the competent authority to vary or rescind such order.

THE SCHEDULE

(See section 5)

PART I

I.C.S Members of the Indian Administrative Service

Serial No.	Post	Pay or Scale of Pay
1.	Secretary to the Government of India	Rs. 4,000.
2.	Additional Secretary to the Government of India	Rs. 3,500.
3.	Joint Secretary to the Government of India	Rs. 3,000.
4.	First Member, Board of Revenue, Tamil Nadu	Rs. 3,750.

PART II

I. P. Members of the Indian Police Service

Serial No.	Post	Pay or Scale of Pay
1.	Director, Intelligence Bureau	Rs. 3,500.
2.	Director General, Central Reserve Police Force	Rs. 3,250.
3.	Deputy Director, Intelligence Bureau	Rs. 1,950—50—2,150 plus Rs. 100 Special Pay.
4.	Inspector-General of Police	Rs. 2,500—125—3,000.
5.	Commissioner of Police, Calcutta	Rs. 2,300—50—2,500.
6.	Deputy Inspector-General of Police	Rs. 1,950—50—2,150.

THE KHADI AND OTHER HANDLOOM INDUSTRIES
DEVELOPMENT (ADDITIONAL EXCISE DUTY ON
CLOTH) AMENDMENT ACT, 1972

No. 60 OF 1972

[26th November, 1972]

An Act further to amend the Khadi and other Handloom Industries
Development (Additional Excise Duty on Cloth) Act, 1953.

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

1. This Act may be called the Khadi and other Handloom Industries Short
Development (Additional Excise Duty on Cloth) Amendment Act, 1972. title.

~~1 XXX~~ 2. In section 3 of the Khadi and other Handloom Industries Deve- Amend-
lopment (Additional Excise Duty on Cloth) Act, 1953 (hereinafter refer- ment of
12 of 1953. red to as the principal Act), in sub-section (1), for the proviso, the section 2.
following proviso shall be substituted, and shall be deemed to have been
substituted with effect from the 10th day of January, 1957, namely:—

“Provided that no such duty shall be levied on cloth—

(i) which is exported out of India, or

4 Ss. 2 & 3 Repealed ⁴⁸³ by Act 38 of 1978, s. 2 of Sch. I

(ii) which is used in the manufacture of goods which are exported out of India.”.

Amendment of section 5.

3. In sub-section (2) of section 5 of the principal Act,—

(i) in clause (e), after the words “exempt from”, the words “the whole or any part of” shall be inserted, and shall be deemed to have been inserted with effect from the 1st day of March, 1960;

(ii) the following proviso shall be inserted, and shall be deemed always to have been inserted, namely:—

“Provided that any rule under clause (e) may be made so as to have retrospective effect from any date ~~not earlier than two years before the date of publication thereof.~~”.

Validation of duty of excise levied and collected under the principal Act in respect of certain period.

4. (1) Notwithstanding anything contained in the principal Act, or in the rules made thereunder, the duty of excise levied and collected or purporting to have been levied and collected under the principal Act during the period beginning on the 1st day of March, 1969 and ending with the 6th day of July, 1970, on the cotton fabrics referred to in sub-section (2), manufactured by a manufacturer, shall be deemed to have been validly levied and collected in accordance with the rules published with the notification of the Government of India in the former Ministry of Commerce and Industry No. S.R.O. 1479, dated the 25th July, 1953, as subsequently amended by the notification of the Government of India, in the Ministry of Foreign Trade No. S.O. 2369, dated the 7th July, 1970, as if those rules as so amended were in force at all material times when such duty was levied and collected and accordingly—

(i) no suit or other proceedings shall be maintained or continued in any court for the refund of any such duty so levied and collected;

(ii) no court shall enforce a decree or order directing the refund of any such duty so levied and collected; and

(iii) any such duty levied or assessed under the principal Act in respect of the aforesaid period, but not collected, may be recovered in the manner provided under the principal Act.

Explanation.—In this sub-section, “manufacturer” means a person who is engaged in the business of—

(i) spinning of cotton twist, yarn or thread; or

(ii) weaving of cotton fabrics; or

(iii) processing of cotton fabrics,

with the aid of power and who has a proprietary interest in at least two of the aforesaid businesses.

(2) The cotton fabrics referred to in sub-section (1), are—

(i) medium A fabrics, unprocessed;

(ii) medium B and coarse fabrics, being—

(a) unprocessed; or

(b) bleached; or

(c) dyed; or

(d) if bleached and dyed, not printed; or

(e) "Dhoti", "Sari", "Long Cloth", "Shirting" or "Drill" within the meaning of the *Explanation* to the notification of the Textile Commissioner No. S.O. 3656, dated the 13th October, 1964 issued under clause 22 of the Cotton Textiles (Control) Order, 1948.

THE CENTRAL SALES TAX (AMENDMENT) ACT, 1972

No. 61 OF 1972

[30th November, 1972]

An Act further to amend the Central Sales Tax Act, 1956.

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

Short
title
and
com-
mence-
ment.

1. (1) This Act may be called the Central Sales Tax (Amendment) Act, 1972.

(2) This section and sub-section (1) of section 14 shall come into force at once and the remaining provisions of this Act shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

Amend-
ment of
section 6.

~~2. In section 6 of the Central Sales Tax Act, 1956 (hereinafter referred to as the principal Act),—~~ 74 of 1956. (?)

(a) in sub-section (1), after the words "on all sales", the words "of goods other than electrical energy" shall be inserted;

¹ 1-4-1973: vide Notification No. GSR 55(E) dated the 9th February 1973, See Gazette of India Extraordinary, Part II, Sec. 3(i), p. 141.

Repealed

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

“(2) Notwithstanding anything contained in sub-section (1) or sub-section (1A), where a sale of any goods in the course of inter-State trade or commerce has either occasioned the movement of such goods from one State to another or has been effected by a transfer of documents of title to such goods during their movement from one State to another, any subsequent sale during such movement effected by a transfer of documents of title to such goods,—

(A) to the Government, or

(B) to a registered dealer other than the Government, if the goods are of the description referred to in sub-section (3) of section 8,

shall be exempt from tax under this Act:

Provided that no such subsequent sale shall be exempt from tax under this sub-section unless the dealer effecting the sale furnishes to the prescribed authority in the prescribed manner and within the prescribed time or within such further time as that authority may, for sufficient cause, permit,—

(a) a certificate duly filled and signed by the registered dealer from whom the goods were purchased containing the prescribed particulars in a prescribed form obtained from the prescribed authority; and

(b) if the subsequent sale is made—

(i) to a registered dealer, a declaration referred to in clause (a) of sub-section (4) of section 8, or

(ii) to the Government, not being a registered dealer, a certificate referred to in clause (b) of sub-section (4) of section 8:

Provided further that it shall not be necessary to furnish the declaration or the certificate referred to in clause (b) of the preceding proviso in respect of a subsequent sale of goods if,—

(a) the sale or purchase of such goods is, under the sales tax law of the appropriate State, exempt from tax generally or is subject to tax generally at a rate which is lower than three per cent. (whether called a tax or fee or by any other name); and

(b) the dealer effecting such subsequent sale proves to the satisfaction of the authority referred to in the preceding proviso that such sale is of the nature referred to in clause (A) or clause (B) of this sub-section.”.

Repealed

Insertion
of new
section
6A.

Burden
of proof,
etc.,
in case
of transfer
of goods
claimed
other-
wise
than by
way of
sale.

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

6A. (1) Where any dealer claims that he is not liable to pay tax under this Act, in respect of any goods, on the ground that the movement of such goods from one State to another was occasioned by reason of transfer of such goods by him to any other place of his business or to his agent or principal, as the case may be, and not by reason of sale, the burden of proving that the movement of those goods was so occasioned shall be on that dealer and for this purpose he may furnish to the assessing authority, within the prescribed time or within such further time as that authority may, for sufficient cause, permit, a declaration, duly filled and signed by the principal officer of the other place of business, or his agent or principal, as the case may be, containing the prescribed particulars in the prescribed form obtained from the prescribed authority, along with the evidence of despatch of such goods.

(2) If the assessing authority is satisfied after making such inquiry as he may deem necessary that the particulars contained in the declaration furnished by a dealer under sub-section (1) are true, he may, at the time of, or at any time before, the assessment of the tax payable by the dealer under this Act, make an order to that effect and thereupon the movement of goods to which the declaration relates shall be deemed for the purposes of this Act to have been occasioned otherwise than as a result of sale.

Explanation.—In this section, “assessing authority”, in relation to a dealer, means the authority for the time being competent to assess the tax payable by the dealer under this Act.

Amend-
ment of
section 7.

4. In section 7 of the principal Act,—

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

“(2A) Where it appears necessary to the authority to whom an application is made under sub-section (1) or sub-section (2) so to do for the proper realisation of the tax payable under this Act or for the proper custody and use of the forms referred to in clause (a) of the first proviso to sub-section (2) of section 6 or sub-section (1) of section 6A or clause (a) of sub-section (4) of section 8, he may, by an order in writing and for reasons to be recorded therein, impose as a condition for the issue of a certificate of registration a requirement that the dealer shall furnish in the prescribed manner and within such time as may be specified in the order such security as may be so specified, for all or any of the aforesaid purposes.”;

(b) in sub-section (3), after the words “rules made thereunder”, the words, brackets, figure and letter “and the condition, if any, imposed under sub-section (2A), has been complied with” shall be inserted;

Repealed

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

(3A) Where it appears necessary to the authority granting a certificate of registration under this section so to do for the proper realisation of tax payable under this Act or for the proper custody and use of the forms referred to in sub-section (2A), he may, at any time while such certificate is in force, by an order in writing and for reasons to be recorded therein, require the dealer, to whom the certificate has been granted, to furnish within such time as may be specified in the order and in the prescribed manner such security, or, if the dealer has already furnished any security in pursuance of an order under this sub-section or sub-section (2A), such additional security, as may be specified in the order, for all or any of the aforesaid purposes.

(3B) No dealer shall be required to furnish any security under sub-section (2A) or any security or additional security under sub-section (3A) by the authority referred to therein, unless he has been given an opportunity of being heard and the amount of security that may be required to be furnished by any dealer under either of the aforesaid sub-sections or the aggregate of the amount of such security and the amount of additional security that may be required to be furnished by any dealer under sub-section (3A), shall in no case exceed the tax payable, in accordance with the estimate of such authority, on the turnover of the dealer for the year in which such security or, as the case may be, additional security is required to be furnished.

(3C) Where the security furnished by a dealer under sub-section (2A) or sub-section (3A) is in the form of a surety bond and the surety becomes insolvent or dies, the dealer shall, within thirty days of the occurrence of any of the aforesaid events, inform the authority granting the certificate of registration and shall within ninety days of such occurrence furnish a fresh surety bond or furnish in the prescribed manner other security for the amount of the bond.

(3D) The authority granting the certificate of registration may by order and for good and sufficient cause forfeit the whole or any part of the security furnished by a dealer,—

(a) for realising any amount of tax or penalty payable by the dealer;

(b) if the dealer is found to have misused any of the forms referred to in sub-section (2A) or to have failed to keep them in proper custody:

Provided that no order shall be passed under this sub-section without giving the dealer an opportunity of being heard.

(3E) Where by reason of an order under sub-section (3D), the security furnished by any dealer is rendered insufficient, he shall make up the deficiency in such manner and within such time as may be prescribed.

Repealed

(3F) The authority issuing the forms referred to in sub-section (2A) may refuse to issue such forms to a dealer who has failed to comply with an order under that sub-section or sub-section (3A), or with the provisions of sub-section (3C) or sub-section (3E), until the dealer has complied with such order or such provisions, as the case may be.

(3G) The authority granting a certificate of registration may, on application by the dealer to whom it has been granted, order the refund of any amount or part thereof deposited by the dealer by way of security under this section, if it is not required for the purposes of this Act.

(3H) Any person aggrieved by an order passed under sub-section (2A), sub-section (3A), sub-section (3D) or sub-section (3G) may, within thirty days of the service of the order on him, but after furnishing the security, prefer, in such form and manner as may be prescribed, an appeal against such order to such authority (hereafter in this section referred to as the "appellate authority") as may be prescribed:

Provided that the appellate authority may, for sufficient cause, permit such person to present the appeal,—

- (a) after the expiry of the said period of thirty days; or
- (b) without furnishing the whole or any part of such security.

(3I) The procedure to be followed in hearing any appeal under sub-section (3H), and the fees payable in respect of such appeals shall be such as may be prescribed.

(3J) The order passed by the appellate authority in any appeal under sub-section (3H) shall be final;

(d) in sub-section (4), in clause (b), for the words "or has ceased to exist", the words, brackets, figures and letters "or has ceased to exist or has failed without sufficient cause, to comply with an order under sub-section (3A) or with the provisions of sub-section (3C) or sub-section (3E) or has failed to pay any tax or penalty payable under this Act" shall be substituted.

5. In section 8 of the principal Act,—

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

"(2A) Notwithstanding anything contained in sub-section (1A) of section 6 or sub-section (1) or sub-section (2) of this section, the tax payable under this Act by a dealer on his turnover in so far as the turnover or any part thereof relates to the sale of any goods, the sale or, as the case may be, the purchase of which is, under the sales tax law of the appropriate State,

Amendment of section 8:

Repealed

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exempt from tax generally or subject to tax generally at a rate which is lower than three per cent. (whether called a tax or fee or by any other name), shall be nil or, as the case may be, shall be calculated at the lower rate.

Explanation.—For the purposes of this sub-section a sale or purchase of any goods shall not be deemed to be exempt from tax generally under the sales tax law of the appropriate State if under that law the sale or purchase of such goods is exempt only in specified circumstances or under specified conditions or the tax is levied on the sale or purchase of such goods at specified stages or otherwise than with reference to the turnover of the goods.”;

(b) in sub-section (4), the following proviso shall be inserted at the end, namely:—

“Provided that the declaration referred to in clause (a) is furnished within the prescribed time or within such further time as that authority may, for sufficient cause, permit.”;

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

“(5) Notwithstanding anything contained in this section, the State Government may, if it is satisfied that it is necessary so to do in the public interest, by notification in the Official Gazette, and subject to such conditions as may be specified therein, direct,—

(a) that no tax under this Act shall be payable by any dealer having his place of business in the State in respect of the sales by him, in the course of inter-State trade or commerce, from any such place of business of any such goods or classes of goods as may be specified in the notification, or that the tax on such sales shall be calculated at such lower rates than those specified in sub-section (1) or sub-section (2) as may be mentioned in the notification;

(b) that in respect of all sales of goods or sales of such classes of goods as may be specified in the notification, which are made, in the course of inter-State trade or commerce, by any dealer having his place of business in the State or by any class of such dealers as may be specified in the notification to any person or to such class of persons as may be specified in the notification, no tax under this Act shall be payable or the tax on such sales shall be calculated at such lower rates than those specified in sub-section (1) or sub-section (2) as may be mentioned in the notification.”.

6. In section 9 of the principal Act, in sub-section (2), for the words “refunds, penalties,” the words “refunds, rebates, penalties,” shall be substituted.

Amend-
ment of
section 9.

Repealed

Insertion of new section 9B.

7. After section 9A of the principal Act, the following section shall be inserted, namely:—

Rounding off of tax, etc.

“9B. The amount of tax, interest, penalty, fine or any other sum payable, and the amount of refund due, under the provisions of this Act shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise, it shall be ignored:

Provided that nothing in this section shall apply for the purpose of collection by a dealer of any amount by way of tax under this Act in respect of any sale by him of goods in the course of inter-State trade or commerce.”

Amendment of section 10.

8. In section 10 of the principal Act,—

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

“(a) furnishes a certificate or declaration under sub-section (2) of section 6 or sub-section (1) of section 6A or sub-section (4) of section 8, which he knows, or has reason to believe, to be false; or

(aa) fails to get himself registered as required by section 7, or fails to comply with an order under sub-section (3A) or with the requirements of sub-section (3C) or sub-section (3E), of that section;”;

(b) in clause (d), for the word brackets and letter “clause (b)”, the words, brackets and letters “clause (b) or clause (c) or clause (d)” shall be substituted.

Amendment of section 10A.

9. In section 10A of the principal Act, in sub-section (1), for the words “the tax which would have been levied under this Act in respect of the sale to him of the goods if the offence had not been committed”, the words, brackets and figures “the tax which would have been levied under sub-section (2) of section 8 in respect of the sale to him of the goods, if the sale had been a sale falling within that sub-section” shall be substituted.

Amendment of section 13.

10. In section 13 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (b), after the words “the deductions which may be made”, the words, brackets, letters and figures “under clause (c) of sub-section (1) of section 8A” shall be inserted;

(ii) in clause (d), the words “the State of origin of such form or certificate and the time within which any such certificate or declaration shall be produced or furnished” shall be inserted at the end;

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

“(2) Every rule made by the Central Government under sub-section (1) 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

Repealed

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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.”;

(c) in sub-section (4),—

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

“(aa) the manner in which security may be furnished under sub-section (2A) or sub-section (3A) or sub-section (3C) of section 7 and the manner in which and the time within which any deficiency may be made up under sub-section (3E) of that section;”;

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

“(e) the authority from whom, the conditions subject to which and the fees subject to payment of which any form of certificate prescribed under clause (a) of the first proviso to sub-section (2) of section 6 or of declaration prescribed under sub-section (1) of section 6A or sub-section (4) of section 8 may be obtained, the manner in which such forms shall be kept in custody and records relating thereto maintained and the manner in which any such form may be used and any such certificate or declaration may be furnished;

(ee) the form and manner in which, and the authority to whom, an appeal may be preferred under sub-section (3H) of section 7, the procedure to be followed in hearing such appeals and the fees payable in respect of such appeals;”;

(d) in sub-section (5), for the words “the State Government”, the words “the Central Government or, as the case may be, the State Government” shall be substituted.

11. In section 14 of the principal Act,—

(a) for clause (i), the following clause shall be, and shall be deemed always to have been, substituted, namely:—

‘(i) coal, including coke in all its forms, but excluding charcoal:

Provided that during the period commencing on the 23rd day of February, 1967 and ending with the date of commencement of section 11 of the Central Sales Tax (Amendment) Act, 1972, this clause shall have effect subject to the modification that the words “but excluding charcoal” shall be omitted;”;

Amend-
ment of
section
14.

Repealed

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

“(iv) iron and steel, that is to say,—

(i) pig iron and cast iron including ingot moulds bottom plates, iron scrap, cast iron scrap, runner scrap and iron skull scrap;

(ii) steel semis (ingots, slabs, blooms and billets of all qualities, shapes and sizes);

(iii) skelp bars, tin bars, sheet bars, hoe-bars and sleeper bars;

(iv) steel bars (rounds, rods, squares, flats, octagons and hexagons, plain and ribbed or twisted, in coil form as well as straight lengths);

(v) steel structurals (angles, joists, channels, tees, sheet piling sections, Z sections or any other rolled sections);

(vi) sheets, hoops, strips and skelp, both black and galvanised, hot and cold rolled, plain and corrugated, in all qualities, in straight lengths and in coil form, as rolled and in rivetted condition;

(vii) plates both plain and chequered in all qualities;

(viii) discs, rings, forgings and steel castings;

(ix) tool, alloy and special steels of any of the above categories;

(x) steel melting scrap in all forms including steel skull, turnings and borings;

(xi) steel tubes, both welded and seamless, of all diameters and lengths, including tube fittings;

(xii) tin-plates, both hot dipped and electrolytic and tinfree plates;

(xiii) fish plate bars, bearing plate bars, crossing sleeper bars, fish plates, bearing plates, crossing sleepers and pressed steel sleepers, rails—heavy and light crane rails;

(xiv) wheels, tyres, axles and wheel sets;

(xv) wire rods and wires—rolled, drawn, galvanised, aluminised, tinned or coated such as by copper;

(xvi) defectives, rejects, cuttings or end pieces of any of the above categories;”;

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

“(v) jute, that is to say, the fibre extracted from plants belonging to the species *Corchorus capsularis* and *Corchorus olitorius* and the fibre known as mesta or bimli extracted from plants

Repealed

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of the species *Hibiscus cannabinus* and *Hibiscus sabdariffa*—*V. altissima* and the fibre known as *Sunn* or *Sunnhemp* extracted from plants of the species *Crotalaria juncea* whether baled or otherwise;”;

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

“(vi) Oilseeds, that is to say,—

- (i) Groundnut or Peanut (*Arachis hypogaea*);
- (ii) Sesamum or Til (*Sesamum orientale*);
- (iii) Cotton seed (*Gossypium* Spp.);
- (iv) Soyabean (*Glycine soja*);
- (v) Rapeseed and Mustard—
 - (1) Toria (*Brassica campestris var toria*);
 - (2) Rai (*Brassica juncea*);
 - (3) Jamba—Taramira (*Eruca Satiya*);
 - (4) Sarson, yellow and brown (*Brassica campestris var sarson*);
 - (5) Banarsi Rai or True Mustard (*Brassica nigra*);
- (vi) Linseed (*Linum usitatissimum*);
- (vii) Castor (*Ricinus communis*);
- (viii) Coconut (i.e. Copra excluding tender coconuts) (*Cocos nucifera*);
- (ix) Sunflower (*Helianthus annuus*);
- (x) Nigar seed (*Guizotia abyssinica*);
- (xi) Neem, vepa (*Azadirachta indica*);
- (xii) Mahua, illupai, Ippe (*Madhuca indica M. Latifolia*, *Bassia, Latifolia* and *Madhuca longifolia* syn. *M. Longifolia*);
- (xiii) Karanja, Pongam, Honga (*Pongamia pinnata* syn. *P. Glabra*);
- (xiv) Kusum (*Schleichera oleosa*, syn. *S. Trijuga*);
- (xv) Punna, Undi (*Calophyllum inophyllum*);
- (xvi) Kokum (*Carcinia indica*);
- (xvii) Sai (*Shorea robusta*);
- (xviii) Tung (*Aleurites fordii* and *A. montana*);
- (xix) Red palm (*Elaeis guinensis*);
- (xx) Safflower (*Carthamus tinctorius*);”.

12. In section 15 of the principal Act, in clause (b),—

(a) for the words “the tax so levied”, the words “and tax has been paid under this Act in respect of the sale of such goods in the course of inter-State trade or commerce, the tax levied under such law” shall be, and shall be deemed to have been, substituted, with effect from the 1st day of October, 1958;

Amendment of
section 15

Repealed

(b) for the words "shall be refunded to such person", the words "shall be reimbursed to the person making such sale in the course of inter-State trade or commerce" shall be substituted.

Insertion of new Chapter V.

13. In the principal Act, after Chapter IV, the following Chapter shall be inserted, namely:—

CHAPTER V

LIABILITY IN SPECIAL CASES

Definitions.

16. In this Chapter,—

(a) "appropriate authority", in relation to a company, means the authority competent to assess tax on the company;

(b) "company" and "private company" have the meanings respectively assigned to them by clauses, (i) and (iii) of sub-section (1) of section 3 of the Companies Act, 1956.

1 of 1956.

Company in liquidation.

17. (1) Every person—

(a) who is the liquidator of any company which is being wound up, whether under the orders of a court or otherwise; or

(b) who has been appointed the receiver of any assets of a company,

(hereinafter referred to as the liquidator) shall, within thirty days after he has become such liquidator, give notice of his appointment as such to the appropriate authority.

(2) The appropriate authority shall, after making such inquiry or calling for such information as it may deem fit, notify to the liquidator within three months from the date on which he receives notice of the appointment of the liquidator the amount which, in the opinion of the appropriate authority would be sufficient to provide for any tax which is then, or is likely thereafter to become, payable by the company.

(3) The liquidator shall not part with any of the assets of the company or the properties in his hands until he has been notified by the appropriate authority under sub-section (2) and on being so notified, shall set aside an amount equal to the amount notified and, until he so sets aside such amount, shall not part with any of the assets of the company or the properties in his hands:

Provided that nothing contained in this sub-section shall debar the liquidator from parting with such assets or properties in compliance with any order of a court or for the purpose of the payment of the tax payable by the company under this Act or for making any payment to secured creditors whose debts are entitled under law to priority of payment over debts due to Government on the date of liquidation or for meeting such costs and expenses of the winding up of the company as are in the opinion of the appropriate authority reasonable.

(4) If the liquidator fails to give the notice in accordance with sub-section (1) or fails to set aside the amount as required by, or parts with any of the assets of the company or the properties in his hands in contravention of the provisions of sub-section (3), he shall be personally liable for the payment of the tax which the company would be liable to pay:

Provided that if the amount of any tax payable by the company is notified under sub-section (2), the personal liability of the liquidator under this sub-section shall be to the extent of such amount.

(5) Where there are more liquidators than one, the obligations and liabilities attached to the liquidator under this section shall attach to all the liquidators jointly and severally.

(6) The provisions of this section shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

1 of 1956.

18. Notwithstanding anything contained in the Companies Act, 1956, when any private company is wound up after the commencement of this Act, and any tax assessed on the company under this Act for any period, whether before or in the course of or after its liquidation, cannot be recovered, then, every person who was a director of the private company at any time during the period for which the tax is due shall be jointly and severally liable for the payment of such tax unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

Liability of directors of private company in liquidation.

14. (1) The principal Act, as in force on the 5th day of August, 1971, is hereby extended to, and shall be in force in, the Kohima and Mokokchung districts in the State of Nagaland.

Extension of the principal Act to Kohima and Mokokchung districts in the State of Nagaland

(2) The amendments made to the principal Act by this Act shall come into force in the Kohima and Mokokchung districts in the State of Nagaland on the date on which this sub-section comes into force.

15. (1) Notwithstanding anything contained in any judgment, decree or order of any court or other authority to the contrary, any assessment, re-assessment, levy or collection of any tax made or purporting to have been made, any action or thing taken or done in relation to such assessment, re-assessment, levy or collection under the provisions of the principal Act before the commencement of this section shall be deemed to be as valid and effective as if such assessment, re-assessment, levy or collection or action or thing had been made, taken or done under the principal Act as amended by clause (a) of section 11 and clause (a) of section 12 of this Act, and accordingly—

Validation of assessments, etc.

