

CONTENTS

No. of Act	Short title	Page
1	The Representation of the People (Amendment) Act, 1988	1
2	The Narcotic Drugs and Psychotropic Substances (Amendment) Act, 1988	8
3	The Direct Tax Laws (Amendment) Act, 1989	29
4	The Appropriation (Vote on Account) Act, 1989	98
5	The Appropriation Act, 1989	104
6	The Appropriation (Railways) Act, 1989	108
7	The Appropriation (Railways) No. 2 Act, 1989	110
8	The Punjab Appropriation Act, 1989	112
9	The Punjab Appropriation (Vote on Account) Act, 1989	115
10	The Delhi Municipal Laws (Amendment) Act, 1989	118
11	The Income-tax (Amendment) Act, 1989	120
12	The Appropriation (No. 2) Act, 1989	121
13	The Finance Act, 1989	127
14	The Appropriation (Railways) No. 3 Act, 1989	186
15	The Chandigarh Disturbed Areas (Amendment) Act, 1989	188
16	The Terrorist and Disruptive Activities (Prevention) Amendment Act, 1989	189
17	The Union Duties of Excise (Distribution) Amendment Act, 1989	190
18	The Additional Duties of Excise (Goods of Special Impor- tance) Amendment Act, 1989	193
19	The Appropriation (No. 3) Act, 1989	195
20	The Central Industrial Security Force (Amendment) Act, 1989	197
21	The Representation of the People (Amendment) Act, 1989	198
22	The Punjab Pre-emption (Chandigarh and Delhi Repeal) Act, 1989	200
23	The Assam University Act, 1989	201
24	The Railways Act, 1989	241
25	The Delhi Motor Vehicles Taxation (Amendment) Act, 1989	311

No. of Act	Short title	Page
26	The Punjab Appropriation (No. 2) Act, 1989	321
27	The Appropriation (No. 4) Act, 1989	324
28	The Karnataka Appropriation Act, 1989	327
29	The Employees' State Insurance (Amendment) Act, 1989	332
30	The Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1989	352
31	The Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions (Amendment) Act, 1989	353
32	The High Court and Supreme Court Judges (Conditions of Service) Amendment Act, 1989	356
33	The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989	358
34	The Appropriation (No. 5) Act, 1989	367
35	The Nagaland University Act, 1989	369
36	The Direct Tax Laws (Second Amendment) Act, 1989	411
37	The Warehousing Corporations (Amendment) Act, 1989	429
38	The General Insurance Business (Nationalisation) Amendment Act, 1989	430
39	The Small Industries Development Bank of India Act, 1989	431
40	The Customs (Amendment) Act, 1989	459
	The Constitution (Sixty-first Amendment) Act, 1988	460
	INDEX	461

**TABLE SHOWING EFFECT OF PARLIAMENTARY LEGISLATION OF
1989**
**PART-I.—CENTRAL ACTS AMENDED, REPEALED OF OTHERWISE
AFFECTED**

Year] of