(a) all acts, proceedings or things done or action taken by the State Government or by any other officer of the State Government

or by any other authority in connection with the assessment, re-assessment, levy or collection of such tax shall, for all purposes, be deemed to be and to have always been done or taken in accordance with law;

(b) no suit or other proceedings shall be maintained or continued in any court or before any authority for the refund of any such tax; and

(c) no court shall enforce any decree or order directing the refund of any such tax.

(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall be construed as preventing any person—

(a) from questioning in accordance with the provisions of the principal Act, as amended by this Act, the assessment, re-assessment, levy or collection of such tax for any period, or

(b) from claiming refund of any tax paid by him in excess of the amount due from him under the principal Act as amended by this Act.

THE LIMESTONE AND DOLOMITE MINES LABOUR
WELFARE FUND ACT, 1972

No. 62 OF 1972

[2nd December, 1972]

An Act to provide for the levy and collection of a cess on limestone and dolomite for the financing of activities to promote the welfare of persons employed in the limestone and dolomite mines.

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

1. (1) This Act may be called the Limestone and Dolomite Mines Labour Welfare Fund Act, 1972.

Short title,
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com-
mence-
ment.

(2) It extends to the whole of India.

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

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

Defini-
tions.

(a) "agent" and "owner" have the meanings respectively assigned to them in clauses (c) and (l) of sub-section (1) of section 2 of the Mines Act, 1952;

35 of 1952.

(b) "factory" and "occupier" have the meanings respectively assigned to them in clauses (m) and (n) of section 2 of the Factories Act, 1948;

66 of 1948.

¹1-12-1973 vide Notification No. G.S.R. 1272, dated the 14th November, 1973, see Gazette of India, Part II, Sec. 3(l), p. 2243.

(c) "manager" means the manager referred to in section 17 of 35 of 1952. the Mines Act, 1952;

(d) a person is said to be employed in a limestone or dolomite mine,—

(1) if he is employed within the premises or in the vicinity of such mine by the owner, agent or manager of such mine or by a contractor or any other agency exclusively in any one or more of the following, namely:—

(i) any limestone or dolomite mining operation;

(ii) the operation, servicing, maintenance or repair of any machinery or any part thereof used in or about such mine;

(iii) the loading, unloading or despatch of limestone or dolomite or any other material connected with the mining of limestone or dolomite;

(iv) any work in any office, canteen or creche situate within the precincts of such mine;

(v) any welfare, health, sanitary or conservancy services or any watch and ward duties at any place situate within such premises or vicinity, not being a place occupied by any residential building; or

(2) if, in any such area as may be notified by the Central Government in the Official Gazette in this behalf, he is employed by the owner, agent or manager of such mine or by a contractor or any other agency exclusively in the loading, unloading or despatch of limestone or dolomite or any other material connected with the mining of limestone or dolomite;

(e) "prescribed" means prescribed by rules made under this Act.

3. With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be levied and collected as a cess for the purposes of this Act on so much of limestone and dolomite produced in any mine—

Levy and collection of cess on limestone and dolomite.

(i) as is sold or otherwise disposed of to the occupier of any factory; or

(ii) as is used by the owner of such mine for any purpose in connection with the manufacture of cement, ~~iron or steel,~~

a duty of excise, at such rate not exceeding one rupee per metric tonne of limestone or dolomite, as the case may be, as the Central Government may, from time to time, fix by notification in the Official Gazette.

Explanation.—Where the owner of any limestone or dolomite mine is also the occupier of any factory, then, for the purposes of clause (ii), all limestone or dolomite, as the case may be, produced in the mine and not sold or otherwise disposed of to the occupier of any other factory shall be deemed, unless the contrary is proved, to have been used by such owner for any purpose in connection with the manufacture of ~~cement, iron or steel.~~

1/2 Ins by Act 70 of 1982, S.3 (retrospectively)

4. (1) Every duty of excise leviable under this Act on limestone or dolomite shall be payable— Payment of duty of excise.

(a) to the occupier of the factory, by the person by whom such limestone or dolomite is sold or otherwise disposed of to such occupier;

(b) to the Central Government, by the owner of the limestone or dolomite mine where the limestone or dolomite is used by such owner for any purpose in connection with the manufacture of ~~cement, iron or steel,~~

within such period as may be prescribed.

(2) All amounts referred to in clause (a) of sub-section (1) shall be collected by the occupier of the factory in such manner, and paid by him to the Central Government within such period, as may be prescribed.

5. (1) An amount equivalent to the proceeds of the duty of excise levied under this Act, reduced by the cost of collection as determined by the Central Government, together with any income from investment of the said amount and any other moneys received by the Central Government for the purposes of this Act, shall, after due appropriation made by Parliament by law, be paid to the credit of a fund to be called the Limestone and Dolomite Labour Welfare Fund (hereinafter referred to as the Fund). Application of proceeds of duty of excise.

(2) The Fund shall be applied by the Central Government to meet the expenditure incurred in connection with measures which, in the opinion of that Government, are necessary or expedient to promote the welfare of persons employed in the limestone or dolomite mines; and in particular—

(a) to defray the cost of measures for the benefit of persons employed in the limestone or dolomite mines directed towards—

(i) the improvement of public health and sanitation, the prevention of disease and the provision and improvement of medical facilities;

(ii) the provision and improvement of water supplies and facilities for washing;

(iii) the provision and improvement of educational facilities; and

(iv) the improvement of standards of living including housing and nutrition, the amelioration of social conditions and the provision of recreational facilities;

(b) to grant loan or subsidy to a State Government, a local authority or the owner of a limestone or dolomite mine, in aid of any scheme approved by the Central Government for any purpose connected with the welfare of persons employed in limestone or dolomite mines;

(c) to pay annually grants-in-aid to such of the owners of limestone or dolomite mines who provide to the satisfaction of the Central Government welfare facilities of the prescribed standard for the

Subs. by Act 70 of 1982, s. 4 (retrospectively)

benefit of person employed in their mines, so, however, that the amount payable as grants-in-aid to any such owner shall not exceed—

(i) the amount spent by him in the provision of welfare facilities as determined by the Central Government or any person specified by it in this behalf, or

(ii) such amount as may be prescribed,

whichever is less:

Provided that no grant-in-aid shall be payable in respect of any welfare facilities provided by the owner of a limestone or dolomite mine where the amount spent thereon determined as aforesaid is less than the amount prescribed in this behalf;

(d) to meet the allowances, if any, of the members of the Advisory Committees and the Central Advisory Committee constituted under sections 6 and 7 respectively and the salaries and allowances, if any, of persons appointed under section 8;

(e) any other expenditure which the Central Government may direct to be defrayed from the Fund.

Advisory
Commit-
tees.

6. (1) The Central Government may constitute as many Advisory Committees as it thinks fit, but not exceeding one for each of the principal limestone or dolomite producing States, to advise the Central Government on such matters arising out of the administration of this Act as may be referred to it by that Government, including matters relating to the application of the Fund.

(2) Each Advisory Committee shall consist of such number of persons as may be appointed to it by the Central Government and the members shall be chosen in such manner as may be prescribed:

Provided that each Advisory Committee shall include an equal number of members representing the Government, the owners of limestone and dolomite mines and the persons employed in the limestone and dolomite mines and that at least one member of each such Committee shall be a woman.

(3) The Chairman of each Advisory Committee shall be appointed by the Central Government.

(4) The Central Government shall publish in the Official Gazette the names of all members of every Advisory Committee.

Central
Advisory
Commit-
tee.

7. (1) The Central Government may constitute a Central Advisory Committee to co-ordinate the work of the Advisory Committees constituted under section 6 and to advise the Central Government on any matter arising out of the administration of this Act.

(2) The Central Advisory Committee shall consist of such number of persons as may be appointed to it by the Central Government and the members shall be chosen in such manner as may be prescribed:

Provided that the Central Advisory Committee shall include an equal number of members representing the Government, the owners of limestone and dolomite mines and the persons employed in the limestone and dolomite mines.

(3) The Chairman of the Central Advisory Committee shall be appointed by the Central Government.

(4) The Central Government shall publish in the Official Gazette the names of all members of the Central Advisory Committee.

8. (1) ~~The Central Government may appoint as many Inspectors, Welfare Administrators and such other officers and staff as it thinks necessary for the purposes of this Act.~~

Appointment of Inspectors, etc., and their powers.

(2) Every person so appointed shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

(3) ~~Any Inspector or Welfare Administrator may,—~~

(a) with such assistance, if any, as he may think fit, enter at any reasonable time, any place which he considers it necessary to enter for carrying out the purposes of this Act;

(b) do within such place anything necessary for the proper discharge of his duties; and

(c) exercise such other powers as may be prescribed.

9. Notwithstanding anything contained in this Act, if the Central Government is satisfied that there is in force in any State or part thereof a law making adequate provision for the financing of activities to promote the welfare of persons employed in the limestone or dolomite mines, it may, by notification in the Official Gazette, direct that all or any of the provisions of this Act shall not apply or shall apply to such State or part thereof subject to such exceptions and modifications as may be specified in the notification.

Power of Central Government to exempt.

10. The Central Government shall, as soon as may be, after the end of each financial year cause to be published in the Official Gazette a report giving an account of its activities financed under this Act during the previous financial year, together with a statement of accounts.

Annual report of activities financed under the Act.

11. If any occupier of a factory or any owner of a limestone or dolomite mine fails to pay any amount payable by him to the Central Government under section 4 within the period prescribed therefor under that section, such occupier or owner, as the case may be, shall be liable to pay simple interest at twelve per cent. per annum on the amount to be paid, from the date on which such payment is due till such amount is actually paid.

Interest payable by occupiers of factories and owners of mines.

12. If any duty of excise payable by the occupier of the factory or the owner of the limestone or dolomite mine to the Central Government under section 4 is not paid to that Government within the period prescribed thereunder, it shall be deemed to be in arrears and the authority prescribed in this behalf may, after such inquiry as it deems fit, impose on the occupier of the factory or, as the case may be, on the owner of the limestone or dolomite mine a penalty not exceeding the amount of duty of excise in arrears:

Penalty for non-payment of duty of excise within the prescribed period.

1. Ins by Act 50 of 1982, S.S
2. Subs by S. 6, ibid

Provided that before imposing any such penalty such occupier or such owner, as the case may be, shall be given a reasonable opportunity of being heard and, if after such hearing the said authority is satisfied that the default was for any good and sufficient reason, no penalty shall be imposed under this section.

Recovery
of
amounts
due
under
the Act.

13. Any amount due under this Act (including the interest or penalty, if any, payable under section 11 or section 12, as the case may be) from any occupier of a factory or any owner of a limestone or dolomite mine may be recovered by the Central Government in the same manner as an arrear of land revenue.

Penalty
for
evasion
of
duty of
excise.

14. (1) Whoever wilfully or intentionally evades or attempts to evade the payment of duty of excise payable by him to the Central Government under this Act, shall, on conviction, be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) No court shall take cognizance of an offence punishable under this section, save on a complaint made by or under the authority of the Central Government.

Offences
by
com-
panies.

15. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

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

Power
to
make
rules.

16. (1) The Central Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the assessment and collection of the duty of excise levied under this Act;

(b) the period within which the person selling or otherwise disposing of the limestone or dolomite to the occupier of the factory shall pay the duty of excise to such occupier;

(c) the period within which the owner of the limestone or dolomite mine shall pay the duty of excise to the Central Government;

(d) the manner in which the occupier of the factory shall collect the duty of excise;

(e) the period within which the occupier of the factory shall pay to the Central Government the duty of excise collected by him;

(f) the determination of the cost of collection of the duty of excise levied under this Act;

(g) the manner in which the Fund may be applied for the measures specified in section 5;

(h) the conditions governing the grant of loan or subsidy under clause (b) of sub-section (2) of section 5;

(i) the standard of welfare facilities to be provided by owners of limestone or dolomite mines for the purposes of clause (c) of sub-section (2) of section 5;

(j) the determination of the amounts referred to in sub-clause (ii) of clause (c) of sub-section (2) of section 5 and in the proviso to that clause;

(k) the composition of the Advisory Committees and the Central Advisory Committee constituted under sections 6 and 7 respectively, the manner in which the members thereof shall be chosen, the term of office of such members, the allowances, if any, payable to them, and the manner in which the said Advisory Committees and the Central Advisory Committee shall conduct their business;

(l) the recruitment, conditions of service and the duties of all persons appointed under section 8;

(m) the powers that may be exercised by ~~an Inspector or a Welfare Administrator~~ under section 8;

(n) the furnishing to the Central Government by the occupier of factories and the owners, agents or managers of limestone or dolomite mines, of such statistical and other information as may be required to be furnished from time to time by that Government;

(o) the authority which may impose any penalty under section 12.

1 Rules and ins by Act 70 of 1982, S. 7

(3) In making any rule under clause (b) or clause (n) of sub-section (2), the Central Government may direct that a breach thereof shall be punishable with fine which may extend to five hundred rupees.

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

THE APPROPRIATION (RAILWAYS) No. 4 ACT, 1972

No. 63 OF 1972

[3rd December, 1972]

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 1972-73 for the purposes of Railways.

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

- 1. This Act may be called the Appropriation (Railways) No. 4 Act, 1972.** 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 fifteen crores and sixteen lakh rupees towards defraying the several charges which will come in course of payment during the financial year 1972-73, in respect of the services relating to Railways specified in column 2 of the Schedule.** Issue of Rs. 15,16,00,000 out of the Consolidated Fund of India for the financial year 1972-73.

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

THE SCHEDULE
(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Conso- lidated Fund	Total
		Rs.	Rs.	Rs.
1	Railway Board	88,000	..	88,000
2	Miscellaneous Expenditure	5,54,000	..	5,54,000
4	Working Expenses—Administration	1,28,05,000	..	1,28,05,000
5	Working Expenses—Repairs and Maintenance	5,52,35,000	..	5,52,35,000
6	Working Expenses—Operating Staff	3,14,45,000	..	3,14,45,000
7	Working Expenses—Operation (Fuel)	1,85,000	..	1,85,000
8	Working Expenses—Operation other than Staff and Fuel	13,95,000	..	13,95,000
9	Working Expenses—Miscellaneous Expenses	5,80,000	..	5,80,000
10	Working Expenses—Staff Welfare	39,26,000	..	39,26,000
14	Construction of New Lines—Capital and Depre- ciation Reserve Fund	2,000	..	2,000
15	Open Line Works—Capital, Depreciation Re- serve Fund and Development Fund	4,53,85,000	..	4,53,85,000
	TOTAL	15,16,00,000	..	15,16,00,000

THE APPROPRIATION (RAILWAYS) No. 5 ACT, 1972

No. 64 OF 1972

[3rd December, 1972]

An Act to provide for the authorisation of appropriation of money 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, 1971, in excess of the amounts granted for those services and for that year.

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

1. This Act may be called the Appropriation (Railways) No. 5 Act, 1972. 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 twenty-one lakhs, sixty-eight thousand, one hundred and sixty-three rupees shall be deemed to have been authorised to be paid and applied to meet the amount spent for defraying the charges in respect of the services relating to Railways specified in column 2 of the Schedule during the financial year ended on the 31st day of March, 1971, in excess of the amounts granted for those services and for that year. Issue of Rs. 21,68,163 out of the Consolidated Fund of India to meet certain expenditure for the year ended on the 31st March, 1971.

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, 1971. Appropriation.

THE SCHEDULE
(See sections 2 and 3)

I No. of Vote	2 Services and purposes	3 Sums aggregating to		
		Voted by Parliament	Charged on the Con- solidated Fund	Total
		Rs.	Rs.	Rs.
5	Working Expenses—Repairs and Main- tenance	16,97,586	..	16,97,586
6	Working Expenses—Operating Staff	..	4,708	4,708
14	Construction of New Lines—Capital and Depreciation Reserve Fund	..	51,885	51,885
16	Pensionary Charges—Pension Fund	4,13,984	..	4,13,984
	TOTAL	21,11,570	56,593	21,68,163

STATE OF INDIA

THE APPROPRIATION (No. 5) ACT, 1972

No. 65 OF 1972

[8th December, 1972]

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 1972-73.

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

1. This Act may be called the Appropriation (No. 5) Act, 1972.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of three hundred and nine crores, seventy-six lakhs and eighty-eight thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1972-73, in respect of the services specified in column 2 of the Schedule.

Short
title.
Issue of
Rs. 3,09,76,
88,000
out of the
Consoli-
dated
Fund of
India for
the year
1972-73.

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	2	3		
		Sums not exceeding		
No. of Vote	Services and purposes	Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	
5	Defence Services, Non-effective . . . . .	..	3,000	3,000
11	Ministry of Finance . . . . .	..	4,000	4,000
39	Department of Personnel . . . . .	..	1,000	1,000
53	Industries	2,16,79,000	..	2,16,79,000
63	Department of Rehabilitation	1,000	..	1,000
100	Supplies and Disposals . . . . .	..	1,06,000	1,06,000
113	Loans and Advances by the Central Government	2,18,00,000	2,50,00,00,000	2,52,18,00,000
129	Other Capital Outlay of the Ministry of Steel and Mines	48,51,93,000	..	48,51,93,000
131	Other Capital Outlay of the Ministry of Tourism and Civil Aviation	6,89,00,000	..	6,89,00,000
136	Capital Outlay on Posts and Telegraphs (Not met from Revenue)	1,000	..	1,000
	TOTAL	59,75,74,000	2,50,01,14,000	3,09,76,88,000

THE APPROPRIATION (No. 6) ACT, 1972

No. 66 OF 1972

[8th December, 1972]

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, 1971, in excess of the amounts granted for those services and for that year.

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

1. This Act may be called the Appropriation (No. 6) Act, 1972.

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 fifty-five crores, fifty-four lakhs, six thousand, two hundred and sixteen 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, 1971, in excess of the amounts granted for those services and for that year.

Issue of Rs. 55,54,06,216 out of the Consolidated Fund of India to meet certain excess expenditure for the year ended on the 31st March, 1971.

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, 1971.

Appropriation.

THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3		
		Excess		Total
		Voted portion	Charged portion	
		Rs.	Rs.	Rs.
1	Ministry of Defence	3,12,480	..	3,12,480
2	Defence Services, Effective—Army	16,21,33,723	..	16,21,33,723
4	Defence Services, Effective—Air Force	4,01,43,088	..	4,01,43,088
6	Ministry of Education and Youth Services	26,501	..	26,501

1 No. of Vote	2 Services and purposes	3		
		Voted portion	Excess	
			Charged portion	Total
		Rs.	Ks.	Rs.
8	Archaeology	85,927	..	85,927
14	Ministry of Finance	4,12,197	..	4,12,197
25	Other Revenue Expenditure of the Ministry of Finance	33,71,060	..	33,71,060
	<i>Interest on Debt and Other Obligations and Reduction or Avoidance of Debt</i>	..	1,62,32,272	1,62,32,272
34	Ministry of Foreign Trade	1,40,962	..	1,40,962
39	Public Works	4,92,71,770	2,08,063	4,94,79,833
42	Ministry of Home Affairs	5,67,599	..	5,67,599
43	Cabinet	10,449	..	10,449
45	Police	84,32,443	..	84,32,443
48	Privy Purses and Allowances of Indian Rulers	27,825	..	27,825
51	Chandigarh	3,05,877	..	3,05,877
53	Tribal Areas	49,81,977	..	49,81,977
54	Dadra and Nagar Haveli Area	2,33,505	..	2,33,505
61	Ministry of Information and Broadcasting	10,818	..	10,818
73	Other Revenue Expenditure of the Ministry of Law	7,91,372	..	7,91,372
77	Ministry of Shipping and Transport	4,24,293	..	4,24,293
78	Roads	1,34,74,536	..	1,34,74,536
89	Aviation	9,06,115	..	9,06,115
95	Posts and Telegraphs—Working Ex- penses . . . . .	..	1,169	1,169
96	Posts and Telegraphs Dividend to General Revenues, Appropriations to Reserve Funds and Repayment of Loans from General Revenues	7,76,29,884	..	7,76,29,884
105	Defence Capital Outlay	4,87,25,688	..	4,87,25,688
115	Purchase of Foodgrains and Fertilisers	11,90,25,875	..	11,90,25,875
119	Delhi Capital Outlay	21,53,445	14,71,019	35,64,464
127	Capital Outlay of the Ministry of Labour, Employment and Rehabilitation	62,335	..	62,335
129	Capital Outlay on Roads . . . . .	..	1,37,868	1,37,868
130	Capital Outlay on Ports . . . . .	..	3,22,542	3,22,542
137	Other Capital Outlay of the Department of Communications	34,31,539	..	34,31,539
	TOTAL	55,70,93,283	1,83,12,933	55,54,06,216

Rep. by Act 38 of 1972, S. 2 of Sch. I

THE FOOD CORPORATIONS (AMENDMENT) ACT, 1972

No. 67 OF 1972

[15th December, 1972]

An Act further to amend the Food Corporations Act, 1964.

Enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

1. This Act may be called the Food Corporations (Amendment) Act, 1972. Short title.
2. In section 1 of the Food Corporations Act, 1964 (hereinafter referred to as the principal Act), in sub-section (2), the words "except the State of Jammu and Kashmir" shall be omitted. Amendment of section 1.
3. In section 2 of the principal Act, after clause (b), the following clause shall be inserted, namely:— Amendment of section 2.

“(bb) “foodstuffs” includes edible oilseeds and oils;”
4. In section 4 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:— Amendment of section 4.

“(2) The Corporation may establish offices or agencies at other places in or outside India:

Provided that no such office or agency shall be established at any place outside India without the previous approval of the Central Government.”
5. In section 27 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:— Amendment of section 27.

“(3) A Food Corporation may, for the purpose of carrying out its functions under this Act, also borrow money from the Central Government, and that Government may, after due appropriation made by Parliament by law in this behalf, pay to the Food Corporation such sums of money by way of loan on such terms and conditions as that Government may determine.”

Amend-
ment of
section 34.

6. In section 34 of the principal Act, for sub-section (5), the following sub-sections shall be substituted, namely:—

“(5) The Comptroller and Auditor-General of India shall have power—

(a) to direct the manner in which the accounts of a Food Corporation shall be audited by the auditors appointed under sub-section (3) and to give such auditors instructions in regard to any matter relating to the performance of their functions as such;

(b) to conduct a supplementary or test audit of the accounts of a Food Corporation by such person or persons as he may authorise in this behalf; and for the purpose of such audit, to require information or additional information to be furnished to any person or persons so authorised, on such matters, by such person or persons, and in such form, as the Comptroller and Auditor-General may, by general or special order, direct.

(6) The auditors shall send a copy of their report together with an audited copy of the accounts—

(a) to the Food Corporation concerned;

(b) where the accounts relate to a State Food Corporation, also to the Food Corporation of India;

(c) to the Central Government; and

(d) to the Comptroller and Auditor-General of India who shall have the right to comment upon, or supplement the audit report in such manner as he may think fit.

(7) Any comments upon, or supplement to, the Audit report, made by the Comptroller and Auditor-General of India under clause (d) of sub-section (6) shall be placed by the Food Corporation concerned before the Central Government, and where the accounts relate to a State Food Corporation, also before the Food Corporation of India.”

Amend-
ment of
section 35.

7. In section 35 of the principal Act, in sub-section (2), after the words and figures “received under section 34”, the words “together with any comments thereon or supplement thereto by the Comptroller and Auditor-General of India” shall be inserted.

Rep. by Act. 38 of 1978, S. 2 + Sch. I

THE PAYMENT OF BONUS (AMENDMENT) ACT, 1972

No. 68 OF 1972

[19th December, 1972]

An Act further to amend the Payment of Bonus Act, 1965.

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

1. This Act may be called the Payment of Bonus (Amendment) Act, 1972. Short title.

21 o 1965. 2. In the Payment of Bonus Act, 1965 (hereinafter referred to as the principal Act), section 10 shall be re-numbered as sub-section (1) thereof, and— Amendment of section 10.

(i) in sub-section (1) as so re-numbered, in the proviso, for the words "this section", the words "this sub-section" shall be substituted;

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

"(2) Notwithstanding anything contained in sub-section (1), but subject to the provisions of sections 8 and 13, every employer shall be bound to pay to every employee in respect of the accounting year commencing on any day in the year 1971 a minimum bonus which shall be eight and one-third per cent. of the salary or wage earned by the employee during that accounting year or eighty rupees, whichever is higher; whether there are profits in that accounting year or not:

Provided that where such employee has not completed fifteen years of age at the beginning of that accounting year, the provisions of this sub-section shall have effect in relation to such employee as if for the words "eighty rupees", the words "fifty rupees" were substituted."

Amend-
ment of
section 13.

3. To section 13 of the principal Act, the following proviso shall be added, namely:—

‘Provided that in respect of the accounting year commencing on any day in the year 1971, the provisions of this section shall have effect as if for the words “forty rupees”, “twenty-five rupees” and “four per cent.”, the words “eighty rupees”, “fifty rupees” and “eight and one-third per cent.” respectively were substituted.’.

Amend-
ment of
section 19.

4. Section 19 of the principal Act shall be re-numbered as sub-section (1) thereof, and—

(i) in sub-section (1) as so re-numbered, for the words “All amounts”, the words “Subject to the provisions of this section, all amounts” shall be substituted;

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

(2) Where the percentage of the salary or wage of an employee payable by way of bonus under this Act (including section 34) in the accounting year commencing on any day in the year 1971 is the same as that paid or payable by way of bonus under this Act (including section 34) to such employee in respect of the accounting year immediately preceding the aforesaid accounting year, the entire amount payable to such employee in the first mentioned accounting year shall be paid in cash within the time-limit specified in sub-section (1).

(3) Where the percentage of the salary or wage of an employee payable by way of bonus under this Act (including section 34) in the accounting year commencing on any day in the year 1971 is higher than that paid or payable by way of bonus under this Act (including section 34) to such employee in respect of the accounting year immediately preceding the aforesaid accounting year, so much of the amount calculated with reference to the difference in such percentages shall be remitted by the employer to the authority maintaining the provident fund account of such employee for crediting the same in that account and the balance shall be paid in cash to the employee, within the time-limit specified in sub-section (1).

Provided that where any employee enters into the service of an employer only during the accounting year commencing on any day in the year 1971, then, for the purposes of this sub-section, the percentage of bonus payable to such employee in cash and that to be remitted for crediting in his provident fund account shall be the same as in the case of employees of that employer who were in his service in the accounting year immediately preceding the aforesaid accounting year.

(4) Notwithstanding anything contained in sub-sections (2) and (3), where the percentage of the salary or wage of an employee payable by way of bonus under this Act (including section 34) in respect of the accounting year commencing on any day in the year 1971 does not exceed the minimum bonus calculated in accordance with the provisions of sub-section (2) of section 10 or of the proviso to section 13, as the case may be, the entire amount shall be paid in cash.

Repealed

(5) Where any employee has no provident fund account, the provisions of sub-sections (3) shall not apply to such employee and the amount payable to him by way of bonus under this Act (including section 34) shall be paid in accordance with the provisions of sub-section (1).

(6) Where any employer remits any amount for crediting in the provident fund account of an employee under sub-section (3),—

(i) the employer shall be deemed to have discharged his liability to pay the balance amount of bonus to such employee; and

(ii) the amount so remitted shall be deemed to be a contribution made by such employee in his provident fund account notwithstanding the fact that such amount together with the contribution that is being made by such employee for crediting in his provident fund account exceeds the maximum permissible contribution, if any, that may be made by him for crediting in the said account.

Explanation.—For the purposes of sub-sections (3) and (6), the expression “provident fund account”, in relation to an employee, means the individual provident fund account of such employee maintained under the Coal Mines Provident Fund, Family Pension and Bonus Schemes Act, 1948 and the schemes framed thereunder or the Employees' Provident Funds and Family Pension Fund Act, 1952 and the schemes framed thereunder or under any other law for the time being in force or maintained by such authority as may be specified by the Central Government in this behalf by notification in the Official Gazette, as the case may be.

46 of 1948.

19 of 1952.

46 of 1948.

19 of 1952.

(7) The provisions of the Coal Mines Provident Fund, Family Pension and Bonus Schemes Act, 1948 and the Employees' Provident Funds and Family Pension Fund Act, 1952 shall, so far as may be, apply in relation to the remittances to be made by an employer under sub-section (3) as they apply in relation to the contributions to be made by such employer under the aforesaid Acts.

8 of 1972.

5. (1) The Payment of Bonus (Amendment) Ordinance, 1972 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 as if this Act had come into force on the 23rd September, 1972.

THE CARRIAGE BY AIR ACT, 1972

No. 69 OF 1972

[19th December, 1972]

An Act to give effect to the Convention for the unification of certain rules relating to international carriage by air signed at Warsaw on the 12th day of October, 1929 and to the said Convention as amended by the Hague Protocol on the 28th day of September 1955 and to make provision for applying the rules contained in the said Convention in its original form and in the amended form (subject to exceptions, adaptations and modifications) to non-international carriage by air and for matters connected therewith.

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

Short title
extent and
commence-
ment.

1. (1) This Act may be called the Carriage by Air Act, 1972.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

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

(i) "amended Convention" means the Convention as amended by the Hague Protocol on the 28th day of September, 1955;

(ii) "Convention" means the Convention for the unification of certain rules relating to international carriage by air signed at Warsaw on the 12th day of October, 1929.

Applica-
tion of
Conven-
tion to
India.

3. (1) The rules contained in the First Schedule, being the provisions of the Convention relating to the rights and liabilities of carriers, passengers, consignors, consignees and other persons, shall, subject to the provisions of this Act, have the force of law in India in relation to any carriage by air to which those rules apply, irrespective of the nationality of the aircraft performing the carriage.

(2) The Central Government may, by notification in the Official Gazette, certify who are the High Contracting Parties to the Convention, in respect of what territories they are parties and to what extent they have availed themselves of the provisions of rule 36 in the First Schedule and any such notification shall be conclusive evidence of the matters certified therein.

(3) Any reference in the First Schedule to the territory of any High Contracting Party to the Convention shall be construed as a reference to all the territories in respect of which he is a party.

4 15-5-1973 : Vide Notifn. No. S.O. 170 (E), dt. 23-3-1973,
Gaz. of India, Exty., Pt. II, sec. 3 (ii), p. 535.

(4) Any reference in the First Schedule to agents of the carrier shall be construed as including a reference to servants of the carrier.

20 of 1934. (5) Every notification issued under sub-section (2) of section 2 of the Indian Carriage by Air Act, 1934 and in force immediately before the commencement of this Act shall be deemed to have been issued under sub-section (2) of this section and shall continue to be in force until such notification is superseded.

4. (1) The rules contained in the Second Schedule, being the provisions of the amended Convention relating to the rights and liabilities of carriers, passengers, consignors, consignees and other persons, shall, subject to the provisions of this Act, have the force of law in India in relation to any carriage by air to which those rules apply, irrespective of the nationality of the aircraft performing the carriage. Application of amended Convention to India.

(2) The Central Government may, by notification in the Official Gazette, certify who are the High Contracting Parties to the amended Convention and in respect of what territories they are parties, and any such notification shall be conclusive evidence of the matters certified therein.

(3) Any reference in the Second Schedule to the territory of any High Contracting Party to the amended Convention shall be construed as a reference to all the territories in respect of which he is a party.

(4) Any reference in the Second Schedule to agents of the carrier shall be construed as including a reference to servants of the carrier.

13 of 1855. 5. (1) Notwithstanding anything contained in the Fatal Accidents Act, 1855 or any other enactment or rule of law in force in any part of India, the rules contained in the First Schedule and in the Second Schedule shall, in all cases to which those rules apply, determine the liability of a carrier in respect of the death of a passenger. Liability in case of death.

(2) The liability shall be enforceable for the benefit of such of the members of the passengers family as sustained damage by reason of his death.

Explanation.—In this sub-section, the expression “member of a family” means wife or husband, parent, step-parent, grand-parent, brother, sister, half-brother, half-sister, child, step-child and grandchild:

Provided that in deducing any such relationship as aforesaid any illegitimate person and any adopted person shall be treated as being, or as having been, the legitimate child of his mother and reputed father or, as the case may be, of his adopters.

(3) An action to enforce the liability may be brought by the personal representative of the passenger or by any person for whose benefit the liability is under sub-section (2) enforceable, but only one action shall be brought in India in respect of the death of any one passenger, and every such action by whomsoever brought shall be for the benefit of all such persons so entitled as aforesaid as either are domiciled in India or not being domiciled there express a desire to take the benefit of the action.

(4) Subject to the provisions of sub-section (5), the amount recovered in any such action, after deducting any costs not recovered from the defendant, shall be divided between the persons entitled in such proportion as the Court may direct.

(5) The Court before which any such action is brought may, at any stage of the proceedings, make any such order as appears to the Court to be just and equitable in view of the provisions of the First Schedule or of the Second Schedule, as the case may be, limiting the liability of a carrier and of any proceedings which have been or are likely to be commenced outside India in respect of the death of the passenger in question.

Conversion of francs.

6. Any sum in francs mentioned in rule 22 of the First Schedule or of the Second Schedule, as the case may be, shall, for the purpose of any action against a carrier, be converted into rupees at the rate of exchange prevailing on the date on which the amount of damages to be paid by the carrier is ascertained by the Court.

Provisions regarding suits against High Contracting Parties who undertake carriage by air.

7. (1) Every High Contracting Party to the Convention or the amended Convention, as the case may be, who has not availed himself of the provisions of the Additional Protocol thereto, shall, for the purposes of any suit brought in a Court in India in accordance with the provisions of rule 28 of the First Schedule, or of the Second Schedule, as the case may be, to enforce a claim in respect of carriage undertaken by him, be deemed to have submitted to the jurisdiction of that Court and to be a person for the purposes of the Code of Civil Procedure, 1908.

5 of 1908.

(2) The High Court may make rules of procedure providing for all matters which may be expedient to enable such suits to be instituted and carried on.

(3) Nothing in this section shall authorise any Court to attach or sell any property of a High Contracting Party to the Convention or to the amended Convention.

Application of Act to carriage by air which is not international.

8. (1) The Central Government may, by notification in the Official Gazette, apply the rules contained in the First Schedule and any provision of section 3 or section 5 or section 6 to such carriage by air, not being international carriage by air as defined in the First Schedule, as may be specified in the notification, subject, however, to such exceptions, adaptations and modifications, if any, as may be so specified.

(2) The Central Government may, by notification in the Official Gazette, apply the rules contained in the Second Schedule and any provision of section 4 or section 5 or section 6 to such carriage by air, not being international carriage by air as defined in the Second Schedule, as may be specified in the notification, subject, however, to such exceptions, adaptations and modifications, if any, as may be so specified.

(3) Every notification issued by the Central Government under section 4 of the Indian Carriage by Air Act, 1934 and in force immediately before the commencement of this Act shall be deemed to have been issued under sub-section (1) and shall continue to be in force until such notification is superseded.

20 of 1934.

Repeal.

~~The Indian Carriage by Air Act, 1934 is hereby repealed.~~

20 of 1934.

↳ Repealed by Act 38 of 1978, S. 2 + Sch. I

THE FIRST SCHEDULE

(See section 3)

RULES

CHAPTER I

SCOPE—DEFINITIONS

1. (1) These rules apply to all international carriage of persons, luggage or goods performed by aircraft for reward. They apply also to such carriage when performed gratuitously by an air transport undertaking.

(2) In these rules, "High Contracting Party" means a High Contracting Party to the Convention.

(3) For the purposes of these rules the expression, "international carriage" means any carriage in which according to the contract made by the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transshipment, are situated either within the territories of two High Contracting Parties, or within the territory of a single High Contracting Party, if there is an agreed stopping place within a territory subject to the sovereignty, suzerainty, mandate or authority of another Power, even though that Power is not a party to the Convention. A carriage without such an agreed stopping place between territories subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party is not deemed to be international for the purposes of these rules.

(4) A carriage to be performed by several successive air carriers is deemed, for the purposes of these rules, to be one undivided carriage, if it has been regarded by the parties as a single operation, whether it has been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a series of contracts is to be performed entirely within a territory subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party.

2. (1) These rules apply to carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in rule 1.

(2) These rules do not apply to carriage performed under the terms of any international postal Convention.

CHAPTER II

DOCUMENTS OF CARRIAGE

Part I.—Passenger ticket

3. (1) For the carriage of passengers the carrier must deliver a passenger ticket which shall contain the following particulars:—

(a) the place and date of issue;

(b) the place of departure and of destination;

(c) the agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right, the alteration shall not have the effect of depriving the carriage of its international character;

(d) the name and address of the carrier or carriers;

(e) a statement that the carriage is subject to the rules relating to liability contained in this Schedule.

(2) The absence, irregularity or loss of the passenger ticket does not affect the existence or the validity of the contract of carriage, which shall none the less be subject to these rules. Nevertheless, if the carrier accepts a passenger without a passenger ticket having been delivered he shall not be entitled to avail himself of those provisions of this Schedule which exclude or limit his liability.

Part II.—Luggage ticket

4. (1) For the carriage of luggage, other than small personal objects of which the passenger takes charge himself, the carrier must deliver a luggage ticket.

(2) The luggage ticket shall be made out in duplicate, one part for the passenger and the other part for the carrier.

(3) The luggage ticket shall contain the following particulars:—

(a) the place and date of issue;

(b) the place of departure and of destination;

(c) the name and address of the carrier or carriers;

(d) the number of the passenger ticket;

(e) a statement that delivery of the luggage will be made to the bearer of the luggage ticket;

(f) the number and weight of the packages;

(g) the amount of the value declared in accordance with rule 22(2);

(h) a statement that the carriage is subject to the rules relating to liability contained in this Schedule.

(4) The absence, irregularity or loss of the luggage ticket does not affect the existence or the validity of the contract of carriage, which shall none the less be subject to these rules. Nevertheless, if the carrier accepts luggage without a luggage ticket having been delivered, or if the luggage ticket does not contain the particulars set out at (d), (f) and (h) of sub-rule (3), the carrier shall not be entitled to avail himself of those provisions of this Schedule which exclude or limit his liability.

Part III.—Air consignment note

5. (1) Every carrier of goods has the right to require the consignor to make out and hand over to him a document called an "air consignment note"; every consignor has the right to require the carrier to accept this document.

(2) The absence, irregularity or loss of this document does not affect the existence or the validity of the contract of carriage which shall, subject to the provisions of rule 9, be none the less governed by these rules.

6. (1) The air consignment note shall be made out by the consignor in three original parts and be handed over with the goods.

(2) The first part shall be marked "for the carrier" and shall be signed by the consignor. The second part shall be marked "for the consignee"; it shall be signed by the consignor and by the carrier and shall accompany the goods. The third part shall be signed by the carrier and handed by him to the consignor after the goods have been accepted.

(3) The carrier shall sign an acceptance of the goods.

(4) The signature of the carrier may be stamped; that of the consignor may be printed or stamped.

(5) If, at the request of the consignor, the carrier makes out the air consignment note, he shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

7. The carrier of goods has the right to require the consignor to make out separate consignment notes when there is more than one package.

8. The air consignment note shall contain the following particulars:—

(a) the place and date of its execution;

(b) the place of departure and of destination;

(c) the agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right the alteration shall not have the effect of depriving the carriage of its international character;

(d) the name and address of the consignor;

(e) the name and address of the first carrier;

(f) the name and address of the consignee, if the case so requires;

(g) the nature of the goods;

(h) the number of the packages, the method of packing and the particular marks or numbers upon them;

(i) the weight, the quantity and the volume or dimensions of the goods;

(j) the apparent condition of the goods and of the packing;

(k) the freight, if it has been agreed upon, the date and place of payment, and the person who is to pay it;

(l) if the goods are sent for payment on delivery, the price of the goods, and if the case so requires, the amount of the expenses incurred;

(m) the amount of the value declared in accordance with rule 22(2);

(n) the number of parts of the air consignment note;

(o) the documents handed to the carrier to accompany the air consignment note;

(p) the time fixed for the completion of the carriage and a brief note of the route to be followed, if these matters have been agreed upon;

(q) a statement that the carriage is subject to the rules relating to liability contained in this Schedule.

9. If the carrier accepts goods without an air consignment note having been made out, or if the air consignment note does not contain all the particulars set out in rule 8(a) to (i) inclusive and (q), the carrier shall not be entitled to avail himself of the provisions of this Schedule which exclude or limit his liability.

10. (1) The consignor is responsible for the correctness of the particulars and statements relating to the goods which he inserts in the air consignment note.

(2) The consignor will be liable for all damage suffered by the carrier or any other person by reason of the irregularity, incorrectness or incompleteness of the said particulars and statements.

11. (1) The air consignment note is *prima facie* evidence of the conclusion of the contract, of the receipt of the goods and of the conditions of carriage.

(2) The statements in the air consignment note relating to the weight, dimensions and packing of the goods, as well as those relating to the number of packages, are *prima facie* evidence of the facts stated; those relating to the quantity, volume and condition of the goods do not constitute evidence against the carrier except so far as they both have been, and are stated in the air consignment note to have been, checked by him in the presence of the consignor, or relate to the apparent condition of the goods.

12. (1) Subject to his liability to carry out all his obligations under the contract of carriage, the consignor has the right to dispose of the goods by withdrawing them at the aerodrome of departure or destination, or by stopping them in the course of the journey on any landing or, by calling for them to be delivered at the place of destination or in the course of the journey to a person other than the consignee named in the air consignment note, or by requiring them to be returned to the aerodrome of departure. He must not exercise the right of disposition in such a way as to prejudice the carrier or other consignors and he must repay any expenses occasioned by the exercise of this right.

(2) If it is impossible to carry out the orders of the consignor the carrier must so inform him forthwith.

(3) If the carrier obeys the orders of the consignor for the disposition of the goods without requiring the production of the part of the air consignment note delivered to the latter, he will be liable, without prejudice to his right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air consignment note.

(4) The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with rule 13. Nevertheless,

if the consignee declines to accept the consignment note or the goods, or if he cannot be communicated with, the consignor resumes his rights of disposition.

13. (1) Except in the circumstances set out in rule 12, the consignee is entitled, on arrival of the goods at the place of destination, to require the carrier to hand over to him the air consignment note and to deliver the goods to him, on payment of the charges due and on complying with the conditions of carriage set out in the air consignment note.

(2) Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the goods arrive.

(3) If the carrier admits the loss of the goods, or if the goods have not arrived at the expiration of seven days after the date on which they ought to have arrived, the consignee is entitled to put into force against the carrier the rights which flow from the contract of carriage.

14. The consignor and the consignee can respectively enforce all the rights given to them by rules 12 and 13, each in his own name, whether he is acting in his own interest or in the interest of another, provided that he carries out the obligations imposed by the contract.

15. (1) Rules 12, 13 and 14 do not affect either the relations of the consignor or the consignee, with each other or the mutual relations of third parties whose rights are derived either from the consignor or from the consignee.

(2) The provisions of rules 12, 13 and 14 can only be varied by express provision in the air consignment note.

16. (1) The consignor must furnish such information and attach to the air consignment note such documents as are necessary to meet the formalities of customs, octroi or police before the goods can be delivered to the consignee. The consignor is liable to the carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents, unless the damage is due to the fault of the carrier or his agents.

(2) The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

CHAPTER III

LIABILITY OF THE CARRIER

17. The carrier is liable for damage sustained in the event of the death or wounding of a passenger or any other bodily injury suffered by a passenger, if the accident which caused the damage so sustained took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

18. (1) The carrier is liable for damage sustained in the event of the destruction or loss of, or of damage to, any registered luggage or any goods, if the occurrence which caused the damage so sustained took place during the carriage by air.

(2) The carriage by air within the meaning of sub-rule (1) comprises the period during which the luggage or goods are in charge of the carrier, whether in an aerodrome or on board an aircraft, or, in the case of a landing outside an aerodrome, in any place whatsoever.

(3) The period of the carriage by air does not extend to any carriage by land, by sea or by river performed outside an aerodrome. If, however, such a carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transshipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air.

19. The carrier is liable for damage occasioned by delay in the carriage by air of passengers, luggage or goods.

20. (1) The carrier is not liable if he proves that he and his agents have taken all necessary measures to avoid the damage or that it was impossible for him or them to take such measures.

(2) In the carriage of goods and luggage the carrier is not liable if he proves that the damage was occasioned by negligent pilotage or negligence in the handling of the aircraft or in navigation and that, in all other respects, he and his agents have taken all necessary measures to avoid the damage.

21. If the carrier proves that the damage was caused by or contributed to by the negligence of the injured person the Court may exonerate the carrier wholly or partly from his liability.

22. (1) In the carriage of passengers the liability of the carrier for each passenger is limited to the sum of 1,25,000 francs. Where damages may be awarded in the form of periodical payments, the equivalent capital value of the said payments shall not exceed 1,25,000 francs. Nevertheless, by special contract the carrier and the passenger may agree to a higher limit of liability.

(2) In the carriage of registered luggage and of goods, the liability of the carrier is limited to a sum of 250 francs per kilogramme, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of the value at delivery and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the actual value to the consignor at delivery.

(3) As regards objects of which the passenger takes charge himself the liability of the carrier is limited to 5,000 francs per passenger.

(4) The sums mentioned in this rule shall be deemed to refer to the French franc consisting of sixty-five and a half milligrammes gold of millesimal fineness nine hundred.

23. Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in these rules shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract which shall remain subject to the provisions of this Schedule.

24. (1) In the cases covered by rules 18 and 19 any action for damages, however founded, can only be brought subject to the conditions and limits set out in this Schedule.

(2) In the cases covered by rule 17, the provisions of sub-rule (1) also apply, without prejudice to the questions as to who are the persons who have the right to bring suit and what are their respective rights.

25. (1) The carrier shall not be entitled to avail himself of the provisions of this Schedule which exclude or limit his liability, if the damage is caused by his wilful misconduct or by such default on his part as is in the opinion of the Court equivalent to wilful misconduct.

(2) Similarly the carrier shall not be entitled to avail himself of the said provisions, if the damage is caused as aforesaid by any agent of the carrier acting within the scope of his employment.

26. (1) Receipt by the person entitled to delivery of luggage or goods without complaint is *prima facie* evidence that the same have been delivered in good condition and in accordance with the document of carriage.

(2) In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within three days from the date of receipt in the case of luggage and seven days from the date of receipt in the case of goods. In the case of delay the complaint must be made at the latest within fourteen days from the date on which the luggage or goods have been placed at his disposal.

(3) Every complaint must be made in writing upon the document of carriage or by separate notice in writing despatched within the times aforesaid.

(4) Failing complaint within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on his part.

27. In the case of the death of the person liable, an action for damages lies in accordance with these rules against those legally representing his estate.

28. An action for damages must be brought at the option of the plaintiff, either before the Court having jurisdiction where the carrier is ordinarily resident, or has his principal place of business, or has an establishment by which the contract has been made or before the Court having jurisdiction at the place of destination.

29. The right of damages shall be extinguished if an action is not brought within two years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.

30. (1) In the case of carriage to be performed by various successive carriers and falling within the definition set out in sub-rule (4) of rule 1, each carrier who accepts passengers, luggage or goods is subjected to

the rules set out in this Schedule, and is deemed to be one of the contracting parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under his supervision.

(2) In the case of carriage of this nature, the passenger or his representative can take action only against the carrier who performed the carriage during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.

(3) As regards luggage or goods, the passenger or consignor will have a right of action against the first carrier, and the passenger or consignee who is entitled to delivery will have a right of action against the last carrier, and further, each may take action against the carrier who performed the carriage during which the destruction, loss, damage or delay took place. These carriers will be jointly and severally liable to the passenger or to the consignor or consignee.

CHAPTER IV

PROVISIONS RELATING TO COMBINED CARRIAGE

31. (1) In the case of combined carriage performed partly by air and partly by any other mode of carriage, the provisions of this Schedule apply only to the carriage by air, provided that the carriage by air falls within the terms of rule 1.

(2) Nothing in this Schedule shall prevent the parties in the case of combined carriage from inserting in the document of air carriage conditions relating to other modes of carriage, provided that the provisions of this Schedule are observed as regards the carriage by air.

CHAPTER V

GENERAL AND FINAL PROVISIONS

32. Any clause contained in the contract and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Schedule, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void. Nevertheless for the carriage of goods arbitration clauses are allowed, subject to these rules, if the arbitration is to take place in the territory of one of the High Contracting Parties within one of the jurisdictions referred to in rule 28.

33. Nothing contained in this Schedule shall prevent the carrier either from refusing to enter into any contract of carriage, or from making regulations which do not conflict with the provisions of this Schedule.

34. This Schedule does not apply to international carriage by air performed by way of experimental trial by air navigation undertakings with the view to the establishment of a regular line of air navigation, nor does it apply to carriage performed in extraordinary circumstances outside the normal scope of an air carrier's business.

35. The expression "days" when used in these rules means current days, not working days.

36. When a High Contracting Party has declared at the time of ratification of or of accession to the Convention that sub-rule (1) of rule 2 of these rules shall not apply to international carriage by air performed directly by the State, its colonies, protectorates or mandated territories or by any other territory under its sovereignty, suzerainty or authority, these rules shall not apply to international carriage by air so performed.

THE SECOND SCHEDULE

(See section 4)

RULES

CHAPTER I

SCOPE—DEFINITIONS

1. (1) These rules apply to all international carriage of persons, baggage or cargo performed by aircraft for reward. They apply equally to gratuitous carriage by aircraft performed by an air transport undertaking.

(2) In these rules, "High Contracting Party" means a High Contracting Party to the amended Convention.

(3) For the purposes of these rules, the expression, "international carriage" means any carriage in which, according to the agreement between the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transshipment, are situated either within the territories of two High Contracting Parties or within the territory of a single High Contracting Party if there is an agreed stopping place within the territory of another State, even if that State is not a High Contracting Party. Carriage between two points within the territory of a single High Contracting Party without an agreed stopping place within the territory of another State is not international carriage for the purposes of these rules.

(4) Carriage to be performed by several successive air carriers is deemed, for the purposes of these rules, to be one undivided carriage if it has been regarded by the parties as a single operation, whether it had been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a series of contracts is to be performed entirely within the territory of the same State.

2. (1) These rules apply to carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in rule 1.

(2) These rules shall not apply to carriage of mail and postal packages.

CHAPTER II

DOCUMENTS OF CARRIAGE

Part I.—Passenger ticket

3. (1) In respect of the carriage of passengers a ticket shall be delivered containing:

(a) an indication of the places of departure and destination;

(b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;

(c) a notice to the effect that, if the passenger's journey involves an ultimate destination or stop in a country other than the country of departure, the amended Convention may be applicable and that the amended Convention governs and in most cases limits the liability of carriers for death or personal injury and in respect of loss of, or damage to, baggage.

(2) The passenger ticket shall constitute *prima facie* evidence of the conclusion and conditions of the contract of carriage. The absence, irregularity or loss of the passenger ticket does not affect the existence or the validity of the contract of carriage which shall, none the less, be subject to these rules. Nevertheless, if, with the consent of the carrier, the passenger embarks without a passenger ticket having been delivered, or if the ticket does not include the notice required by sub-rule (1) (c) of this rule, the carrier shall not be entitled to avail himself of the provisions of rule 22.

Part II.—Baggage check

4. (1) In respect of the carriage of registered baggage, a baggage check shall be delivered, which, unless combined with or incorporated in a passenger ticket which complies with the provisions of sub-rule (1) of rule 3 shall contain:

(a) an indication of the places of departure and destination;

(b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;

(c) a notice to the effect that, if the carriage involves an ultimate destination or stop in a country other than the country of departure, the amended Convention may be applicable and that the amended Convention governs and in most cases limits the liability of carriers in respect of loss of, or damage to, baggage.

(2) The baggage check shall constitute *prima facie* evidence of the registration of the baggage and of the conditions of the contract of carriage. The absence, irregularity or loss of the baggage check does not affect the existence or the validity of the contract of carriage which shall, none the less, be subject to these rules. Nevertheless, if the carrier takes charge of the baggage without a baggage check having been delivered or if the baggage check [unless combined with or incorporated in the passenger ticket which complies with the provisions of sub-rule (1) (c) of rule 3] does not include the notice required by sub-rule (1) (c) of this rule, he shall not be entitled to avail himself of the provisions of sub-rule (2) of rule 22.

Part III.—Air waybill

5. (1) Every carrier of cargo has the right to require the consignor to make out and hand over to him a document called an "air waybill"; every consignor has the right to require the carrier to accept this document.

(2) The absence, irregularity or loss of this document does not affect the existence or the validity of the contract of carriage which shall, subject to the provisions of rule 9, be none the less governed by these rules.

6. (1) The air waybill shall be made out by the consignor in three original parts and be handed over with the cargo.

(2) The first part shall be marked "for the carrier", and shall be signed by the consignor. The second part shall be marked "for the consignee"; it shall be signed by the consignor and by the carrier and shall accompany the cargo. The third part shall be signed by the carrier and handed by him to the consignor after the cargo has been accepted.

(3) The carrier shall sign prior to the loading of the cargo on board the aircraft.

(4) The signature of the carrier may be stamped; that of the consignor may be printed or stamped.

(5) If, at the request of the consignor, the carrier makes out the air waybill, he shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

7. The carrier of cargo has the right to require the consignor to make out separate waybills when there is more than one package.

8. The air waybill shall contain:

(a) an indication of the places of departure and destination;

(b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;

(c) a notice to the consignor to the effect that, if the carriage involves an ultimate destination or stop in a country other than the country of departure, the amended Convention may be applicable and that the amended Convention governs and in most cases limits the liability of carriers in respect of loss of, or damage to, cargo.

9. If, with the consent of the carrier, cargo is loaded on board the aircraft without an air waybill having been made out, or if the air waybill does not include the notice required by rule 8 (c), the carrier shall not be entitled to avail himself of the provisions of sub-rule (2) of rule 22.

10. (1) The consignor is responsible for the correctness of the particulars and statements relating to the cargo which he inserts in the air waybill.

(2) The consignor shall indemnify the carrier against all damage suffered by him, or by any other person to whom the carrier is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements furnished by the consignor.

11. (1) The air waybill is *prima facie* evidence of the conclusion of the contract, of the receipt of the cargo and of the conditions of carriage.

(2) The statements in the air waybill relating to the weight, dimensions and packing of the cargo, as well as those relating to the number of packages, are *prima facie* evidence of the facts stated; those relating to the quantity, volume and condition of the cargo do not constitute

evidence against the carrier except so far as they both have been, and are stated in the air waybill to have been, checked by him in the presence of the consignor, or relate to the apparent condition of the cargo.

12. (1) Subject to his liability to carry out all his obligations under the contract of carriage, the consignor has the right to dispose of the cargo by withdrawing it at the aerodrome of departure or destination, or by stopping it in the course of the journey on any landing, or by calling for it to be delivered at the place of destination or in the course of the journey to a person other than the consignee named in the air waybill, or by requiring it to be returned to the aerodrome of departure. He must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors and he must repay any expenses occasioned by the exercise of this right.

(2) If it is impossible to carry out the orders of the consignor the carrier must so inform him forthwith.

(3) If the carrier obeys the orders of the consignor for the disposition of the cargo without requiring the production of the part of the air waybill delivered to the latter, he will be liable, without prejudice to his right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air waybill.

(4) The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with rule 13. Nevertheless, if the consignee declines to accept the waybill or the cargo, or if he cannot be communicated with, the consignor resumes his right of disposition.

13. (1) Except in the circumstances set out in the preceding rule, the consignee is entitled on arrival of the cargo at the place of destination to require the carrier to hand over to him the air waybill and to deliver the cargo to him, on payment of the charges due and on complying with the conditions of carriage set out in the air waybill.

(2) Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the cargo arrives.

(3) If the carrier admits the loss of the cargo, or if the cargo has not arrived at the expiration of seven days after the date on which it ought to have arrived, the consignee is entitled to put into force against the carrier the rights which flow from the contract of carriage.

14. The consignor and the consignee can respectively enforce all the rights given to them by rules 12 and 13, each in his own name, whether he is acting in his own interest or in the interest of another, provided that he carries out the obligations imposed by the contract.

15. (1) Rules 12, 13 and 14 do not affect either the relations of the consignor or the consignee with each other or the mutual relations of third parties whose rights are derived either from the consignor or from the consignee.

(2) The provisions of rules 12, 13 and 14 can only be varied by express provision in the air waybill.

(3) Nothing in these rules prevents the issue of a negotiable air waybill.

16. (1) The consignor must furnish such information and attach to the air waybill such documents as are necessary to meet the formalities of customs, octroi or police before the cargo can be delivered to the consignee. The consignor is liable to the carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents, unless the damage is due to the fault of the carrier or his servants or agents.

(2) The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

CHAPTER III

LIABILITY OF THE CARRIER

17. The carrier is liable for damage sustained in the event of the death or wounding of a passenger or any other bodily injury suffered by a passenger, if the accident which caused the damage so sustained took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

18. (1) The carrier is liable for damage sustained in the event of the destruction or loss of, or of damage to, any registered baggage or any cargo, if the occurrence which caused the damage so sustained took place during the carriage by air.

(2) The carriage by air within the meaning of the preceding sub-rule comprises the period during which the baggage or cargo is in charge of the carrier, whether in an aerodrome or on board an aircraft, or, in the case of a landing outside an aerodrome, in any place whatsoever.

(3) The period of the carriage by air does not extend to any carriage by land, by sea or by river performed outside an aerodrome. If, however, such a carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transshipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air.

19. The carrier is liable for damage occasioned by delay in the carriage by air of passengers, baggage or cargo.

20. The carrier is not liable if he proves that he and his servants or agents have taken all necessary measures to avoid the damage or that it was impossible for him or them to take such measures.

21. If the carrier proves that the damage was caused by or contributed to by the negligence of the injured person the Court may, in accordance with the provisions of its own law, exonerate the carrier wholly or partly from his liability.

22. (1) In the carriage of persons the liability of the carrier for each passenger is limited to the sum of 2,50,000 francs. Where, in accordance with the law of the Court seized of the case, damages may be awarded in the form of periodical payments the equivalent capital value of the said payments shall not exceed 2,50,000 francs. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.

(2) (a) In the carriage of registered baggage and of cargo, the liability of the carrier is limited to a sum of 250 francs per kilogramme, unless the passenger or consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the passenger's or consignor's actual interest in delivery at destination.

(b) In the case of loss, damage or delay of part of registered baggage or cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier's liability is limited shall be only the total weight of the package or packages concerned. Nevertheless, when the loss, damage or delay of a part of the registered baggage or cargo, or of an object contained therein, affects the value of other packages covered by the same baggage check or the same air waybill, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.

(3) As regards objects of which the passenger takes charge himself the liability of the carrier is limited to 5,000 francs per passenger.

(4) The limits prescribed in this rule shall not prevent the Court from awarding, in accordance with its own law, in addition, the whole or part of the Court costs and of the other expenses of the litigation incurred by the plaintiff. The foregoing provision shall not apply if the amount of the damages awarded, excluding Court costs and other expenses of the litigation, does not exceed the sum which the carrier has offered in writing to the plaintiff within a period of six months from the date of the occurrence causing the damage, or before the commencement of the action, if that is later.

(5) The sums mentioned in francs in this rule shall be deemed to refer to a currency unit consisting of sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. These sums may be converted into national currencies in round figures. Conversion of the sums into national currencies other than gold shall, in case of judicial proceedings, be made according to the gold value of such currencies at the date of the judgment.

23. (1) Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in these rules shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of these rules.

(2) Sub-rule (1) of this rule shall not apply to provisions governing loss or damage resulting from the inherent defect, quality or vice of the cargo carried.

24. (1) In the cases covered by rules 18 and 19 any action for damages, however founded, can only be brought subject to the conditions and limits set out in these rules.

(2) In the cases covered by rule 17, the provisions of the preceding sub-rule also apply, without prejudice to the questions as to who are the persons who have the right to bring suit and what are their respective rights.

25. The limits of liability specified in rule 22 shall not apply if it is proved that the damage resulted from an act or omission of the carrier, his servants or agents, done with intent to cause damage or recklessly and with knowledge that damage would probably result; provided that, in the case of such act or omission of a servant or agent, it is also proved that he was acting within the scope of his employment.

26. (1) If an action is brought against a servant or agent of the carrier arising out of damage to which these rules relate, such servant or agent, if he proves that he acted within the scope of his employment, shall be entitled to avail himself of the limits of liability which that carrier himself is entitled to invoke under rule 22.

(2) The aggregate of the amounts recoverable from the carrier, his servants and agents, in that case, shall not exceed the said limits.

(3) The provisions of sub-rules (1) and (2) of this rule shall not apply if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result.

27. (1) Receipt by the person entitled to delivery of baggage or cargo without complaint is *prima facie* evidence that the same has been delivered in good condition and in accordance with the document of carriage.

(2) In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within seven days from the date of receipt in the case of baggage and fourteen days from the date of receipt in the case of cargo. In the case of delay the complaint must be made at the latest within twenty-one days from the date on which the baggage or cargo have been placed at his disposal.

(3) Every complaint must be made in writing upon the document of carriage or by separate notice in writing despatched within the times aforesaid.

(4) Failing complaint within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on his part.

28. In the case of the death of the person liable, an action for damages lies in accordance with the terms of these rules against those legally representing his estate.

29. (1) An action for damages must be brought, at the option of the plaintiff, in the territory of one of the High Contracting Parties, either before the Court having jurisdiction where the carrier is ordinarily resident, or has his principal place of business, or has an establishment by which the contract has been made or before the Court having jurisdiction at the place of destination.

(2) Questions of procedure shall be governed by the law of the Court seized of the case.

30. (1) The right to damages shall be extinguished if an action is not brought within two years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.

(2) The method of calculating the period of limitation shall be determined by the law of the Court seized of the case.

31. (1) In the case of carriage to be performed by various successive carriers and falling within the definition set out in sub-rule (3) of rule 1, each carrier who accepts passengers, baggage or cargo is subjected to the rules set out in this Schedule, and is deemed to be one of the contracting parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under his supervision.

(2) In the case of carriage of this nature, the passenger or his representative can take action only against the carrier who performed the carriage during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.

(3) As regards baggage or cargo, the passenger or consignor will have a right of action against the first carrier, and the passenger or consignee who is entitled to delivery will have a right of action against the last carrier, and further, each may take action against the carrier who performed the carriage during which the destruction, loss, damage or delay took place. These carriers will be jointly and severally liable to the passenger or to the consignor or consignee.

CHAPTER IV

PROVISIONS RELATING TO COMBINED CARRIAGE

32. (1) In the case of combined carriage performed partly by air and partly by any other mode of carriage, the provisions of this Schedule apply only to the carriage by air, provided that the carriage by air falls within the terms of rule 1.

(2) Nothing in this Schedule shall prevent the parties in the case of combined carriage from inserting in the document of air carriage conditions relating to other modes of carriage, provided that the provisions of this Schedule are observed as regards the carriage by air.

CHAPTER V

GENERAL AND FINAL PROVISIONS

33. Any clause contained in the contract and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Schedule, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void. Nevertheless for the carriage of cargo arbitration clauses are allowed, subject to these rules, if the arbitration is to take place within one of the jurisdictions referred to in sub-rule (1) of rule 29.

34. Nothing contained in this Schedule shall prevent the carrier either from refusing to enter into any contract of carriage, or from making regulations which do not conflict with the provisions of this Schedule.

35. The provisions of rules 3 to 9 (inclusive) relating to documents of carriage shall not apply in the case of carriage performed in extraordinary circumstances outside the normal scope of an air carrier's business.

36. The expression "days" when used in these rules means current days, not working days.

THE AIR CARRIAGE ACT 1925
(1925 CHAPTER 41)
PART I
AIR CARRIAGE

37. The provisions of rules 3 to 9 (inclusive) relating to documents of carriage shall not apply in the case of carriage performed in extraordinary circumstances outside the normal scope of an air carrier's business.

38. The expression "days" when used in these rules means current days, not working days.

39. The expression "days" when used in these rules means current days, not working days.

40. The expression "days" when used in these rules means current days, not working days.

41. The expression "days" when used in these rules means current days, not working days.

42. The expression "days" when used in these rules means current days, not working days.

43. The expression "days" when used in these rules means current days, not working days.

Rep. by Act 38 of 1978, S. 2 + Sch. I

THE COAL MINES LABOUR WELFARE FUND
(AMENDMENT) ACT, 1972
No. 70 OF 1972

[22nd December, 1972]

An Act further to amend the Coal Mines Labour Welfare Fund
ACT, 1947.

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

Short
title.

1. This Act may be called the Coal Mines Labour Welfare Fund
(Amendment) Act, 1972.

Amend-
ment of
section 3.

2. In section 3 of the Coal Mines Labour Welfare Fund Act, 1947 32 of 1947
(hereinafter referred to as the principal Act), in sub-section (1), for the
words "not less than four annas and not more than eight annas
per ton," the words "not less than twenty-five paise and more than
seventy-five paise per tonne," shall be substituted.

Amend-
ment of
section 4.

3. In section 4 of the principal Act, in sub-section (1), for the pro-
viso, the following proviso shall be substituted, namely:—

"Provided that there shall at all times be credited—

(a) to the housing account of the Fund, not less than
twelve paise, and

(b) to the general welfare account of the Fund, not more
than forty-five paise,—

out of the duty collected under this Act on every tonne of coal or
coke."

Repealed

4. In section 5 of the principal Act,—

Amendment of section 5.

(a) in sub-section (2), in clause (1), for the words "eight pies per ton", the words and figures "4.1 paise per tonne" shall be substituted;

(b) in sub-section (11) for the words and figures "section 144 of the Indian Companies Act, 1913", the words and figures "section 226 of the Companies Act, 1956" shall be substituted.

1913.
1956.

5. In section 10 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

Amendment of section 10.

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

Rep. by Act 38 of 1978, S. 2 of Sch. I

THE INDIAN RAILWAYS (AMENDMENT) ACT, 1972

No. 71 OF 1972

[22nd December, 1972]

An Act further to amend the Indian Railways Act, 1890.

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

Short
title.

1. This Act may be called the Indian Railways (Amendment) Act, 1972.

Amend-
ment of
section
77 and
77C.

2. In sub-sections (1) and (2) of section 77, and in sub-section (3) of section 77C, of the Indian Railways Act, 1890, for the words "thirty days", 9 of 1 the words "seven days" shall be substituted.

THE SICK TEXTILE UNDERTAKINGS (TAKING OVER
OF MANAGEMENT) ACT, 1972

No. 72 OF 1972

[23rd December, 1972]

An Act to provide for the taking over, in the public interest, of the management of the sick textile undertakings, pending nationalisation of such undertakings, for the expeditious rehabilitation of such undertakings so that such rehabilitation may subserve the interests of the general public by the augmentation of the production and distribution, at fair prices, of cheaper varieties of cloth, and for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Sick Textile Undertakings (Taking Over of Management) Act, 1972. Short title and commencement.

(2) It shall be deemed to have come into force on the 31st day of October, 1972.

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

(a) "appointed day" means the 31st day of October, 1972;

Definitions.

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

(c) "owner", in relation to a textile undertaking, means the company, individual, body of individuals or firm by which it is owned;

(d) "sick textile undertaking" means the textile undertaking which falls within one or more of the following categories, namely:—

(i) which is owned by a textile company which is being wound up, whether voluntarily or by or under the supervision of any Court, or in respect of which a provisional liquidator has been appointed by a Court,

(ii) which had remained closed for a period of not less than three months immediately before the appointed day and the closure of which is prejudicial to the textile industry, and the condition of the undertaking is such that it may, with reasonable inputs, be re-started in the interests of the general public,

(iii) which has been leased to Government or any other person or the management of which has been taken over by Government or any other person under any leave or licence granted by any Receiver or Liquidator by or under the orders of, or with the approval of, any Court,

(iv) the management of which was authorised by the Central Government, by a notified order made under section 18A, or in pursuance of an order made by the High Court under section 18FA, of the Industries (Development and Regulation) Act, 1951, to be taken over by a person or body of persons, but such management could not be taken over by such person or body of persons, before the appointed day, 65 of 1951

(v) the management of which ought to be [according to the report made after investigation by any person or body of persons appointed after the 1st day of January, 1970, under section 15 or section 15A of the Industries (Development and Regulation) Act, 1951] taken over under section 18A of that Act, but in relation to which no notified order authorising any person or body of persons to take over the management of such undertaking was made before the appointed day, 65 of 1951

(vi) in respect of which an investigation was caused to be made, before the appointed day, by the Central Government under section 15 or section 15A of the Industries (Development and Regulation) Act, 1951, and the report of such investigation was not received by the Central Government before the appointed day; 65 of 1951

and includes any textile undertaking which is deemed, under subsection (2), of section 4, to be a sick textile undertaking;

(e) "textile" includes yarn or fabrics made either wholly or partly of cotton, wool, jute, synthetic and artificial (man-made) fibres;

(f) "textile company" means a company specified in the third column of the First Schedule as owning the textile undertaking specified in the corresponding entry in the second column of that Schedule;

3 of 1948. (g) "textile undertaking" means an undertaking engaged in the manufacture of textiles and to which the provisions of the Factories Act, 1948, apply;

65 of 1951. (h) words and expressions used but not defined in this Act and defined in the Industries (Development and Regulation) Act, 1951, shall have the meanings respectively assigned to them in that Act;

65 of 1951. 1 of 1956. (i) words and expressions used but not defined either in this Act or in the Industries (Development and Regulation) Act, 1951, but defined in the Companies Act, 1956, shall have the meanings respectively assigned to them in the Companies Act, 1956.

3. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment (other than this Act) or any judgment, decree or order of any Court, tribunal or other authority or any instrument having effect by virtue of any enactment other than this Act. Act to override all other enactments, etc.

CHAPTER II

MANAGEMENT OF SICK TEXTILE UNDERTAKINGS

4. (1) On and from the appointed day, the management of all the sick textile undertakings specified in the First Schedule shall vest in the Central Government. Management of sick textile undertakings to vest in Central Government on the appointed day.

65 of 1951. (2) If, after the commencement of this Act, any investigation is ordered, under section 15 or section 15A of the Industries (Development and Regulation) Act, 1951, in relation to any textile undertaking, and it is reported after such investigation that the management of such textile undertaking ought to be taken over under section 18A of that Act, the Central Government may, if it is satisfied after consideration of such report and other relevant matters that such undertaking ought to be declared to be a sick textile undertaking, make a declaration to that effect and further declare that the management of such textile undertaking ought to be taken over by it under this Act and on and from the date of such declaration,—

(i) the textile undertaking specified in such declaration shall be deemed to be a sick textile undertaking,

(ii) the management of such textile undertaking shall be deemed, for the purposes of this Act, to vest in the Central Government, and

(iii) the textile undertaking and the textile company owning it shall be deemed to be included in the First Schedule,

and thereupon the provisions of this Act shall become applicable thereto subject to the modification that for the words "appointed day", wherever they occur, the words, brackets and figures "date of the declaration made by the Central Government under sub-section (2) of section 4" shall be substituted.

(3) The sick textile undertaking shall be deemed to include all assets, rights, powers, authorities and privileges of the textile company, in relation to the said sick textile undertaking, and all property, movable and immovable, including lands, buildings, workshops, stores, instruments, machinery, automobiles and other vehicles and goods under production or in transit, cash balances, reserve fund, investments and all other rights and interests in, or arising out of, such property as were, immediately before the appointed day, in the ownership, possession, power or control of the textile company, whether within or outside India, and all books.

of account, registers and all other documents of whatever nature relating thereto.

(4) Any contract, whether express or implied, or other arrangement (whether under any statute or otherwise) in so far as it relates to the management of the business and affairs of the sick textile undertaking, and in force immediately before the appointed day, or any order made by any Court in so far as it relates to the management of the business and affairs of the sick textile undertaking and in force immediately before the appointed day, shall be deemed to have terminated on the appointed day.

(5) All persons in whom the management of the business and affairs of the sick textile undertaking vests immediately before the appointed day, shall, as from that day, cease to be so vested.

(6) Notwithstanding any judgment, decree or order of any Court, tribunal or other authority or anything contained in any law (other than this Act) for the time being in force, every Receiver, Official Liquidator or other person in whose possession or custody or under whose control a sick textile undertaking or any part thereof may be immediately before the appointed day, shall, on the commencement of this Act, deliver the possession of the said undertaking or such part thereof, as the case may be, to the Custodian, appointed under section 5, or, where no Custodian has been appointed, to such other person as the Central Government may direct.

(7) The Central Government may take, or cause to be taken, all necessary steps for securing the possession of the sick textile undertaking which has vested in it under section 4.

(8) No resolution passed at any meeting of the shareholders of any textile company on or after the appointed day regarding the business of the textile company, in so far as it relates to the sick textile undertaking, shall be given effect to unless approved by the Central Government.

Appoint-
ment of
Custodian
to take
over the
manage-
ment of
the sick
textile
under-
taking.

5. (1) The Central Government may, as soon as it is convenient administratively so to do, appoint an individual or a Government company as the Custodian of a sick textile undertaking for the purpose of taking over the management of such undertaking and the Custodian so appointed shall carry on the management of such undertaking for and on behalf of the Central Government.

(2) The Central Government may also appoint a Government company as the Custodian-General for exercising supervision and control over all the sick textile undertakings, the management of which has vested in it under this Act, and, on such appointment, every Custodian appointed under sub-section (1) shall act under the guidance, control and supervision of the Custodian-General.

(3) On the appointment of a Custodian under sub-section (1), the charge of management of the sick textile undertaking shall vest in such Custodian and all persons in charge of the management of such undertaking immediately before such appointment shall cease to be in charge of such management and shall be bound to deliver to the Custodian all assets, books of account, registers or other documents in their custody relating to the sick textile undertaking.

(4) The Central Government may issue such directions (including directions as to initiating, defending or continuing any legal proceedings before any Court, tribunal or other authority) to the Custodian or Custodian-General as to his or its powers and duties as the Central Government deems desirable and the Custodian or the Custodian-General may apply to the Central Government at any time for instructions as to

the manner in which the Custodian or the Custodian-General shall conduct the management of the undertaking of the company or in relation to any matter arising in the course of such management.

(5) Any person who, on the appointed day, has in his possession or under his control any books, papers or other documents relating to the sick textile undertaking, the management of which has vested in the Central Government under this Act, shall, notwithstanding anything contained in any other law for the time being in force, be liable, to account for the books, papers and other documents, to the Custodian and shall deliver them up to the Custodian or to such other person as may be authorised by the Central Government or the Custodian in this behalf.

(6) Every person in charge of the management of a sick textile undertaking, immediately before the appointed day, shall, within ten days from that day or within such further period as the Central Government may allow in this behalf, furnish to the Custodian a complete inventory of all the properties and assets (including particulars of book debts, investments and belongings) forming part of the sick textile undertaking immediately before the appointed day and of all liabilities and obligations of the sick textile undertaking subsisting immediately before that day and also of all agreements entered into by the textile company, in relation to the sick textile undertaking, and in force immediately before that day.

(7) The Custodian and Custodian-General shall hold office during the pleasure of the Central Government and shall receive from the funds of the sick textile undertaking such remuneration as may be fixed by the Central Government.

6. (1) The owner of every textile undertaking shall be given by the Central Government an amount, in cash, for vesting in it, under sub-section (1), or sub-section (2), as the case may be, of section 4, the management of the sick textile undertaking of such company. Payment of amount.

(2) For every month during which the management of the sick textile undertaking remains vested in the Central Government under this Act, the amount referred to in sub-section (1) shall be computed at the rate of—

- (i) fifty paise per one thousand spindles or any part thereof, in the case of a sick textile undertaking having spindles only;
- (ii) one rupee per one hundred looms or any part thereof, in the case of a sick textile undertaking having looms only;
- (iii) fifty paise per one thousand spindles or any part thereof, and one rupee per one hundred looms or any part thereof, in the case of a sick textile undertaking having both spindles and looms.

CHAPTER III

POWER TO PROVIDE RELIEF TO SICK TEXTILE UNDERTAKINGS

7. (1) The Central Government may, if satisfied, in relation to a sick textile undertaking or any part thereof, the management of which has vested in it under this Act, that it is necessary so to do in the interests of the general public with a view to preventing the fall in the volume of production of the textile industry, by notification, declare that—

- (a) all or any of the enactments specified in the Second Schedule shall not apply or shall apply with such adaptations, whether by way of modification, addition or omission (which does not, however, affect

Power of Central Government to make certain declarations in relation to sick textile undertakings.

the policy of the said enactments) to such sick textile undertaking, as may be specified in such notification, or

(b) the operation of all or any of the contracts, assurances of property, agreements, settlements, awards, standing orders or other instruments in force (to which such sick textile undertaking or the company owning such undertaking is a party or which may be applicable to such sick textile undertaking or company) immediately before the date of issue of the notification shall remain suspended or that all or any of the rights, privileges, obligations and liabilities accruing or arising thereunder before the said date, shall remain suspended or shall be enforceable with such adaptations and in such manner as may be specified in the notification.

(2) The notification made under sub-section (1) shall remain in force, in the first instance, for a period of one year, but the duration of such notification may be extended from time to time by a further notification by a period not exceeding one year at a time:

Provided that no such notification shall, in any case, remain in force after the expiry of three years from the commencement of this Act.

(3) Any notification made under sub-section (1) shall have effect notwithstanding anything to the contrary contained in any other law, agreement or instrument or any decree or order of a Court, tribunal, officer or other authority or of any submission, settlement or standing order.

(4) Any remedy for the enforcement of any right, privilege, obligation or liability referred to in clause (b) of sub-section (1) and suspended or modified by a notification made under that sub-section shall, in accordance with the terms of the notification, remain suspended or modified and all proceedings relating thereto pending before any Court, tribunal, officer or other authority shall accordingly remain stayed or be continued subject to such adaptations, so, however, that on the notification ceasing to have effect—

(a) any right, privilege, obligation or liability so remaining suspended or modified shall become revived and enforceable as if the notification had never been made;

(b) any proceeding so remaining stayed shall be proceeded with subject to the provisions of any law which may then be in force, from the stage which had been reached when the proceeding become stayed.

(5) In computing the period of limitation for the enforcement of any right, privilege, obligation or liability referred to in clause (b) of sub-section (1), the period during which it or the remedy for the enforcement thereof remained suspended shall be excluded.

CHAPTER IV

MISCELLANEOUS

Textile
companies
not to
wound up.

8. (1) No proceeding for the winding up of a textile company, within the meaning of this Act, shall lie in any Court or be continued whether by or under the supervision of any Court or voluntarily, except with the consent of the Central Government.

(2) In computing the period of limitation prescribed by any law for the time being in force for any application which may be made in the course of winding up of any textile company in respect of any matter arising out of any transaction in relation to a sick textile undertaking,

the time during which the making of such application was barred by this Act, shall be excluded.

9. (1) If the Central Government is satisfied, after such inquiry as it may think fit, that any contract or agreement entered into, at any time within twelve months immediately preceding the appointed day, between the owner of any sick textile undertaking or his agent and any other person, in relation to such sick textile undertaking, has been entered into in bad faith or is detrimental to the interests of the sick textile undertaking, it may make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) the contract or agreement and thereafter the contract or agreement shall have effect accordingly:

Contracts, etc., in bad faith may be cancelled or varied.

Provided that no contract or agreement shall be cancelled or varied except after giving to the parties to the contract or agreement a reasonable opportunity of being heard.

(2) Any person aggrieved by an order made under sub-section (1) may make an application to the principal Court of civil jurisdiction within the local limits of whose jurisdiction the registered office of the sick textile undertaking is situated for the variation or reversal of such order and, thereupon such Court may confirm, modify or reverse such order.

10. If the Custodian or Custodian-General is of opinion that any contract of employment entered into by the owner of any sick textile undertaking or his agent, in relation to such sick textile undertaking, at any time before the appointed day, is unduly onerous, he may, by giving to the employee one month's notice in writing or the salary or wages for one month in lieu thereof, terminate such contract of employment.

Power to terminate the contract of employment.

11. (1) Pending the taking over by a Custodian, appointed under section 5, of the physical possession of any sick textile undertaking, the person in charge of the management of such undertaking immediately before the appointed day shall, on and from the appointed day, be in charge of the management of such undertaking for and on behalf of the Central Government; and the management of such undertaking shall be carried on by such person subject to the provisions contained in sub-section (2) and such directions, if any, as the Central Government may give to him, and no other person, including the textile company, shall, so long as such management continues, exercise any powers of management in relation to the sick textile undertaking.

Management of sick textile undertakings pending taking over physical possession by the Custodian.

(2) (a) No person in charge, under sub-section (1), of a sick textile undertaking shall; or

(b) No person in charge of the textile undertaking of a company in relation to which any investigation has been ordered, after the commencement of this Act, under section 15 or section 15A of the Industries (Development and Regulation) Act, 1951, shall,

65 of 1951.

without the previous approval of the person specified by the Central Government in this behalf in respect of that undertaking (hereinafter referred to as the "authorised person"),—

(i) incur any expenditure from the assets appertaining to the textile undertaking otherwise than for the purpose of making routine payments of salaries or commissions to employees, agents or for the purpose of meeting the routine day to day expenditure;

(ii) transfer or otherwise dispose of any such assets or create any charge, hypothecation, lien or other incumbrance thereon;

(iii) invest in any manner any monies forming part of such assets;

(iv) acquire any immovable property out of the monies forming part of such assets;

(v) enter into any contract of service or agency, whether expressly or by implication, for purposes connected wholly or partly with the textile undertaking or vary the terms and conditions of any contract relating to any such transaction subsisting on the appointed day.

(3) The approval of the authorised person may be given either generally in relation to certain classes of transactions relating to the textile undertaking or specially in relation to any of its transactions.

Protection of action taken in good faith.

12. (1) No suit, prosecution or other legal proceeding shall lie against the Custodian-General or any Custodian in respect of anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government, the Custodian-General or any Custodian for any damage caused, or likely to be caused, by anything which is in good faith done or intended to be done under this Act.

Delegation of powers.

13. (1) The Central Government may, by notification, direct that all or any of the powers exercisable by it under this Act may also be exercised by any person or persons as may be specified in the notification.

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

Debts incurred for the purposes of textile undertaking to have priority.

14. Every debt arising out of any loan advanced a sick textile undertaking by the Central Government or a State Government for carrying on the management of any sick textile undertaking specified in the First Schedule,—

(a) shall have priority over all other debts, whether secured or unsecured, incurred before the management of such textile undertaking was taken over under this Act;

(b) shall be a preferential debt within the meaning of section 530 of the Companies Act, 1956.

1 of 11

and such debts shall rank equally among themselves and be paid in full out of the assets of the sick textile undertaking unless such assets are insufficient to meet them, in which case they shall abate in equal proportions.

Penalties.

15. If any person—

(a) fails to deliver to the Custodian any assets, books of account, registers or any other documents in his custody relating to any sick textile undertaking, the management of which has vested in the Central Government, or

(b) retains any property of such sick textile undertaking or removes or destroys it, or

(c) fails to comply with the provisions of section 5, or

(d) fails to comply with any direction made under this Act, he shall be punishable with imprisonment for a term which may extend to seven years, and shall also be liable to fine.

16. (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, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

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

17. (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

Power to make rules.

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

18. (1) The Sick Textile Undertakings (Taking Over of Management) Ordinance, 1972, is hereby repealed.

9 of 1972.

Repeal and saving.

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

THE FIRST SCHEDULE

(See section 4)

Sl. No.	Name and address of the sick textile undertaking	Name and address of the owner of the sick textile undertaking
(1)	(2)	(3)
1.	Adoni Cotton Mills, Alur Road, Adoni (Andhra Pradesh).	Adoni Cotton Mills Limited, 22, Bell Building, Sir P. M. Road, Bombay-1.
2.	Anantapur Cotton Mills, Tadapatri (Andhra Pradesh).	The Anantapur Cotton Mills Limited, Tadapatri (Andhra Pradesh).
3.	Apollo Mills, N. M. Joshi Marg, Chinchpokli, Bombay-11.	Apollo Mills Limited, N. M. Joshi Marg, Chinchpokli, Bombay-11.
4.	Arati Cotton Mills, Dassnagar, Howrah (West Bengal).	Arati Cotton Mills Limited, 29, Strand Road, Calcutta-1.
5.	Balarama Varma Textile Mills, Shencottah (Tamil Nadu).	Balarama Varma Textiles Limited, Shencottah (Tamil Nadu).
6.	Bangasri Cotton Mills, Sodepore (West Bengal).	The Bangasri Cotton Mills Limited, Chandrachur Sadan, Sodepore, 24-Parganas (West Bengal).
7.	Bengal Fine Spinning and Weaving Mills, Mill No. 2, Kataganj, District Nadia (West Bengal).	Bengal Fine Spinning and Weaving Mills Limited, 7, Bipin Behari Ganguly Street, Calcutta.
8.	Bijli Cotton Mills, Mendu Road, Hathras (Uttar Pradesh).	The Bijli Cotton Mills (Private) Limited, Agra (Uttar Pradesh).
9.	Cannanore Spinning and Weaving Mills, Cannanore (Kerala).	The Cannanore Spinning and Weaving Mills Limited, Cannanore (Kerala).
10.	Dayalbagh Spinning and Weaving Mills, Amritsar.	Sir Sahabji Maharaj Mills Limited, Dayalbagh, Agra.
11.	Edward Mills, Beawar (Rajasthan).	The Edward Mills Company Limited, Beawar (Rajasthan).
12.	Edward Textile Mills, Ferguson Road, Lower Parel, Bombay.	Edward Textile Mills Limited, Indu House, Dougall Road, Ballard Estate, Bombay.
13.	Fine Knitting Mills, near Chamundamata, Asarva Road, Ahmedabad.	The Fine Knitting Company Limited, Asarva, near Chamundamata, Ahmedabad-16.
14.	Gaya Cotton and Jute Mills, Gaya (Bihar).	Gaya Cotton and Jute Mills Limited, Gaya (Bihar).

Sl. No.	Name and address of the sick textile undertaking	Name and address of the owner of the sick textile undertaking
(1)	(2)	(3)
15.	Indore Malwa United Mills, Indore.	The Indore Malwa United Mills Limited, 139, Meadows Street, Fort, Bombay.
16.	Jayashankar Mills Barsi, Barsi, District Sholapur (Maharashtra).	The Jayashankar Mills Barsi Limited, Barsi, District Sholapur (Maharashtra).
17.	Jyoti Weaving Factory, 69, S. K. Dev Road, Calcutta-48.	Jyoti Weaving Factory (Private) Limited, 69, S. K. Dev Road, Patipukur, Calcutta-48.
18.	Kaleeswarar Mills, A Unit, Coimbatore.	The Kaleeswarar Mills Limited, Coimbatore.
19.	Kaleeswarar Mills, B Unit, Kalaynarkoil (District Ramnad).	
20.	Kalyanmal Mills, 15, Silnath Camp, Indore.	Kalyanmal Mills Limited, 15, Silnath Camp, Indore.
21.	Kanoria Industries (Cotton Mills Section), Konnagar (West Bengal).	Kanoria Industries Limited, 59, Netaji Subhas Road, Calcutta-1.
22.	Kerala Lakshmi Mills, Trichur, Kerala State.	Kerala Lakshmi Mills Limited, Pullazhi, Trichur-4, Kerala State.
23.	Kharar Textile Mills, Kharar, near Chandigarh.	The Panipat Woollen and General Mills Company Limited, Kharar, near Chandigarh.
24.	Lord Krishna Textile Mills, Saharanpur (Uttar Pradesh).	Lord Krishna Sugar Mills Limited, Chand Hotel, Chandni Chowk, Delhi.
25.	Mahboob Shahi Kulbarga Mills, Gulbarga (Mysore).	Mahboob Shahi Kulbarga Mills Company Limited, Gulbarga (Mysore).
26.	New Kaiser-i-Hind Spinning and Weaving Mills, Gorupdeo Road, Chinchpokli, Bombay-33.	New Kaiser-i-Hind Spinning and Weaving Company Limited, Ashoka Apartment, Altamount Road, Bombay.
27.	New Pratap Spinning, Weaving and Manufacturing Mills, Dhulia, West Khandesh.	New Pratap Spinning, Weaving and Manufacturing Company Limited, Dhulia, West Khandesh.
28.	Orissa Cotton Mills, Bhagatpur, Cuttack.	Orissa Cotton Mills Limited, 41, Ironside Road, Calcutta-1.
29.	Osmansnahi Mills, Mill Road, Nanded (Maharashtra).	Osmansnahi Mills Limited, Mill Road, Nanded (Maharashtra).

Sl. No.	Name and address of the sick textile undertaking	Name and address of the owner of the sick textile undertaking
(1)	(2)	(3)
30.	Panipat Woollen Mills, Kharar, near Chandigarh.	The Panipat Woollen and General Mills Company Limited, Kharar, near Chandigarh.
31.	Pankaja Mills, Coimbatore.	Pankaja Mills Limited, Coimbatore.
32.	Pioneer Spinners, Pioneernagar (Tamil Nadu).	Pioneer Spinners (Private) Limited, Pioneernagar (Tamil Nadu).
33.	Prabha Mills, Viramgam (Gujarat).	Prabha Mills Limited, Highway Rose Building, 92, Ambawadi Dixit Road, Vile Parle, Bombay-57.
34.	R. B. Bansilal Abirchand Spinning and Weaving Mills, Hinghanghat, (Maharashtra).	R. B. Bansilal Abirchand Spinning and Weaving Mills Company (Private) Limited, Hinghanghat (Maharashtra).
35.	Savatram Ramprasad Mills, Akola (Maharashtra).	Savatram Ramprasad Mills Company Limited, Akola (Maharashtra).
36.	Seksaria Cotton Mills, Delisle Road, Parel, Bombay.	Seksaria Cotton Mills Limited, Delisle Road, Parel, Bombay.
37.	Shree Bijay Cotton Mills, Bijainagar (Rajasthan).	Shree Bijay Cotton Mills Limited, Bijainagar (Rajasthan).
38.	Shri Vikram Cotton Mills, Talkatora, Lucknow.	Shri Vikram Cotton Mills Limited Lucknow (Uttar Pradesh).
39.	Sodepur Cotton Mills, Sodepur (West Bengal).	Sodepur Cotton Mills Limited, Sodepur (West Bengal).
40.	Sree Yallamma Cotton, Woollen and Silk Mills, Yallamnagar (Tolahunaso Railway Station).	Sree Yallamma Cotton, Woollen and Silk Mills Company Limited, Davangere City (Mysore State).
41.	Sri Kothandram Spinning Mills, Madurai.	Sri Kothandram Spinning Mills (Private) Limited, Madurai.
42.	Sri Sarada Mills, Podanur (Tamil Nadu).	Sri Sarada Mills Limited, Podanur (Tamil Nadu).
43.	Suraj Textile Mills, Malout Mandi, Punjab.	Suraj Textile Mills Limited, Malout Mandi, Punjab.
44.	Tirupathi Cotton Mills, Renigunta (Andhra Pradesh).	Tirupathi Cotton Mills Limited, 8, Boag Road, T. Nagar, Madras-17.
45.	Vidarbha Mills (Berar), Ellichpur (Maharashtra).	Vidarbha Mills Berar Limited, Ellichpur (Maharashtra).
46.	Vijaymohini Mills, Trivandrum.	The Vijaymohini Mills Limited, Trivandrum.

THE SECOND SCHEDULE

(See section 7)

- 20 of 1946. 1. The Industrial Employment (Standing Orders) Act, 1946.
- 14 of 1947. 2. The Industrial Disputes Act, 1947.
- 11 of 1948. 3. The Minimum Wages Act, 1948.

Rep. by Act

38

78, S. 2 & Sch. I

THE INDIAN TARIFF (AMENDMENT) ACT, 1972

No. 73 OF 1972

[24th December, 1972]

An Act further to amend the Indian Tariff Act, 1934.

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

Short
title and
commence-
ment.

1. (1) This Act may be called the Indian Tariff (Amendment) Act, 1972.

(2) It shall come into force on the 1st day of January, 1973.

Amend-
ment of
First
Schedule.

2. In the First Schedule to the Indian Tariff Act, 1934,—

32 of 1934.

(a) in Item No. 28(35),—

(i) in the second column headed "Name of article", for the figure and word "2-amino-anthraquinone", the figure, words and brackets "2-amino-anthraquinone (Beta-amino-anthraquinone)" shall be substituted;

(ii) in the last column headed "Duration of protective rates of duty", for the figures "1972", wherever they occur, the figures "1974" shall be substituted;

Repealed

OF 1972]

Indian Tariff (Amendment)

557

(b) in Items Nos. 28(36) and 28(37),—

(i) in the third column headed "Nature of duty", for the word "Protective", wherever it occurs, the word "Revenue" shall be substituted;

(ii) in the last column headed "Duration of protective rates of duty", the entry "December 31st, 1972", wherever it occurs, shall be omitted;

(c) for Item No. 28(38), the following Items shall be substituted, namely:—

1	2	3	4	5	6	7
28(38)	The following dye-intermediates, namely,— (1) Phenyl Peri Acid (Phenylamino naphthalene-8-sulphonic acid), (2) Ortho Toluidine, (3) Diethyl Meta Amino Phenol (Meta-diethylamino phenol), (4) Diamino Stilbene Disulphonic Acid (4,4/diamino stilbene-2,2/-disulphonic acid)—					
	(a) of British manufacture ;	Protective	90 per cent <i>ad valorem.</i>	..	..	December 31st, 1974.
	(b) not of British manufacture.	Protective	100 per cent <i>ad valorem.</i>	..	..	December 31st, 1974.
28(38A)	The following dye-intermediates, namely,— (1) J. Acid (2-naphthylamine-5-hydroxy-7-sulphonic acid), (2) 4-Chloro-2-Nitro Aniline, (3) Para Anisidine, (4) Para Toluidine—					
	(a) of British manufacture ;	Protective	50 per cent <i>ad valorem.</i>	..	..	December 31st, 1974.
	(b) not of British manufacture.	Protective	60 per cent <i>ad valorem.</i>	..	..	December 31st, 1974.
28(38B)	Ortho anisidine—					
	(a) of British manufacture ;	Revenue	50 per cent <i>ad valorem.</i>	..	..	..
	(b) not of British manufacture.	Revenue	60 per cent <i>ad valorem.</i>	..	..	..";

Repeated

(d) in Item No. 28 (39),—

(i) in the second column headed "Name of article", for the brackets, figure and words "(4) Tobias Acid", the brackets, figures and words "(4) Tobias Acid (2-naphthylamine-1-sulphonic acid)" shall be substituted;

(ii) in the last column headed "Duration of protective rates of duty", for the figures "1972", wherever they occur, the figures "1974" shall be substituted;

(e) for Item No. 28(40) and the Note thereunder, the following Items shall be substituted, namely:—

1	2	3	4	5	6	7
"28(40)	The following dye-intermediates, namely,—					
	(1) M-nitro-aniline,					
	(2) M-nitro-p-toluidine (MNPT),					
	(3) Phenyl J. acid (2-phenyl-amino-5-naphthol-7-sulphonic acid or 2-phenyl-amino-5-hydroxy-naphthalene-7-sulphonic acid),					
	(4) 1:5 diamino-anthraquinone,					
	(5) Schaeffer's acid (2-naphthol-6-sulphonic acid),					
	(6) M-chloro aniline,					
	(7) 2:5 dichloro aniline,					
	(8) 4-chloro-2-anisidine,					
	(9) 4-chloro-2-nitro anisole,					
	(10) O-nitro aniline,					
	(11) Para toluidine meta sulphonic acid,					
	(12) O-amino azo toluene (2,3/-dimethyl-4-amino-azo-benzene] or 4-ortho-tolylazo-ortho-toluidine),					
	(13) R. salt (2-naphthol-3, 6-disulphonic acid, Sodium salt),					
	(14) Benzoyl J-acid (2-Benzoyl amino 5-naphthol-7-sulphonic acid),					
	(15) P-nitrosophenol (1-hydroxy-4-nitro benzene),					
	(16) Dinitrostilbene disulphonic acid (4, 4/-dinitrostilbene-2, 2/-disulphonic acid),					

Repealed

OF 1972]

Indian Tariff (Amendment)

559

1	2	3	4	5	6	7
	(17) Beta naphthalene thioglycolic acid (2-naphthyl thioglycolic acid),					
	(18) 4-chloro-o-toluidine,					
	(19) 1-Amino-6-nitro-2-naphthol-4-sulphonic acid,					
	(20) Para nitro toluene sulphonic acid or para-nitro toluene-ortho-sulphonic acid (toluene-4-nitro-2-sulphonic acid or benzene-1-methyl-4-nitro-2-sulphonic acid)—					
	(a) of British manufacture;	Protective	50 per cent <i>ad valorem</i>.	..	..	December 31st, 1974.
	(b) not of British manufacture.	Protective	60 per cent <i>ad valorem</i>.	..	..	December 31st, 1974.
28(40A)	The following dye-intermediates, namely,—					
	(1) Metanilic acid,					
	(2) Quinizarine					
	(1, 4-dihydroxy-anthraquinone)—					
	(a) of British manufacture;	Protective	90 per cent <i>ad valorem</i>.	..	..	December 31st, 1974.
	(b) not of British manufacture,	Protective	100 per cent <i>ad valorem</i>.	..	..	December 31st, 1974.
28(40B)	The following dye-intermediates, namely,—					
	(1) 1-amino-anthraquinone,					
	(2) 2 : 6 diamino-anthraquinone,					
	(3) O-chloro aniline,					
	(4) P-chloro aniline,					
	(5) O-nitro anisole,					
	(6) P-nitro anisole,					
	(7) 5-chloro-o-toluidine,					
	(8) 1 : 4 diamino anthraquinone,					
	(9) 1-chloro anthraquinone,					
	(10) Perilic acid,					
	(11) 2 : 5 dimethyl-4-chloro-phenyl thioglycolic acid,					
	(12) Amino Iso G-acid,					
	(13) Anthraquinone-sulphonic acid sodium salt—					

Repealed

1	2	3	4	5	6	7
	(a) of British manufacture;	Revenue	50 per cent <i>ad valorem</i>.	..	..	..
	(b) not of British manufacture.	Revenue	60 per cent <i>ad valorem</i>.	..	..	..
28(41)	The following dye intermediates, namely,—					
	(1) Chicago acid,					
	(2) G-Salt,					
	(3) Gamma acid,					
	(4) H. Acid,					
	(5) J-Acid urea,					
	(6) Meta-tolylene diamine,					
	(7) Meta-phenylene diamine,					
	(8) Neville Winter acid,					
	(9) Para Nitro aniline,					
	(10) Rhoduline acid,					
	(11) Sulphanilic acid,					
	(12) Sodium naphthionate/naphthionic acid,					
	(13) 2 : 5 dichloronitro benzene,					
	(14) Dimethyl sulphate,					
	(15) Beta Naphthol,					
	(16) Aceto acetic ester (ethyl/methyl),					
	(17) Trichloro benzene,					
	(18) Benzidine sulphate/Benzidine dihydrochloride,					
	(19) Dimethylaniline—					
	(a) of British manufacture;	Protective	50 per cent <i>ad valorem</i>	..	..	December 31st, 1974.
	(b) not of British manufacture.	Protective	60 per cent <i>ad valorem</i>	..	..	December 31st, 1974. ²²

Rep. by Act 38 of 1978, S. 2 & Sch. I

**THE INDUSTRIAL FINANCE CORPORATION
(AMENDMENT) ACT, 1972**

No. 74 OF 1972

[24th December, 1972]

An Act further to amend the Industrial Finance Corporation Act, 1948

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

1. This Act may be called the Industrial Finance Corporation (Amendment) Act, 1972. Short title.

15 of 1948. 2. In section 2 of the Industrial Finance Corporation Act, 1948 (hereinafter referred to as the principal Act),— Amendment of section 2.

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

‘(ba) “Court” means the High Court (or where there is no High Court and the powers of the High Court are exercised by the Court of Judicial Commissioner, such Court) within the local limits of whose jurisdiction the defendant or respondent carries on the whole or a substantial part of his business, and where the Central Government has, by notification in the Official Gazette and subject to such restrictions, limitations and conditions as it thinks fit, empowered any Court of civil jurisdiction subordinate to the High Court to exercise all or any of the powers conferred by this Act, such Court;’;

(b) in clause (c), for the words “any public limited company”, the words “any limited company” shall be substituted;

Repealed

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

(ff) "State co-operative bank" has the same meaning as in the Reserve Bank of India Act, 1934;.

2 of 1934.

Amend-
ment of
section 4.

3. In section 4 of the principal Act,—

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

"(1A) On and from the commencement of the Industrial Finance Corporation (Amendment) Act, 1972, the authorised capital of the Corporation shall stand increased to twenty crores of rupees, divided into forty thousand shares of five thousand rupees each, and the shares representing the capital so increased may be issued, with the sanction of the Central Government, as and when the Corporation may deem fit.";

(b) in sub-section (7), after the words "the Development Bank", the words "the Reserve Bank" shall be inserted.

Amend-
ment of
section
10A.

4. In section 10A of the principal Act, in sub-section (4), the words "Central Committee" wherever they occur shall, subject to such grammatical variations and omission of cognate expressions as may be necessary, be omitted.

Amend-
ment of
section 11.

5. In section 11 of the principal Act, in sub-section (4), for the words "the Central Committee or any other Committee", the words "any Committee" shall be substituted.

Omission
of
section 14.

6. Section 14 of the principal Act shall be omitted.

Amend-
ment of
section 17.

7. In section 17 of the principal Act,—

(a) in sub-section (1), the words "and of the Central Committee" shall be omitted;

(b) in sub-section (2),—

(i) the brackets and letter "(a)" shall be omitted;

(ii) sub-clause (b) shall be omitted;

(c) in sub-section (3), for the words "or of the Central Committee, each Director or member of the Committee, as the case may be," the words "each Director" shall be substituted;

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

"(5) If for any reason the Chairman is unable to be present at a meeting of the Board, a Director authorised by the Chairman in writing in this behalf, shall preside at that meeting and in default of such authorisation, the Board may elect a Director to preside at that meeting."

Amend-
ment of
section 20.

8. In section 20 of the principal Act, the words "and the Corporation may also subscribe to, or purchase, the shares of any financial institution which the Central Government may, in consultation with the Development Bank, notify in this behalf" shall be added at the end.

Repealed

9. In section 21 of the principal Act,—

Amendment of section 21.

(a) in the proviso to sub-section (1), for the words "shall not at any time exceed ten times the amount of the paid-up share capital and the reserve fund of the Corporation", the words, figures, letters and brackets "shall not at any time exceed ten times of such amount as is the aggregate of the paid-up share capital, the reserve fund established under sub-section (1) of section 32, the special reserve fund established under section 32A, the benevolent reserve fund established under section 32B and any other reserves of the Corporation (not being reserves for bad and doubtful debts or for depreciation of assets or a reserve created or maintained to meet any specific contingency)" shall be substituted;

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

"Provided that no such guarantee by the Central Government shall be required in respect of such bonds and debentures of the Corporation as are issued to the Development Bank.";

(c) in the proviso to sub-section (4), for the words "shall not at any time in the aggregate exceed ten times the amount of the paid-up share capital and the reserve fund of the Corporation", the words "shall not at any time exceed, in the aggregate, the limit specified in the proviso to sub-section (1)" shall be substituted.

10. After section 21 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 21A and 21B.

"21A. Notwithstanding anything contained in any other law for the time being in force, the bonds and debentures issued or sold by the Corporation shall be, and shall be deemed always to have been, approved securities for the purpose of the Indian Trusts Act, 1882, the Insurance Act, 1938, and the Banking Regulation Act, 1949.

Bonds and debentures to be approved securities.

21B. The rights and interests of the Corporation (including any other rights incidental thereto) in relation to any loan or advance granted, or any amount recoverable, by it may be transferred by the Corporation, either in whole or in part, by the execution or issue of any instrument, or by the transfer of any instrument by endorsement or in any other manner in which the rights and interests in relation to such loan or advance may be lawfully transferred, and the Corporation may, notwithstanding such transfer, act as the trustee for the transferee."

Power to transfer rights.

11. In section 23 of the principal Act,—

Amendment of section 23.

(a) in sub-section (1),—

(i) in clause (b), the proviso shall be omitted;

(ii) in clause (d), the words "and retaining as part of its assets, any stocks, shares, bonds or debentures which it may have to take up in fulfilment of its obligations thereto" shall be inserted at the end;

f 1882
of 1938.
of 1949.

Repealed

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

“(da) transferring for consideration any instrument relating to loans and advances granted by it to industrial concerns;”;

(iv) clause (h) shall be omitted;

(v) in clause (i),—

(a) in the proviso, for the words “which may at the option of the Corporation be convertible”, the words “the amounts outstanding thereon may be convertible at the option of the Corporation” shall be substituted;

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

“*Explanation.*—In this clause, the expression “the amounts outstanding thereon”, used in relation to any loan or advance, shall mean the principal, interest and other charges payable on such loan or advance as at the time when the amounts are sought to be converted into stocks or shares;”;

(vi) in clause (ii), the word “and” occurring at the end shall be omitted;

(vii) after clause (i) as so amended, the following clause shall be inserted, namely:—

“(ii) doing any kind of business which the Central Government may, on the recommendation of the Development Bank, authorise; and”;

(b) in sub-section (2),—

(i) for the words, brackets, letters and figure “No accommodation shall be given under clauses (a), (b), (c) and (i) of sub-section (1), unless it is secured by a sufficient”, the words, brackets, letters and figure “In granting accommodation under clause (a), clause (b), clause (c) or clause (i) of sub-section (1), the Corporation may have it secured by” shall be substituted;

(ii) for the words “or unless it is guaranteed”, the words “or may have it guaranteed” shall be substituted.

Amend-
ment of
section 24.

12. In section 24 of the principal Act, for the words “with a single industrial concern for an amount exceeding two crores of rupees in the aggregate”, the words “with any single industrial concern for an amount which, together with the amount outstanding in respect of any arrangement already entered into by the Corporation with that concern, exceeds two crores of rupees in the aggregate” shall be substituted.

Repealed

13. In section 25 of the principal Act, for sub-section (2), the following sub-sections shall be substituted, namely:—

Amendment of section 25.

“(2) Where any arrangement entered into by the Corporation with an industrial concern provides for the appointment by the Corporation of one or more Directors of such industrial concern, such provision and any appointment of Directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the Companies Act, 1956, or in any other law for the time being in force or in the memorandum, articles of association or any other instrument relating to the industrial concern, and any provision regarding share qualification, age limit, number of directorships, removal from office of Directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any Director appointed by the Corporation in pursuance of the arrangement as aforesaid.

(3) Any Director appointed in pursuance of sub-section (2) shall—

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

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

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

14. Section 26 of the principal Act shall be re-numbered as sub-section (1) of that section and after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely:—

Amendment of section 26.

“(2) The Corporation shall not enter into any kind of business with any industrial concern of which any of the Directors of the Corporation is a Director, manager, agent, employee or guarantor or in which one or more Directors of the Corporation together hold substantial interest:

Provided that this sub-section shall not apply to any industrial concern if any Director of the Corporation—

(i) is nominated as a Director on the Board of such concern by Government, or a Government company as defined in section 617 of the Companies Act, 1956, or by a Corporation established by any other law, or

(ii) is elected on the Board of such concern by virtue of shares held in the concern by Government, or a Government company as defined in section 617 of the Companies Act, 1956, or by a Corporation established by any other law,

by reason only of such nomination or election, as the case may be.

Repealed

Explanation.—"Substantial interest", in relation to an industrial concern, means the beneficial interest held by one or more of the Directors of the Corporation or by any relative [as defined in clause (41) of section 2 of the Companies Act, 1956] of such Director, whether singly or taken together, in the shares of the industrial concern, the aggregate amount paid-up on which either exceeds five lakhs of rupees or five per cent. of the paid-up share capital of the industrial concern, whichever is less.

(3) The provisions of sub-section (2)—

(i) shall not apply to any transaction relating to the business entered into prior to the commencement of the Industrial Finance Corporation (Amendment) Act, 1972, and all such business and any transaction in relation thereto may be implemented or continued as if that Act had not come into force;

(ii) shall apply only so long as the conditions precedent to such disability as set out in the said sub-section continue.

Amend-
ment of
section 27.

15. In section 27 of the principal Act, for sub-section (3) and sub-section (4), the following sub-sections shall be substituted, namely:—

"(3) All loans and advances granted to industrial concerns by the Corporation out of foreign currency borrowed under sub-section (1) shall be expressed in terms of foreign currency as equivalent of Indian currency, calculated in accordance with the rate of exchange prevailing at the time of grant thereof, and the amount due thereunder shall be repayable in equivalent Indian currency, calculated in accordance with the rate of exchange prevailing at the time of repayment of such loan or advance.

(4) Any loss or profit in connection with any borrowing of foreign currency under sub-section (1) for the purpose of granting loans and advances under this Act or with its repayment to the concerned foreign lending agency, on account of any fluctuations in the rate of exchange accruing—

(a) during the period within which the loan or advance is repayable by the industrial concern or the period of actual repayment thereof by the concern, whichever is longer, shall be reimbursed by, or paid to, as the case may be, the recipients of such loans and advances;

(b) after the expiry of the period specified in clause (a),—

(i) shall be borne by the Corporation in respect of normal market fluctuations in foreign exchange;

(ii) shall be reimbursed by, or paid to, as the case may be, the Central Government in respect of fluctuations other than the normal market fluctuations in foreign exchange.

Repealed

Explanation.—If any question arises as to whether any fluctuation as aforesaid is a normal market fluctuation or not, the same shall be decided by the Central Government whose decision thereon shall be final.”

16. In section 28 of the principal Act,—

Amendment of section 28.

(a) in sub-section (1),—

(i) after the words “of any loan or advance or any instalment thereof”, the words “or in meeting its obligations in relation to any guarantee given by the Corporation” shall be inserted;

(ii) for the words “right to take over the management of the concern”, the words “right to take over the management, or possession, or both, of the concern” shall be substituted;

(b) in sub-section (3A),—

(i) for the words “Where the management of an industrial concern is taken over by the Corporation or any property is transferred and realised by it”, the words “Where any action has been taken against an industrial concern” shall be substituted;

(ii) for the words “as incidental to such management, or transfer and realisation”, the words “as incidental thereto” shall be substituted;

(iii) after the words “which is received by it”, the words “from such management, or transfer and realisation” shall be omitted;

(c) in sub-section (4), after the words “over the management”, the words “or possession” shall be inserted.

17. In section 30 of the principal Act,—

Amendment of section 30.

(a) in sub-section (1),—

(i) after the words “any default in repayment of any loan or advance or any instalment thereof”, the words “or in meeting its obligations in relation to the guarantee given by the Corporation” shall be inserted;

(ii) for the words “the District Judge within the local limits of whose jurisdiction the industrial concern carries on the whole or a substantial part of its business”, the words “the Court” shall be substituted;

(b) in sub-sections (3) to (9), for the words “the District Judge”, wherever they occur, the words “the Court” shall be substituted.

(c) in sub-section (9) as so amended, in the second proviso, for the words “unless the High Court otherwise directs”, the words “unless the Court empowered to hear appeals from the decisions of the said Court otherwise directs” shall be substituted;

(d) in sub-section (11), for the words “appeal to the High Court, and upon such appeal, the High Court may”, the words “appeal to

Repealed

the Court empowered to hear appeals from the decisions of the Court which passed the order and the appellate Court may" shall be substituted;

(e) sub-section (13) shall be omitted;

(f) after sub-section (13) as so omitted, the following sub-sections shall be inserted, namely:—

"(14) For the removal of doubts, it is hereby declared that any Court competent to grant an *ad interim* injunction under this section shall also have the power to appoint a receiver and to exercise all other powers incidental thereto.

(15) All proceedings (whether by way of suits or appeals or other proceedings) under this Act pending before a District Judge or an Additional District Judge or a High Court at the commencement of the Industrial Finance Corporation (Amendment) Act, 1972, shall, on such commencement, be proceeded with and disposed of as if this section had not been amended by the said Act.

(16) Every suit or other proceedings which are disposed of in accordance with the provisions contained in sub-section (15) or in respect of which time for appeal has not expired at the commencement of the Industrial Finance Corporation (Amendment) Act, 1972, may, on such commencement, be appealed against as if this section had not been amended by the said Act."

Amend-
ment of
section 32.

18. In section 32 of the principal Act, in sub-section (2), the second proviso shall be omitted.

Insertion
of new
section
32B.

19. After section 32A of the principal Act, the following section shall be inserted, namely:—

Bene-
volent
reserve
fund.

"32B. (1) The Corporation shall establish a special fund, to be called the benevolent reserve fund.

(2) To the benevolent reserve fund shall be credited—

(a) any part of the annual profit which may, from time to time, be allocated to the fund;

(b) all amounts received for the purposes of the fund by way of loans, gifts, grants, donations or benefactions from Government or any other source;

(c) income or profits from investments made from the fund;

(d) income accruing or arising to the fund by way of interest or otherwise.

(3) The benevolent reserve fund shall be used by the Corporation—

(a) for meeting the cost of feasibility studies, project reports, market and techno-economic surveys and such other purposes which, in the opinion of the Corporation, may promote the development of industries;

Repealed

(b) in the field of development banking and in financial and industrial management—

(i) for undertaking and promoting research;

(ii) for training in India or abroad of personnel of financial institutions; and

(iii) for creating chairs in universities, academic institutions and research foundations;

(c) for assisting projects promoted by technologists and new entrepreneurs—

(i) by subsidising the normal lending rate of interest of the Corporation in respect of loans or advances sanctioned to them;

(ii) by providing technical and managerial assistance to projects promoted by them especially in less industrially developed regions;

(d) for rendering any assistance that may be ancillary or incidental to the aforementioned purposes.”.

20. In section 39 of the principal Act, after the words “Every Director,” the words “member of any Advisory or other Committee,” shall be inserted. Amendment of section 39.

21. In section 43 of the principal Act,—

(a) in sub-section (1), for the words “after consultation with the Development Bank and with the previous sanction of the Central Government”, the words “with the previous sanction of the Development Bank” shall be substituted; Amendment of section 43.

(b) in sub-section (2), in clause (e), for the words “Board and of the Central Committee,” the word “Board,” shall be substituted;

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

Dep. by Act 38 of 1978, S. 2 + Sch. I

THE INDUSTRIAL DEVELOPMENT BANK OF INDIA
(AMENDMENT) ACT, 1972

No. 75 OF 1972

[24th December, 1972]

An Act to amend the Industrial Development Bank of India Act, 1964

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

Short
title.

1. This Act may be called the Industrial Development Bank of India (Amendment) Act, 1972.

Amend-
ment
of sec-
tion 2.

2. In section 2 of the Industrial Development Bank of India Act, 1964¹⁸ of 1964 (hereinafter referred to as the principal Act),—

(a) in clause (c), the words “or in the maintenance, repair, testing or servicing of machinery of any description or vehicles or vessels or motorboats or trailers or tractors, or in fishing, or in providing shore facilities for fishing or maintenance thereof” shall be added at the end;

(b) in clause (i), for the word “Madras”, the words “Tamil Nadu” shall be substituted.

Amend-
ment
of sec-
tion 9.

3. In section 9 of the principal Act, in sub-section (1),—

(a) in clause (a),—

(i) in sub-clause (i),—

(1) after the words “any loans or advances granted to industrial concerns”, the brackets and words “(including concerns engaged or to be engaged in the development of any contiguous area of land as an industrial estate)” shall be inserted;

(2) for the words "on the expiry of not less than three years and not more than twenty-five years", the words "within a period not exceeding twenty-five years" shall be substituted;

(ii) in sub-clause (ii),—

(1) after the words "any loans or advances granted to industrial concerns", the brackets and words "(including concerns engaged or to be engaged in the development of any contiguous area of land as an industrial estate)" shall be inserted;

(2) for the words "on the expiry of not less than three years and not more than ten years", the words "within a period not exceeding fifteen years" shall be substituted;

(iii) in sub-clause (iii),—

(1) after the words "any loans or advances granted to industrial concerns", the brackets and words "(including concerns exporting products of industrial concerns)" shall be inserted;

(2) for the words "and are repayable on the expiry of not less than six months and not more than ten years", the words, brackets and letters "or the execution of any turn-key project outside India by any industrial concern as aforesaid or by any person in India, and, in any case, are repayable—

(i) within a period not exceeding twelve years in the case of persons outside India, and

(ii) within a period not exceeding fifteen years in other cases,"

shall be substituted;

(b) in clause (b), for the words "promissory notes of industrial concerns", the words "promissory notes made, drawn, accepted or endorsed by industrial concerns or by any person selling capital goods manufactured by one industrial concern to another industrial concern" shall be substituted;

(c) in clause (c), for the words "any other financial institution", the words "any other financial institution, whether within or outside India," shall be substituted;

(d) in clause (d),—

(i) in the proviso, for the words "which may at the option of the Development Bank be convertible", the words "the amounts outstanding thereon may be convertible at the option of the Development Bank" shall be substituted;

Repealed

(ii) after the proviso, the following Explanation shall be inserted, namely:—

Explanation.—In this clause, the expression “the amounts outstanding thereon” used in relation to any loan or advance, shall mean the principal, interest and other charges payable on such loan or advance as at the time when the amounts are sought to be converted into stocks or shares.”;

(e) after clause (d) and the Explanation thereto, the following clauses shall be inserted, namely:—

“(da) granting loans and advances—

(i) to any person exporting products of industrial concerns; or

(ii) to any person outside India, in connection with the export of capital goods from India; or

(iii) for the execution of turn-key projects outside India by any industrial concern or by any person in India;

(db) transferring for consideration any instrument relating to loans and advances granted by it to industrial concerns;”;

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

“(ka) acting as agent of—

(i) the Central Government or of the Reserve Bank, or

(ii) such other Government or person as the Central Government, on the recommendation of the Reserve Bank, may authorise.”.

Insertion
of new
section
9A.

4. After section 9 of the principal Act, the following section shall be inserted, namely:—

Prohibited
business.

‘9A. (1) The Development Bank shall not enter into any kind of business with any industrial concern, of which any of the directors of the Development Bank is a proprietor, partner, director, manager, agent, employee or guarantor, or in which one or more directors of the Development Bank together hold substantial interest:

Provided that this sub-section shall not apply to any industrial concern if any director of the Development Bank—

(i) is nominated as a director of the Board of such concern by Government, or a Government company as defined in section 617 of the Companies Act, 1956, or by a Corporation established by any other law; or

(ii) is elected on the Board of such concern by virtue of shares held in the concern by Government, or a Government company as defined in section 617 of the Companies Act, 1956, or by a Corporation established by any other law,

by reason only of such nomination or election, as the case may be.

Repealed

1 of 1956.

Explanation.—“Substantial interest”, in relation to an industrial concern, means the beneficial interest held by one or more of the directors of the Development Bank or by any relative [as defined in clause (41) of section 2 of the Companies Act, 1956] of such director, whether singly or taken together, in the shares of the industrial concern, the aggregate amount paid up on which either exceeds five lakhs of rupees or five per cent. of the paid-up share capital of the industrial concern, whichever is the lesser.

(2) The provisions of sub-section (1) —

(i) shall not apply to any industrial concern as specified therein if the Development Bank is satisfied that it is necessary in the public interest to enter into business with that concern, and entering into any kind of business with such industrial concern shall be in accordance with and subject to such conditions and limitations as may be prescribed;

(ii) shall not apply to any transaction relating to the business entered into prior to the commencement of the Industrial Development Bank of India (Amendment) Act, 1972, and all such business and any transaction in relation thereto may be implemented or continued as if that Act had not come into force;

(iii) shall apply only so long as the conditions precedent to such disability as set out in the said sub-section continue.’

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

Insertion of new section 11A.

“11A. The rights and interests of the Development Bank (including any other rights incidental thereto) in relation to any loan or advance granted, or any amount recoverable, by it may be transferred by the Development Bank, either in whole or in part, by the execution or issue of any instrument or by the transfer of any instrument by endorsement, or in any other manner in which the rights and interests in relation to such loan or advance may be lawfully transferred, and the Development Bank may, notwithstanding such transfer, act as the trustee for the transferee.”

Power to transfer rights.

6. In section 12 of the principal Act, for sub-section (3) and sub-section (4), the following sub-sections shall be substituted, namely:—

Amendment of section 12.

“(3) All loans and advances granted by the Development Bank out of foreign currency borrowed under sub-section (1) shall be expressed in terms of foreign currency as equivalent of Indian currency, calculated in accordance with the rate of exchange prevailing at the time of grant thereof, and the amount due thereunder shall be repayable in equivalent Indian currency, calculated in accordance with the rate of exchange prevailing at the time of repayment of such loan or advance.

(4) Any loss or profit in connection with any borrowing of foreign currency under sub-section (1) for the purpose of granting loans and advances under this Act or with its repayment to the concerned foreign lending agency, on account of any fluctuations in the rate of exchange accruing—

Repealed

(a) during the period within which the loan or advance is repayable by the industrial concern or the period of actual repayment thereof by the concern, whichever is longer, shall be reimbursed by, or paid to, as the case may be, the recipients of such loans and advances;

(b) after the expiry of the period specified in clause (a),—

(i) shall be borne by the Development Bank in respect of normal market fluctuations in foreign exchange;

(ii) shall be reimbursed by, or paid to, as the case may be, the Central Government in respect of fluctuations other than the normal market fluctuations in foreign exchange.

Explanation.—If any question arises as to whether any fluctuation as aforesaid is a normal market fluctuation or not, the same shall be decided by the Central Government whose decision thereon shall be final.”

Insertion of new section 30A.

7. After section 30 of the principal Act, the following section shall be inserted, namely:—

Arrangement with Development Bank on appointment of directors to prevail.

“30A. (1) Where any arrangement entered into by the Development Bank with an industrial concern provides for the appointment by the Development Bank of one or more directors of such industrial concern, such provision and any appointment or directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the Companies Act, 1956, or in any other law for the time being in force or in the memorandum, articles of association or any other instrument relating to the industrial concern, and any provision regarding share qualification, age-limit, number of directorships, removal from office of directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any director appointed by the Development Bank in pursuance of the arrangement as aforesaid. 1 of 1956.

(2) Any director appointed as aforesaid shall—

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

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

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

Amendment of section 37.

8. In section 37 of the principal Act, in sub-section (2), after clause (d), the following clause shall be inserted, namely:—

“(da) entering into business with industrial concerns specified in sub-section (1) of section 9A and the conditions and limitations in regard thereto;”

THE DELIMITATION ACT, 1972

No. 76 OF 1972

[30th December, 1972]

An Act to provide for the readjustment of the allocation of seats in the House of the People to the States, the total number of seats in the Legislative Assembly of each State, the division of each State and each Union territory having a Legislative Assembly and the Union territory of Delhi into territorial constituencies of elections to the House of the People and Legislative Assemblies of the States and Union territories and Metropolitan Council of Delhi and for matters connected therewith.

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

1. This Act may be called the Delimitation Act, 1972.
2. In this Act, unless the context otherwise requires,—
 - (a) "article" means an article of the Constitution;
 - (b) "associate member" means a member nominated under section 5;
 - (c) "Commission" means the Delimitation Commission constituted under section 3;
 - (d) "Legislative Assembly" includes the Metropolitan Council of Delhi;

Short title.

Definitions.

(e) "latest census figures" mean the census figures as ascertained at the census held in 1971;

(f) "member" means a member of the Commission and includes the Chairman;

(g) "State" includes a Union territory having a Legislative Assembly but does not include the State of Jammu and Kashmir.

Constitu-
tion of
Delimita-
tion Com-
mission.

3. (1) As soon as may be after the commencement of this Act, the Central Government shall constitute a Commission to be called the Delimitation Commission which shall consist of three members as follows:—

(a) two members, each of whom shall be a person who is or has been a Judge of the Supreme Court or of a High Court, to be appointed by the Central Government; and

(b) the Chief Election Commissioner, *ex officio*.

(2) The Central Government shall nominate one of the members appointed under clause (a) of sub-section (1) to be the Chairman of the Commission.

Duties of
the Com-
mission.

4. It shall be the duty of the Commission to readjust on the basis of the latest census figures the allocation of seats in the House of the People to the several States, the total number of seats in the Legislative Assembly of each State and the division of each State into territorial constituencies for the purpose of elections to the House of the People and to the State Legislative Assembly:

Provided that where on such readjustment only one seat is allocated in the House of the People to a State, the whole of that State shall form one territorial constituency for the purpose of elections to the House of the People from that State:

Provided further that it shall not be necessary for the Commission to readjust the allocation of seats in the House of the People to any Union territory or the total number of seats in the Legislative Assembly of any of the Union territories of Goa, Daman and Diu, Pondicherry and Mizoram or the total number of seats in the Metropolitan Council of the Union territory of Delhi.

Associate
members.

5. (1) The Commission shall associate with itself for the purpose of assisting it in its duties in respect of each State, ten persons five of whom shall be members of the House of the People representing that State and five shall be members of the Legislative Assembly of that State:

Provided that where the number of members of the House of the People representing any State is five or less, then all such members shall be the associate members for that State and in the latter case the total number of associate members shall be less than ten by such number as by which the total number of members of the House of the People representing that State is less than five.

(2) The persons to be so associated from each State shall be nominated, in the case of members of the House of the People, by the Speaker of that House, and in the case of members of a Legislative Assembly, by the Speaker of that Assembly, having due regard to the composition of the House or, as the case may be, of the Assembly.

(3) The first nominations to be made under sub-section (2)—

(a) shall be made by the Speakers of the several Legislative Assemblies within one month, and by the Speaker of the House of the People within two months, of the commencement of this Act, and

(b) shall be communicated to the Chief Election Commissioner, and where the nominations are made by the Speaker of a Legislative Assembly, also to the Speaker of the House of the People.

(4) None of the associate members shall have a right to vote or to sign any decision of the Commission.

6. If owing to death or resignation the office of the Chairman or of a Casual member or of an associate member falls vacant, it shall be filled as soon as may be practicable by the Central Government or the Speaker concerned under and in accordance with the provisions of section 3, or, as the case may be, of section 5. Casual vacancies.

7. (1) The Commission shall determine its own procedure and shall in the performance of its functions have all the powers of a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:— Procedure and powers of the Commission.

5 of 1908.

(a) summoning and enforcing the attendance of witnesses;

(b) requiring the production of any document; and

(c) requisitioning any public record from any court or office.

(2) The Commission shall have power to require any person to furnish any information on such points or matters as in the opinion of the Commission may be useful for, or relevant to, any matter under the consideration of the Commission.

(3) The Commission may authorise any of its members to exercise any of the powers conferred on it by clauses (a) to (c) of sub-section (1) and sub-section (2), and any order made or act done in exercise of any of those powers by the member authorised by the Commission in that behalf shall be deemed to be the order or act, as the case may be, of the Commission.

(4) If there is a difference of opinion among the members, the opinion of the majority shall prevail, and acts and orders of the Commission shall be expressed in terms of the views of the majority.

(5) The Commission as well as any group of associate members shall have power to act notwithstanding the temporary absence of a member or associate member or the existence of a vacancy in the Commission or in that or any other group of associate members; and no act or proceeding of the Commission or of any group of associate members shall be invalid or called in question on the ground merely of such temporary absence or of the existence of such vacancy.

(6) The Commission shall be deemed to be a civil court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898. 5 of 1898.

Explanation.—For the purposes of enforcing the attendance of witnesses, the local limits of the jurisdiction of the Commission shall be the limits of the territory of India.

Readjust-
ment of
number
of seats.

8. The Commission shall, on the basis of the latest census figures and having regard to the provisions of articles 81, 170, 330 and 332, and also, in relation to the State of Nagaland clause (2)(h) of article 371A and sub-section (1) of section 11 of the State of Nagaland Act, 1962, in relation to the Union territories except Delhi sections 3 and 39 of the Government of Union Territories Act, 1963 and in relation to the Union territory of Delhi section 3 and sub-section (1) of section 4 of the Delhi Administration Act, 1966, by order determine—

27 of 1962.

20 of 1963.

19 of 1966.

(a) the number of seats in the House of the People to be allocated to each State and the number of seats, if any, to be reserved for the Scheduled Castes and for the Scheduled Tribes of the State; and

(b) the total number of seats to be assigned to the Legislative Assembly of each State and the number of seats, if any, to be reserved for the Scheduled Castes and for the Scheduled Tribes of the State:

Provided that the total number of seats assigned to the Legislative Assembly of any State under clause (b) shall be an integral multiple of the number of seats in the House of the People allocated to that State under clause (a).

Delimita-
tion of
Constitu-
encies.

9. (1) The Commission shall, in the manner herein provided, then distribute the seats in the House of the People allocated to each State and the seats assigned to the Legislative Assembly of each State to single-member territorial constituencies and delimit them on the basis of the latest census figures, having regard to the provisions of the Constitution and the provisions of the Acts specified in section 8 and also to the following provisions, namely:—

(a) all constituencies shall, as far as practicable, be geographically compact areas, and in delimiting them regard shall be had to physical features, existing boundaries of administrative units, facilities of communication and public convenience;

(b) every assembly constituency shall be so delimited as to fall wholly within one parliamentary constituency;

(c) constituencies in which seats are reserved for the Scheduled Castes shall be distributed in different parts of the State and located, as far as practicable, in those areas where the proportion of their population to the total is comparatively large; and

(d) constituencies in which seats are reserved for the Scheduled Tribes shall, as far as practicable, be located in areas where the proportion of their population to the total is the largest.

(2) The Commission shall—

(a) publish its proposals for the delimitation of constituencies, together with the dissenting proposals, if any, of any associate member who desires publication thereof, in the Gazette of India and in the Official Gazettes of all the States concerned and also in such other manner as it thinks fit;

(b) specify a date on or after which the proposals will be further considered by it;

(c) consider all objections and suggestions which may have been received by it before the date so specified, and for the purpose of such consideration, hold one or more public sittings at such place or places in each State as it thinks fit; and

(d) thereafter by one or more orders determine—

(i) the delimitation of parliamentary constituencies, and

(ii) the delimitation of assembly constituencies,

of each State.

10. (1) The Commission shall cause each of its orders made under section 8 or section 9 to be published in the Gazette of India and in the Official Gazettes of the States concerned.

Publica-
tion of
orders and
their date
of opera-
tion.

(2) Upon publication in the Gazette of India, every such order shall have the force of law and shall not be called in question in any court.

(3) As soon as may be after such publication, every such order shall be laid before the House of the People and the Legislative Assemblies of the States concerned.

(4) Subject to the provisions of sub-section (5), the readjustment of representation of the several territorial constituencies in the House of the People or in the Legislative Assembly of a State and the delimitation of those constituencies provided for in any such order shall apply in relation to every election to the House or to the Assembly, as the case may be, held after the publication in the Gazette of India of that order and shall so apply in supersession of the provisions relating to such representation and delimitation contained in the Representation of the People Act, 1950, and the Delimitation of Parliamentary and Assembly Constituencies Order, 1966, and any final orders of the Election Commission relating to the delimitation of parliamentary constituencies or, as the case may be, of assembly constituencies of any State made in pursuance of the provisions of any other Acts.

950.

(5) Nothing in this section shall affect the representation in the House of the People or in the Legislative Assembly of a State until the dissolution of the House or of the Assembly, as the case may be, existing on the date of publication in the Gazette of India of the final order or orders of the Commission relating to the delimitation of parliamentary constituencies or, as the case may be, of the assembly constituencies of that State and any bye-election to fill any vacancy in such House or in any such Assembly shall be held on the basis of the provisions of the laws and orders superseded by sub-section (4) as if the said provisions had not been superseded.

11. (1) The Election Commission may, from time to time, by notification in the Gazette of India and in the Official Gazette of the State concerned,—

Power to
maintain
delimita-
tion orders
up-to-date.

(a) correct any printing mistake in any of the orders made by the Delimitation Commission under section 9 or any error arising therein from an inadvertent slip or omission; and

(b) where the boundaries or name of any district or any territorial division mentioned in any of the said orders are or is altered, make such amendments as appear to it to be necessary or expedient for bringing the orders up-to-date, so however that the boundaries or areas or extent of any constituency shall not be changed by any such notification.

(2) Every notification under this section shall be laid, as soon as may be after it is issued, before the House of the People and the Legislative Assembly of the State concerned.

Rep. by Act 38 of 1978, S. 2 + Sch. I

THE STATE FINANCIAL CORPORATIONS
(AMENDMENT) ACT, 1972

No. 77 OF 1972

[30th December, 1972]

An Act further to amend the State Financial Corporations Act, 1951.

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

1. This Act may be called the State Financial Corporations (Amendment) Act, 1972. Short title.

53 of 1951 2. In the State Financial Corporations Act, 1951 (hereinafter referred to as the principal Act), in section 2,— Amendment of section 2.

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

18 of 1964. ‘(aa) “Development Bank” means the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964;’;

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

‘(c) “industrial concern” means any concern engaged or to be engaged in—

(i) the manufacture, preservation or processing of goods;

Repealed

- (ii) mining;
- (iii) the hotel industry;
- (iv) the transport of passengers or goods by road or by water or by air;
- (v) the generation or distribution of electricity or any other form of power;
- (vi) the maintenance, repair, testing or servicing of machinery of any description or vehicles or vessels or motor boats or trailers or tractors;
- (vii) assembling, repairing or packing any article with the aid of machinery or power;
- (viii) the development of any contiguous area of land as an industrial estate;
- (ix) fishing or providing shore facilities for fishing or maintenance thereof; or
- (x) providing special or technical knowledge or other services for the promotion of industrial growth.

Explanation.—The expression “processing of goods” includes any art or process for producing, preparing or making an article by subjecting any material to a manual, mechanical, chemical, electrical or any other like operation;’.

Amendment of section 4.

3. In section 4 of the principal Act, in sub-section (3),—

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

“(ba) the Development Bank,”;

(b) in clause (d), after the brackets and letter “(b)”, the brackets and letters “,(ba)” shall be inserted.

Insertion of new section 4A.

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

Special class of shares.

“4A. (1) From out of the unissued capital of the Financial Corporation, as on the commencement of the State Financial Corporations (Amendment) Act, 1972, such part as the State Government may, in consultation with the Reserve Bank, specify from time to time, shall be allocated for the issue of a special class of shares.

(2) The special class of shares so allocated under sub-section (1), shall be,—

(a) divided into such number of shares of the same face value as the State Government may, in consultation with the Reserve Bank, determine;

(b) subscribed by the State Government and the Reserve Bank and they may do so in such proportion as may be agreed upon by and between them and the Financial Corporation shall make allotment of such shares accordingly.

(3) The funds representing the capital subscribed as aforesaid shall be used only for such purposes, in such manner and for render-

Repealed

ing assistance to such class or category of industrial concerns, as the Reserve Bank may, in consultation with and after obtaining the advice of the State Government, specify in this behalf from time to time and nothing contained in section 47 or section 48 shall apply thereto.

(4) The rate of dividend declared on the special class of shares in respect of any accounting year of a Financial Corporation shall not exceed the rate of dividend in respect of its other shares.

(5) Nothing contained in sub-sections (2) to (5) of section 4, section 5, and sub-section (1) of section 6, shall apply to the special class of shares."

5. In section 7 of the principal Act,—

Amendment of section 7.

(a) in sub-section (1), for the words "and with the approval of the Central Government", the words "based on the advice of the Reserve Bank", shall be substituted;

(b) in sub-section (2), in clause (b),—

(i) for the words "or against bonds and debentures issued by the Financial Corporation and guaranteed by the State Government", the words "or subject to the previous approval of the State Government, against bonds and debentures issued by the Financial Corporation" shall be substituted;

(ii) after the words "date on which money is so borrowed", the words "and every such bond and debenture shall be guaranteed by the State Government" shall be inserted;

(iii) in the proviso, for the word "sixty", the word "ninety" shall be substituted.

6. After section 7 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 7A.

"7A. The rights and interests of the Financial Corporation (including any other rights incidental thereto) in relation to any loan or advance granted or any amount recoverable by it, may be transferred by the Financial Corporation either in whole or in part, by the execution or issue of any instrument or by transfer of any instrument by endorsement or in any other manner in which the rights and interests in relation to such loan or advance may be lawfully transferred, and the Financial Corporation may, notwithstanding such transfer, act as the trustee for the transferee."

Power to transfer rights.

7. In section 10 of the principal Act,—

Amendment of section 10.

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

"(c) one director nominated by the Development Bank;"

(b) in clause (f), after the words "in consultation with", the words "and after obtaining the advice of" shall be inserted.

Repealed

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State Financial Corporations (Amendment)

[ACT 77

Amendment of section 11.

8. In section 11 of the principal Act, in sub-section (3), for the words "for not more than two full consecutive terms", the words "so, however, that no person elected as director shall hold office for a continuous period exceeding eight years" shall be substituted.

Amendment of section 14.

9. In section 14 of the principal Act, in sub-section (1), for the words "The managing director or any other director may resign his office by giving notice thereof in writing to the State Government", the words, brackets, letters and figures "The managing director may, by giving notice in writing to the State Government, and any director elected under clause (d) or clause (e) of section 10 may, by giving notice in writing to the Chairman of the Board, resign his office" shall be substituted.

Amendment of section 17.

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

(i) to clause (a), the following proviso shall be added, namely:—

"Provided that the Board may, if in its opinion it is necessary in the public interest so to do, permit the managing director to undertake, at the request of the Central Government or the State Government or the Reserve Bank, such part-time honorary work as is not likely to interfere with his duties as managing director.";

(ii) in clause (d), after the words "salary and allowances", wherever they occur, the words "and be subject to other terms and conditions of service" shall be inserted.

Amendment of section 18.

11. In section 18 of the principal Act, in sub-section (1), in clause (a),—

(i) for the words and figures "the Industrial Finance Corporation of India established under the Industrial Finance Corporation Act, 1948", the words "the Development Bank" shall be substituted;

15 of 1948.

(ii) in the proviso, for the words "the Industrial Finance Corporation of India", the words "the Development Bank" shall be substituted.

Amendment of section 19.

12. In section 19 of the principal Act,—

(a) in sub-section (3A), for the words and figures "the Industrial Finance Corporation of India established under the Industrial Finance Corporation Act, 1948", the words "the Development Bank" shall be substituted;

15 of 1948.

(b) in sub-section (4), for the words and figures "the Industrial Finance Corporation established under the Industrial Finance Corporation Act, 1948", the words "the Development Bank" shall be substituted.

15 of 1948.

Substitution of new section for section 22. Offences and agencies.

13. For section 22 of the principal Act, the following section shall be substituted, namely:—

"22. The Financial Corporation shall establish its head office and other offices and agencies at such places as the State Government may, from time to time, specify and save as aforesaid, the Financial Corporation may establish additional offices or agencies in such other places within the State as it may consider necessary."

Repealed

of 1972]

State Financial Corporations (Amendment)

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14. To section 23 of the principal Act, the following proviso shall be added, namely:—

Amendment of section 23.

“Provided that the State Government may, in consultation with and after obtaining the advice of the Reserve Bank, specify the class or categories of posts in respect of which appointments may be made by the Board on such remuneration and other conditions of service as the Board may determine, and no regulation made under this Act shall apply to such posts in respect of matters so determined by the Board.”.

15. In section 25 of the principal Act,—

Amendment of section 25.

(a) in sub-section (1),—

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

“(ca) transferring for consideration any instruments relating to loans and advances granted by it to industrial concerns;”;

(ii) in clause (d),—

(a) after the words “the State Government”, the words “or the Development Bank” shall be inserted;

(b) for the words “in the transaction of any business with an industrial concern in respect of loans or advances granted, or debentures subscribed, by any one of them”, the words “in respect of any matter connected with, or arising out of, the grant of loans or advances to an industrial concern, or subscription to debentures of an industrial concern” shall be substituted;

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

“(da) subscribing to the stocks, shares, bonds or debentures of an industrial concern from out of the funds representing the capital subscribed in accordance with the provision of section 4A”;

(b) in sub-section (2), the words “or unless it is covered by a guarantee falling under any credit guarantee scheme framed by the Central Government or such other Government or financial institution as the Central Government may notify in this behalf” shall be inserted at the end;

(c) in sub-section (3), for the word, brackets and letter “and (c)”, the brackets, letters and word “(c) and (ca)” shall be substituted;

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

“(4) Nothing contained in this section shall entitle any Financial Corporation to hold shares in any company, whether as pledgee, mortgagee or absolute owner, of an amount exceeding thirty per cent. of the subscribed share capital of that company or thirty per cent. of its own paid-up share capital and free reserves, whichever is less.

Repealed

(5) If, on the commencement of the State Financial Corporations (Amendment) Act, 1972, any Financial Corporation is holding shares in excess of the limits specified in sub-section (4), the Corporation shall report the matter forthwith to the Reserve Bank and shall, within such period as the Reserve Bank may allow, so reduce its share holdings as to conform to the provisions of that sub-section."

Amend-
ment of
section 20.

16. Section 26 of the principal Act shall be re-numbered as sub-section (1) thereof, and—

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

(i) for the words, brackets and letters "The Financial Corporation shall not enter into any arrangements under clauses (a) and (g) of", the words, brackets and figures "On and from the commencement of the State Financial Corporations (Amendment) Act, 1972, the Financial Corporation shall not enter into any arrangements under clause (a), (ca) or (g) of" shall be substituted;

(ii) after the words "in respect of all such arrangements", the words "together with the amount of the face value of the shares and stocks of that concern whether subscribed or agreed to be subscribed and the outstanding liabilities on account of under-writing agreements and the deferred payments guarantees" shall be inserted;

(iii) in clause (i), for the words "twenty lakhs of rupees in the case of a public limited company", the words "thirty lakhs of rupees in the case of a company" shall be substituted;

(iv) in clause (ii), for the words "ten lakhs", the words "fifteen lakhs" shall be substituted;

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

"(2) Nothing contained in sub-section (1) shall apply to any transaction entered into by a Financial Corporation with any industrial concern before the commencement of the State Financial Corporations (Amendment) Act, 1972, and in relation to every such transaction, section 26 of the principal Act shall continue to apply as if the said section had not been amended by the first-mentioned Act."

Amend-
ment of
section 27.

17. In section 27 of the principal Act, for sub-section (2), the following sub-sections shall be substituted, namely:—

"(2) Where any arrangement entered into by the Financial Corporation with an industrial concern provides for the appointment by the Financial Corporation of one or more directors of such industrial concern, such provision and any appointment of directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the Companies Act, 1956, or in any other law for the time being in force or in the memorandum, articles of association or any other instrument relating to the industrial concern, and any provision regarding share qualification, age limit, number of directorships, removal of office of directors and such like

Repealed

of 1972]

State Financial Corporations (Amendment)

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conditions contained in any such law or instrument aforesaid shall not apply to any director appointed by the Financial Corporation in pursuance of the arrangement as aforesaid.

(3) Any director appointed in pursuance of sub-section (2) shall—

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

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

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

18. Section 28 of the principal Act shall be re-numbered as sub-section (1) thereof, and— Amendment of section 28.

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

(i) in clause (b), after the word “clauses”, the brackets and letters “(da)” shall be inserted;

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

“(d) grant any form of assistance to any industrial concern in respect of which the aggregate of the paid-up share capital and free reserves exceeds one crore of rupees.”;

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

“(2) The Financial Corporation shall not enter into any kind of business with any industrial concern, of which any of the directors of the Financial Corporation is a proprietor, partner, director, manager, agent, employee or guarantor, or in which one or more directors of the Financial Corporation together hold substantial interest:

Provided that this section shall not apply to any industrial concern if any director of the Financial Corporation—

(i) is nominated as a director of the Board of such concern by the Government or a Government company as defined in section 617 of the Companies Act, 1956, or by a Corporation established by or under any other law; or

(ii) is elected on the Board of such concern by virtue of shares held in the concern by Government or a Government company as defined in section 617 of the Companies Act, 1956, or by a Corporation established by or under any other law, by reason only of such nomination or election, as the case may be.

1956.

1956.

Repealed

Explanation.—“Substantial interest” in relation to an industrial concern means the beneficial interest held by one or more of the directors of the Financial Corporation or by any relative [as defined in clause (41) of section 2 of the Companies Act, 1956] of such director whether singly or taken together, in the shares of the industrial concern, the aggregate amount paid-up on which either exceeds five lakhs of rupees or five per cent. of the paid-up share capital of the industrial concern, whichever is less. 1 of

(3) The provisions of sub-section (2)—

(i) shall not apply to any transaction relating to the business entered into prior to the commencement of the State Financial Corporations (Amendment) Act, 1972, and all such business and any transaction in relation thereto may be implemented or continued as if that Act had not come into force;

(ii) shall apply only so long as the conditions precedent to such disability as set out in the sub-section continue.”

Amend-
ment of
section 29.

19. In section 29 of the principal Act,—

(a) in sub-section (1),—

(i) after the words “of any loan or advance or any instalment thereof”, the words “or in meeting its obligations in relation to any guarantee given by the Corporation” shall be inserted;

(ii) for the words “right to take over the management of the industrial concern”, the words “right to take over the management or possession or both of the industrial concern” shall be substituted;

(b) in sub-section (4),—

(i) for the words “Where the management of an industrial concern is taken over by the Financial Corporation or any property is transferred and realised by it”, the words “Where any action has been taken against an industrial concern” shall be substituted;

(ii) for the words “as incidental to such management, or transfer and realisation”, the words “as incidental thereto” shall be substituted;

(iii) after the words “which is received by it”, the words “from such management, or transfer and realisation” shall be omitted;

(c) in sub-section (5), for the words “Where the Financial Corporation takes over the management of an industrial concern”, the words “Where the Financial Corporation has taken any action against an industrial concern” shall be substituted.

Amend-
ment of
section 31.

20. In section 31 of the principal Act, in sub-section (1), after the words “any default in repayment of any loan or advance or any instalment thereof”, the words “or in meeting its obligations in relation to any guarantee given by the Corporation” shall be inserted.

Repeated

OF 1972]

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21. In section 32 of the principal Act,—
- (a) in sub-section (11), in clause (b), the words “or by any judge of the principal court of civil jurisdiction” shall be inserted at the end; Amendment of section 32.
- (b) after sub-section (11) as so amended, the following sub-section shall be inserted, namely:—
- “(12) For the removal of doubts it is hereby declared that any court competent to grant an *ad interim* injunction under this section shall also have the power to appoint a Receiver and to exercise all the other powers incidental thereto.”. Amendment of section 33
959. 22. In section 33 of the principal Act, in sub-section (2), after the words, brackets and figures “the State Bank of India (Subsidiary Banks) Act, 1959”, the words, figures and brackets “or in any of the banks specified in column 2 of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970” shall be inserted. 70.
23. In section 35 of the principal Act, sub-section (3) shall be omitted. Amendment of section 35.
24. In section 35A of the principal Act,—
- (a) for the words “the State Government and the Reserve Bank”, wherever they occur, the words “the State Government, the Reserve Bank and the Development Bank” shall be substituted; Amendment of section 35A.
- (b) in the proviso to sub-section (1), for the word “ten”, the word “twenty-five” shall be substituted.
25. In section 37 of the principal Act, for sub-section (1) and the proviso thereto, the following sub-section shall be substituted, namely:— Amendment of section 37.
956. “(1) The affairs of the Financial Corporation shall be audited by auditors duly qualified to act as auditors of companies under sub-section (1) of section 226 of the Companies Act, 1956, who shall be appointed by the State Government in consultation with the Comptroller and Auditor-General of India and the Financial Corporation shall pay to the auditors so appointed such remuneration as the State Government may fix.”.
26. In section 39 of the principal Act, in sub-section (1), after the words “in consultation with”, the words “, and after obtaining the advice of,” shall be inserted. Amendment of section 39.
27. In section 46A of the principal Act,—
- (a) in sub-section (1),— Amendment of section 46A.
- (i) for the words “and any other State”, the words “and one or more other States not served in whole or in part by a Financial Corporation” shall be substituted;
- (ii) for the words “should serve its needs”, the words “should serve the needs of those States or of any area therein” shall be substituted;

Repealed

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State Financial Corporations (Amendment) [ACT 77 OF 1972]

(iii) after the words "serve the needs of those States", the words "or, as the case may be, of the area therein" shall be inserted;

(iv) the words "and any Financial Corporation or any State may enter into separate or successive agreements as aforesaid with one another or with other Financial Corporations of States and in relation to different areas of the States" shall be inserted at the end;

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

"(1A) Any agreement entered into under sub-section (1) may be modified or rescinded by mutual agreement between the parties thereto and every such mutual agreement shall also provide for the apportionment of assets and liabilities."

Amend-
ment of
section 48.

28. In section 48 of the principal Act, for sub-section (3), the following sub-section shall be, and shall be deemed always to have been, substituted, namely:—

"(3) All regulations made under this section shall be published in the Official Gazette and any such regulation shall have effect from such earlier or later date as may be specified in the regulations."

THE RICHARDSON AND CRUDDAS LIMITED
(ACQUISITION AND TRANSFER OF UNDERTAKING)
ACT, 1972

ARRANGEMENT OF SECTIONS

PART I

ACQUISITION AND TRANSFER OF THE UNDERTAKING OF RICHARDSON AND
CRUDDAS LIMITED

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SECTIONS

1. Short title.
2. Definitions.

CHAPTER II.—ACQUISITION OF THE UNDERTAKING OF THE RICHARDSON
AND CRUDDAS LIMITED

3. Undertaking of the old company to vest in the Central Government.
4. General effect of vesting.
5. Duty to deliver possession of property acquired and documents relating thereto.
6. Duty to furnish particulars.
7. Transfer of employees of the old company.
8. Payment of amount.

CHAPTER III.—MANAGEMENT AND ADMINISTRATION OF THE NEW COMPANY

9. Formation and registration of a new company.

CHAPTER IV.—MANAGEMENT OF THE OLD COMPANY

10. Management of the old company.
11. Custodian to be public servant.
12. Vacation of office by directors, etc., of the old company.

PART II

RECTIFICATION OF THE REGISTER OF MEMBERS OF THE OLD COMPANY

CHAPTER I.—CONSTITUTION OF A TRIBUNAL

13. Constitution of a Tribunal.

SECTIONS

CHAPTER II.—POWERS AND DUTIES OF THE TRIBUNAL

14. Tribunal to call upon persons to make claims.
15. Determination of genuine shares.
16. No compensation for cancellation of spurious shares.
17. Power of Tribunal to entertain and dispose of claims for reimbursement.
18. Suits and legal proceedings not to be commenced or proceeded with.
19. Decision of the Tribunal to be final.

CHAPTER III.—DUTY OF CUSTODIAN TO RECONSTRUCT REGISTER OF MEMBERS OF THE OLD COMPANY

20. Custodian to reconstruct register of members of the old company.
21. Custodian to issue fresh share certificates.
22. No annual general meeting of the old company to be held before the reconstruction of the register of members.
23. Custodian to file accounts until reconstruction of the register of members of the old company.

PART III

OFFENCES AND THEIR TRIAL

24. Penalties.
25. Offences by companies.
26. Offences to be triable by a Magistrate of the first class and not to be compoundable.

PART IV

MISCELLANEOUS

27. Protection of action taken in good faith.
28. Contracts, etc., in bad faith may be cancelled or varied.
29. Power to terminate contract of employment.
30. Power to remove difficulty.
31. Power to make rules.

THE RICHARDSON AND CRUDDAS LIMITED
(ACQUISITION AND TRANSFER OF UNDERTAKING)
ACT, 1972

No. 78 OF 1972

[30th December, 1972]

An Act to provide for the acquisition and transfer of the undertaking of the Richardson and Cruddas Limited, for the reconstruction of the register of its members and for matters connected therewith or incidental thereto.

WHEREAS the Richardson and Cruddas Limited, a company formed and registered under the Indian Companies Act, 1913, is engaged in the production of goods needed by the defence establishments, railways, steel plants and power projects;

AND WHEREAS the mismanagement of the said company by its erstwhile managing agents and Board of Directors had seriously affected the production and supply of goods by the said company;

AND WHEREAS it is not possible for the said company to provide for its proper management by a duly constituted Board of Directors in view of the existence of a large number of duplicate shares in the capital of the said company;

AND WHEREAS for ensuring, in the interests of the community, the continuity of production and supply of goods by the said company, it is expedient in the public interest to acquire the undertaking of the said company;

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

PART I

ACQUISITION AND TRANSFER OF THE UNDERTAKING OF RICHARDSON AND
CRUDDAS LIMITED

CHAPTER I.—PRELIMINARY

1. This Act may be called the Richardson and Cruddas Limited **Short title,**
(Acquisition and Transfer of Undertaking) Act, 1972.

Defini-
tions.

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

(a) “appointed day” means such date¹ as the Central Government may, by notification, appoint;

(b) “Custodian” means the person who is appointed, under section 10, as the Custodian of the old company;

(c) “Nationalised Bank” means a corresponding new bank as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970;

5 of 1970

(d) “new company” means the Government company, formed and registered under the Companies Act, 1956, in pursuance of the provisions of section 9;

1 of 1956

(e) “notification” means a notification published in the Official Gazette;

(f) “old company” means the Richardson and Cruddas Limited, a company formed and registered under the Indian Companies Act, 1913 and having its registered office in the State of West Bengal;

7 of 1913

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

(h) “scheduled bank” has the meaning assigned to it in the Reserve Bank of India Act, 1934, and includes a Nationalised Bank;

2 of 1934

(i) “share” means a share in the capital of the old company;

(j) “Tribunal” means the Tribunal constituted under section 13.

(2) Words and expressions used herein and not defined but defined in the Companies Act, 1956, have, save as otherwise expressly provided in this Act, the meanings respectively assigned to them in that Act.

1 of 1956

CHAPTER II.—ACQUISITION OF THE UNDERTAKING OF THE RICHARDSON AND CRUDDAS LIMITED

Under-
taking of
the old
company
to vest
in the
Central
Govern-
ment.

General
effect of
meeting.

3. On the appointed day, the undertaking of the old company shall stand transferred to, and vest in, the Central Government, and that Government shall, immediately thereafter, provide, by notification, for the transfer to, and vesting in, of such undertaking in the new company.

4. (1) The undertaking of the old company shall be deemed to include all assets, rights, powers, authorities and privileges and all property, movable and immovable, cash balances, reserve funds, investments and all other rights and interests in, or arising out of, such property as were immediately before the appointed day in the ownership, possession, power or control of the old company in relation to the undertaking, whether within or without India, and all books of account, registers (other than register of members and documents relating thereto), records and all other documents of whatever nature relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the old company in relation to the undertaking.

(2) Unless otherwise expressly provided by this Act, all contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature subsisting or having effect immediately before the appointed day which relate to the undertaking of the old company, shall be of as full force and effect in favour of the Central Government, and on the transfer of such undertaking to the new company, of such new company and may be enforced or acted upon as fully and effectively as if they had related to the Central Government or the new company, as the case may be.

(3) (a) If, on the appointed day, a proceeding instituted by the old company in relation to the undertaking referred to in section 3 is pending, such proceeding may, as from that day, be continued by the Central Government or, on the transfer of the undertaking to the new company, by the new company.

(b) If, on the appointed day, any cause of action is existing against the old company in relation to the undertaking referred to in section 3, such cause of action may, as from that day, be enforced against the Central Government or, on the transfer of the undertaking to the new company, against the new company.

(c) Save as otherwise provided in clauses (a) and (b), no suit, proceeding or cause of action by or against the old company shall be continued or enforced by or against the Central Government or the new company.

5. (1) Where any property has vested in the Central Government under section 3, every person in whose possession or custody or under whose control the property may be, shall deliver the property to the Central Government forthwith.

(2) Any person who, on the appointed day, has in his possession or under his control any books, documents or other papers relating to the undertaking which has vested in the Central Government under this Act and which belong to the old company, or, would have so belonged if the undertaking of the old company had not vested in the Central Government, shall be liable to account for the said books, documents or other papers to the Central Government and, on the transfer of such undertaking to the new company, to that company, and shall deliver them up to the Central Government or the new company, as the case may be, or to such other person as the Central Government or the new company may specify in this behalf.

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

6. (1) The old company shall, within such period as the Central Government may allow in this behalf, furnish to that Government, and the new company, a complete inventory of all the properties and assets (including particulars of investments) of the old company on the appointed day, all liabilities and obligations of the old company subsisting on that day and also all agreements entered into by the old company and in force on that day including agreements, whether express or implied, relating to leave, pension, gratuity and other terms of service of

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

Duty to furnish particulars.

any officer or other employee of the old company under which, by virtue of this Act, the Central Government has, or will have, or may have, the liabilities and, for this purpose, the Central Government and the new company shall afford the old company all reasonable facilities.

(2) The old company shall, if required by the Central Government or new company so to do, furnish such returns or information relating to the undertaking referred to in section 3, or, any person employed by the old company for the purpose of such undertaking, as may be specified in such requisition.

Transfer
of emp-
loyees of
the old
company.

7. (1) Every officer or other employee of the old company (except a director or any managerial personnel specified in section 197A of the Companies Act, 1956, or any other person entitled to manage the whole 1 of
or a substantial part of the business of the old company under a special agreement with that company) in the employment of the old company immediately before the appointed day shall, in so far as such officer or other employee is employed in connection with the affairs of the undertaking of the old company, become, as from the appointed day, an officer or other employee, as the case may be, of the Central Government and, on the transfer of such undertaking to the new company, of that company, and shall hold his office on the same terms and conditions and with the same rights to pension, gratuity and other matters as would have been admissible to him if the undertaking of the old company had not been transferred to and vested in the Central Government or the new company, and continue to do so unless and until his employment in the Central Government or the new company is duly terminated or until the remuneration, terms or conditions of service are duly altered by the Central Government or the new company, as the case may be:

Provided that if the alteration so made is not acceptable to any officer or other employee, his employment shall be terminated on payment to him by the Central Government or the new company, as the case may be, of an amount equivalent to three months' remuneration in the case of permanent employees and one month's remuneration in the case of other employees:

Provided further that nothing contained in this sub-section shall apply to any officer or other employee who has, by notice in writing given to the Central Government or the new company, within thirty days next following the appointed day, intimated his intention of not becoming an officer or other employee of the Central Government or the new company, as the case may be.

(2) For the persons, who, immediately before the appointed day, were the trustees for any pension, provident fund, gratuity or other like fund constituted for the officers or other employees of the old company, there shall be substituted as trustees such persons as the Central Government or the new company may, by general or special order, specify.

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer 14 c
of the services of any officer or other employee from the old company to the Central Government or the new company shall not entitle such officer or other employee to any compensation under that Act or other law, and no such claim shall be entertained by any court, tribunal or other authority.

8. (1) For the transfer, under section 3, of the undertaking of the old company to the Central Government, there shall be paid by the Central Government to the Custodian an amount of rupees thirty lakhs.

(2) The Custodian shall open an account in the name of the old company in any scheduled bank and credit the said amount to the said account and hold the said amount in trust for and on behalf of the old company.

CHAPTER III.—MANAGEMENT AND ADMINISTRATION OF THE NEW COMPANY

156. 9. For the efficient management and administration of the undertaking which will vest in the Central Government under section 3, there shall be formed and registered, before the appointed day, a Government company, with the name "Richardson and Cruddas (1972) Limited", in accordance with the provisions of the Companies Act, 1956.

Formation and registration of a new company.

CHAPTER IV.—MANAGEMENT OF THE OLD COMPANY

10. (1) The affairs of the old company shall be managed by a Custodian to be appointed by the Central Government in this behalf:

Management of the old company.

Provided that the Central Government may, if the Custodian declines to become, or to continue to function as, the Custodian or if it is of opinion that it is necessary in the interests of the old company so to do, appoint any other person as the Custodian of the old company.

(2) The Custodian appointed under sub-section (1) shall receive, from the funds of the old company, such emoluments as the Central Government may specify in this behalf.

(3) The Custodian shall hold office during the pleasure of the Central Government.

160. 11. The Custodian shall be a public servant within the meaning of section 21 of the Indian Penal Code.

Custodian to be public servant.

170. 12. (1) On the appointment of a Custodian, every person holding office, immediately before such appointment, as director or manager of the old company shall, notwithstanding anything contained in any other law for the time being in force or in any decree or order of any court or tribunal, vacate such office.

Vacation of office by directors, etc., of the old company.

186. (2) The Custodian shall receive the sum referred to in section 8 and shall deal with the said sum for meeting any liability which is incurred by the old company after the appointed day, and the balance, if any, left after meeting the said liability, in accordance with the wishes of the members of the old company, expressed in a general meeting convened by the Custodian, and the provisions of the Companies Act, 1956, shall, so far as may be, apply to such meeting.

(3) The Custodian may, if the members of the old company so desire, distribute the balance referred to in sub-section (2) amongst such members in accordance with their rights and interests and thereafter apply to the Court for the winding up of the old company by the Court.

PART II

RECTIFICATION OF THE REGISTER OF MEMBERS OF THE OLD COMPANY

CHAPTER I.—CONSTITUTION OF A TRIBUNAL

Constitu-
tion of a
Tribunal.

13. (1) For the purpose of rectification of the register of members of the old company, the Central Government shall, by notification, constitute a Tribunal consisting of one person who is or has been a Judge of a High Court.

(2) If, for any reason, a vacancy (other than a temporary absence) occurs in the office of the presiding officer of the Tribunal, the Central Government shall appoint another person, in accordance with the provisions of this section, to fill the vacancy and the proceedings may be continued before the Tribunal from the stage at which the vacancy is filled.

(3) The Central Government shall make available to the Tribunal such staff as may be necessary for the discharge of its functions under this Act.

(4) All expenses incurred in connection with the Tribunal shall be defrayed out of the Consolidated Fund of India.

(5) The Tribunal shall have power to regulate its own procedure in all matters arising out of the discharge of its functions including the place or places at which it shall hold its sittings:

Provided that the Tribunal shall, as far as practicable, follow the procedure laid down in the Code of Civil Procedure, 1908, for the investigation of claims and the decision of the Tribunal shall be final.

(6) The Tribunal shall, for the purpose of making an inquiry under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

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

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

(c) the reception of evidence on affidavits,

(d) the requisitioning of any public record from any court or office,

(e) issue of any commission for the examination of witnesses.

(7) Any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of section 193 of the Indian Penal Code, and the Tribunal shall be deemed to be a civil court for the purpose of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898.

of 1860.

1898.

CHAPTER II.—POWERS AND DUTIES OF THE TRIBUNAL

14. (1) The Tribunal shall, by notification and in such other manner as may be prescribed, call upon every person, who claims to have any interest in any share, to prefer his claim within thirty days from such date as may be specified in the notification.

Tribunal
to call
upon per-
sons to
make
claims.

(2) Every person claiming an interest in any share shall make his claim before the Tribunal in such form as may be prescribed, stating therein the rights claimed by him in the share and the manner in which, and the date on which, such right was acquired by him.

(3) The Tribunal may, if it is satisfied that any claimant had sufficient cause for not preferring the claim within thirty days from the date specified in the notification, admit such claim within a further period of thirty days.

15. The Tribunal shall, after taking such evidence as may be adduced before it and after making such inquiry as it may think fit and after hearing such persons as may desire to be heard, determine which of the documents purporting to be shares represent, in reality, a contribution to the capital of the old company, and on such determination, all other documents purporting to be shares shall stand declared to be spurious and shall stand cancelled.

Determina-
tion of
genuine
shares.

16. (1) No holder of a document purporting to be a share shall be entitled to claim either from the Central Government or from the old or new company any damages for the cancellation of such document by virtue of the provisions of section 15.

No com-
pensation
for can-
cellation
of spurious
shares.

(2) Subject to the provisions of sub-section (1), every person who had acquired a document, purporting to be a share, *bona fide* for value without notice of the fact that it did not represent any contribution to the capital of the old company, shall be entitled to claim reimbursement from the person from whom such document was acquired by him, and, the period of limitation for any action for such reimbursement shall be deemed to commence on the date on which the document held by him as a share stands cancelled under section 15.

Power of
Tribunal
to enter-
tain and
dispose
of claims
for reim-
bursement.

17. (1) The Tribunal shall have jurisdiction to entertain and dispose of any claim for reimbursement referred to in sub-section (2) of section 16.

(2) Every such claim shall be made before the Tribunal within thirty days from the date on which the document purporting to be a share stands cancelled under section 15.

Suits and
legal pro-
ceedings,
not to be
commen-
ced or
proceed-
ed with.

18. (1) On and from the date on which the Tribunal is constituted, no suit or other legal proceeding shall be commenced, or if pending at the date of such constitution, shall be proceeded with, against the old company except with the leave of the Tribunal and subject to such terms as the Tribunal may impose.

(2) Save as otherwise provided in this Act, the Tribunal shall have, and no court or other tribunal shall have, jurisdiction to entertain or dispose of—

(a) any suit or proceeding by, or on behalf of, or against, the old company;

(b) any claim made by, or on behalf of, or against, the old company;

(c) any question of priorities and any other question whatsoever, whether of law or of fact, which may relate to, or arise in relation to, the genuineness or otherwise of, any share or in relation to any rights or obligations under such share,

whether such suit or proceeding has been instituted, or is instituted, or such claim or question has arisen or arises before or after the constitution of the Tribunal.

(3) If, on the appointed day, any suit, appeal or other proceeding of whatever nature by or against the old company in relation to any business of that company is pending in any court, such suit, appeal or other proceeding shall, notwithstanding anything contained in any other law for the time being in force or in any contract, stand transferred to, and shall be disposed of by, the Tribunal and thereupon no other court or tribunal shall have jurisdiction to try such suit, appeal or proceeding.

Explanation.—A suit or other proceeding relating to the title to, or claim in or in relation to, any share or any document purporting to be a share shall be deemed to be a suit or other proceeding relating to the business of the old company.

(4) Nothing in sub-section (1) or sub-section (3) shall apply to any petition or appeal arising out of any petition made under article 32, article 226 or article 227 of the Constitution.

Decision
of the
Tribunal
to be
final.

19. Every decision, under this Act, of the Tribunal shall be final and shall not be called in question in any court except by way of a petition under article 32 or article 226 of the Constitution.

CHAPTER III.—DUTY OF CUSTODIAN TO RECONSTRUCT REGISTER OF MEMBERS OF THE OLD COMPANY

20. (1) The Custodian shall reconstruct the register of members of the old company and shall include therein the names of the holders of the shares which have been declared by the Tribunal as representing, in reality, a contribution to the capital of the old company and strike off from the register of members of the old company the names of the holders of the documents purporting to be shares which stand, by reason of the determination made by the Tribunal under section 15, cancelled.

Custodian to reconstruct register of members of the old company.

(2) On and from the date of reconstruction of the register of members of the old company,—

(a) the register, as so reconstructed, shall be deemed to be the register of members of the old company, and

(b) all registers of members maintained by the old company, immediately before the said date, shall stand cancelled.

21. (1) The Custodian shall issue, in such form as may be prescribed, fresh share certificates in relation to the shares which have been declared by the Tribunal as representing, in reality, a contribution to the capital of the old company.

Custodian to issue fresh share certificates.

(2) All share certificates issued by the old company before the date of the determination made by the Tribunal shall, on and from such determination, stand cancelled.

of 1956. 22. (1) Notwithstanding anything contained in the Companies Act, 1956, or any other law for the time being in force, no annual or other general meeting of the old company shall be held until the reconstruction of the register of members of the old company has been completed in accordance with the provisions of this Act.

No annual general meeting of the old company to be held before the reconstruction of the register of members.

(2) No resolution purported to have been passed at any meeting of the members of the old company shall, until the reconstruction of its register of members, have effect.

23. (1) Until the register of members of the old company is finally reconstructed, the Custodian shall file every year with the Registrar, the annual accounts of the old company.

Custodian to file accounts until reconstruction of the register of members of the old company.

of 1956. (2) The provisions of the Companies Act, 1956, shall, as far as may be, apply to the annual accounts referred to in sub-section (1).

PART III

OFFENCES AND THEIR TRIAL

24. (1) Any person who,—

Penalties.

(a) having in his possession, custody or control any property forming part of the undertaking which has vested in the Central

Government under section 3, wrongfully withholds such property from the Central Government or new company, or

(b) wrongfully obtains possession of any property forming part of such undertaking, or

(c) being required by sub-section (2) of section 5 so to do, wilfully withholds or fails to furnish to the Central Government, new company or any other person specified by that Government or the new company, any document which may be in his possession, custody or control, or

(d) wilfully fails to furnish an inventory as required by section 6, or furnishes an inventory containing any particulars which are incorrect or false in material particulars and which he either knows or believes to be false or does not believe to be true, or

(e) being required by the Central Government or the new company in writing so to do, fails to furnish any return, statement or other information relating to the undertaking of the old company which has vested in the Central Government under section 3, or

(f) makes a false or frivolous claim before the Tribunal with regard to the ownership of, or any right in, any share, or

(g) fails to comply with any order or direction made under this Act,

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

Provided that the court trying any offence under clause (a), clause (b) or clause (c) of this sub-section may, at the time of convicting the accused person, order him to deliver up or refund, within a period to be fixed by the court, any property or money wrongfully withheld or wrongfully obtained or any document wilfully withheld or not furnished.

(2) No court shall take cognizance of an offence punishable under this section except with the previous sanction of the Central Government or an officer authorised by that Government in this behalf.

Offences
by com-
panies.

25. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to 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 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 be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

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

26. Notwithstanding anything contained in the Code of Criminal Procedure, 1898,

(a) every offence against this Act shall be triable by a Magistrate of the first class, and

(b) no offence against this Act shall be compoundable.

Offences to be triable by a Magistrate of the first class and not to be compoundable.

PART IV

MISCELLANEOUS

27. (1) No suit, prosecution or other legal proceeding shall lie against the Custodian in respect of anything which is in good faith done or intended to be done under this Act.

Protection of action taken in good faith.

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

28. (1) If the Central Government is satisfied, after such inquiry as it thinks fit, that any contract or agreement entered into at any time within twelve months immediately preceding the appointed day, between the old company and any other person has been entered into in bad faith and is detrimental to the interests of the old company or of the new company, it may make an order cancelling or varying (either unconditionally or subject to such conditions as it may think fit to impose) the contract or agreement and thereafter the contract or agreement shall have effect accordingly:

Contracts, etc., in bad faith may be cancelled or varied.

Provided that no contract or agreement shall be cancelled or varied except after giving to the parties to the contract or agreement a reasonable opportunity of being heard.

(2) Any person aggrieved by an order made under sub-section (1) may make an application to the Tribunal for the variation or reversal of such order and thereupon the Tribunal may confirm, modify or reverse such order.

29. If the Custodian is of opinion that any contract of employment entered into by or on behalf of the old company at any time before the appointed day is unduly onerous, he may, by giving to the employee one month's notice in writing or the salary or wages for one month in lieu thereof, terminate such contract of employment.

Power to terminate contract of employment.

Power to
remove
difficulty.

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

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

Power to
make
rules.

31. (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

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

(a) the form and manner in which every claim shall be preferred before the Tribunal;

(b) the form in which fresh shares shall be issued by the Custodian;

(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.

THE MULKI RULES ACT, 1972

No. 79 OF 1972

[30th December, 1972]

An Act to provide for certain amendments to the Mulki Rules so as to limit their operation, for the validation of certain appointments and for the repeal, in a phased manner, of the said Rules and for matters connected therewith.

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

1. This Act may be called the Mulki Rules Act, 1972.
2. In this Act, unless the context otherwise requires,—
 - (a) “appointed day” means the 1st day of November, 1956;
 - (b) “appointment” includes a permanent, quasi-permanent or temporary appointment, but does not include an appointment of a casual nature;
 - (c) “Capital area” means the area comprising of the cities of Hyderabad and Secunderabad within the meaning of the Hyderabad Municipal Corporations Act, 1955;
 - (d) “First Schedule post” means a post specified in the First Schedule, but does not include—
 - (i) any Second Schedule post;

Short
title.
Defini-
tions.

era-
Act

(ii) any post of police officer as defined in clause (b) of section 3 of the Hyderabad City Police Act, 1348 F.

(e) "Hyderabad Civil Service Regulations" means the regulations known as such in English and known in Urdu as the *Zabita Mulazimat Civil Sarkare Ali* (being regulations in Urdu promulgated in obedience to the Firman dated 25th Ramzan 1337 H of the then Ruler of Hyderabad and published in the *Jarida e Alamia* dated the 7th of Azur 1329 F.) as in force immediately before the appointed day; Hyderabad Act IX of 1348 F

(f) "Mulki Rules" means such of the provisions of the Hyderabad Civil Service Regulations as have continued to be in force on and from the 26th January, 1950, by virtue of clause (b) of article 35 of the Constitution;

(g) "non-gazetted post" means a post under the Government of the State of Andhra Pradesh which is not a Gazetted post;

(h) "pay" means basic pay plus special pay, if any, sanctioned to a post but does not include various allowances;

(i) "Schedule post" means a First Schedule post or a Second Schedule post;

(j) "Second Schedule post" means a post specified in the Second Schedule;

(k) "State Government" means the Government of the State of Andhra Pradesh;

(l) "Superior Service" and "Inferior Service" shall have the same meanings as in the Hyderabad Civil Service Regulations;

(m) "Telangana area" means the area comprised in the territories specified in sub-section (1) of section 3 of the States Reorganisation Act, 1956; 37 of 1

(n) "Telangana vacancy", in relation to a Second Schedule post, means the second vacancy in every unit of three vacancies in posts of the same class, being vacancies which are to be filled by direct recruitment.

Limitation, during a specified period, of application of Mulki Rules to appointments to certain posts and validation of other appointments.

3. (1) During, and in relation to, the period commencing on the appointed day and ending immediately before the commencement of this Act, the Mulki Rules shall be deemed to have applied only to the appointments specified in sub-section (2) as if the said Rules had been amended for the duration of that period so as to limit their application to those appointments.

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

(a) appointment to any non-gazetted post (whether included in the cadre of a Service or not and whether service therein is Superior Service or Inferior Service) within the Telangana area, not being appointment to any post in any of the Secretariat Departments or the offices of the Heads of Departments of the State Government situated in the Capital area;

(b) appointment to the post of Tehsildar, by whatever name designated, within the Telangana area under the State Government;

(c) appointment to any post (whether included in the cadre of a Service or not) under a local authority (other than a cantonment

board) in the Telangana area, which carries a scale of pay the minimum of which does not exceed three hundred rupees per mensem or a fixed pay not exceeding that amount;

(d) appointment for the filling of the second vacancy (hereafter in this section and in section 4 referred to as reserved vacancy) in every unit of three vacancies which are to be filled by direct recruitment in non-gazetted posts in the Secretariat Departments and the offices of the Heads of Departments of the State Government situated in the Capital area.

(3) Notwithstanding any judgment, decree or order of any court, tribunal or other authority, no appointment of any person made during the period referred to in sub-section (1) to a post other than a post referred to in clause (a) or clause (b) or clause (c) of sub-section (2) or to a vacancy other than a reserved vacancy in a post referred to in clause (d) of that sub-section and no action taken or thing done by or before such person shall be deemed to be illegal or void or ever to have become illegal or void merely on the ground that such appointment was not made in accordance with the Mulki Rules.

4. Notwithstanding anything contained in sub-section (1) of section 3, during, and in relation to, the period commencing on the appointed day and ending immediately before the commencement of this Act, the Mulki Rules shall, in their application to appointments to any post referred to in clause (a) or clause (b) or clause (c) or to appointments for filling reserved vacancies in posts referred to in clause (d) of sub-section (2) of section 3, be deemed to have been only directory in nature as if the said Rules had been amended for the duration of the said period so as to be only directory in nature, and notwithstanding any judgment, decree or order of any court, tribunal or other authority, no appointment of any person made during that period to any such post or reserved vacancy and no action taken or thing done by or before such person shall be deemed to be illegal or void or ever to have become illegal or void merely on the ground that such appointment was not made in accordance with the Mulki Rules.

Validation of certain specified appointments.

5. The Mulki Rules, except in so far as those Rules relate—

(a) to appointment to any First Schedule post; and

(b) to appointment to any Second Schedule post for the purpose of filling of a Telangana vacancy,

Repeal of Mulki Rules except as to appointments to certain posts.

are hereby repealed, but such repeal shall not affect the validity of any appointment previously made in pursuance of those Rules.

6. The Mulki Rules shall, in so far as they relate to appointments to Schedule posts in the Capital area, cease to have effect on the expiration of the 31st day of December, 1977, and accordingly, those Rules shall, in so far as they relate to such appointments, stand repealed on the expiration of that day, but such repeal shall not affect the validity of any appointment previously made in pursuance of those Rules.

Repeal of Mulki Rules in respect of appointments to Schedule posts in the Capital area.

Repeal of
Mulki
Rules in
respect of
appoint-
ments to
Schedule
posts in
the re-
maining
areas of
Telangana.

7. The Mulki Rules shall, in so far as they relate to appointments to Schedule posts in the Telangana area other than the Capital area, cease to have effect on the expiration of the 31st day of December, 1980, and shall stand repealed on the expiration of that day, but such repeal shall not affect the validity of any appointment previously made in pursuance of those Rules.

THE FIRST SCHEDULE

[See section 2 (d)]

(a) Any non-gazetted post (whether included in the cadre of a Service or not and whether service therein is Superior Service or Inferior Service) within the Telangana area, under the State Government.

(b) The post of Tehsildar, the post of Civil Assistant Surgeon and the post of Junior Engineer, in each case by whatever name designated, within the Telangana area, under the State Government.

(c) Any post (whether included in the cadre of a Service or not) under a local authority (other than a cantonment board) in the Telangana area, which carries a scale of pay the minimum of which does not exceed three hundred rupees per mensem or a fixed pay not exceeding that amount.

THE SECOND SCHEDULE

[See section 2 (j)]

Non-gazetted posts in the Telangana area, being posts in—

- (i) the Secretariat Departments;
- (ii) Offices of the Heads of Departments;
- (iii) common offices; and
- (iv) common institutions

of the State Government.

Explanation 1.—“Common institution” means an institution which is not solely for Telangana area or any part thereof.

Explanation 2.—“Common office” means an office which is not solely for Telangana area or any part thereof.

THE CONSTITUTION (TWENTY-FIFTH AMENDMENT
ACT, 1971

[20th April, 1972]

An Act further to amend the Constitution of India

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

1. This Act may be called the Constitution (Twenty-fifth Amendment) Act, 1971. Short title.

2. In article 31 of the Constitution,—

(a) for clause (2), the following clause shall be substituted, namely:—

Amend-
ment of
article 31.

“(2) No property shall be compulsorily acquired or requisitioned save for a public purpose and save by authority of a law which provides for acquisition or requisitioning of the property for an amount which may be fixed by such law or which may be determined in accordance with such principles and given in such manner as may be specified in such law; and no such law shall be called in question in any court on the ground that the amount so fixed or determined is not adequate or that the whole or any part of such amount is to be given otherwise than in cash:

Provided that in making any law providing for the compulsory acquisition of any property of an educational institution

established and administered by a minority, referred to in clause (1) of article 30, the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause."

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

"(2B) Nothing in sub-clause (f) of clause (1) of article 19 shall affect any such law as is referred to in clause (2)."

Insertion of new article 31C. Saving of laws giving effect to certain directive principles.

3. After article 31B of the Constitution, the following article shall be inserted, namely:—

"31C. Notwithstanding anything contained in article 13, no law giving effect to the policy of the State towards securing the principles specified in clause (b) or clause (c) of article 39 shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by article 14, article 19 or article 31; and no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy:

Provided that where such law is made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent."

THE CONSTITUTION (TWENTY-EIGHTH AMENDMENT)
ACT, 1972

[27th August, 1972]

An Act further to amend the Constitution of India.

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

1. (1) This Act may be called the Constitution (Twenty-eighth Amendment) Act, 1972.

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.

Insertion of new article 312A.

2. After article 312 of the Constitution, the following article shall be inserted, namely:—

“312A. (1) Parliament may by law—

Power of Parliament to vary or revoke conditions of service of officers of certain services.

(a) vary or revoke, whether prospectively or retrospectively, the conditions of service as respects remuneration, leave and pension and the rights as respects disciplinary matters of persons who, having been appointed by the Secretary of State or Secretary of State in Council to a civil service of the Crown in India before the commencement of this Constitution, continue on and after the commencement of the Constitution (Twenty-eighth Amendment) Act, 1972, to serve under the Government of India or of a State in any service or post;

(b) vary or revoke, whether prospectively or retrospectively, the conditions of service as respects pension of persons who, having been appointed by the Secretary of State or Secretary of State in Council to a civil service of the Crown in India before the commencement of this Constitution, retired or otherwise ceased to be in service at any time before the commencement of the Constitution (Twenty-eighth Amendment) Act, 1972:

Provided that in the case of any such person who is holding or has held the office of the Chief Justice or other Judge of the Supreme Court or a High Court, the Comptroller and Auditor-General of India, the Chairman or other member of the Union or a State Public Service Commission or the Chief Election Commissioner, nothing in sub-clause (a) or sub-clause (b) shall be construed as empowering Parliament to vary or revoke, after his appointment to such post, the conditions of his service to his disadvantage except in so far as such conditions of service are applicable to him by reason of his being a person appointed by the Secretary of State or Secretary of State in Council to a civil service of the Crown in India.

(2) Except to the extent provided for by Parliament by law under this article, nothing in this article shall affect the power of any legislature or other authority under any other provision of this Constitution to regulate the conditions of service of persons referred to in clause (1).

(3) Neither the Supreme Court nor any other court shall have jurisdiction in—

(a) any dispute arising out of any provision of, or any endorsement on any covenant, agreement or other similar instrument which was entered into or executed by any person referred to in clause (1), or arising out of any letter issued to such person, in relation to his appointment to any civil service of the Crown in India or his continuance in service under the Government of the Dominion of India or a Province thereof;

(b) any dispute in respect of any right, liability or obligation under article 314 as originally enacted.

(4) The provisions of this article shall have effect notwithstanding anything in article 314 as originally enacted or in any other provision of this Constitution.”

Omission
of article
314.

3. Article 314 of the Constitution shall be omitted.

THE CONSTITUTION (TWENTY-NINTH AMENDMENT)
ACT, 1972

[9th June, 1972]

An Act further to amend the Constitution of India.

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

1. This Act may be called the Constitution (Twenty-ninth Amendment) Act, 1972. Short title.

2. In the Ninth Schedule to the Constitution, after entry 64 and before the *Explanation*, the following entries shall be inserted, namely:— Amendment of Ninth Schedule.

“65. The Kerala Land Reforms (Amendment) Act, 1969 (Kerala Act 35 of 1969).

66. The Kerala Land Reforms (Amendment) Act, 1971 (Kerala Act 25 of 1971).”

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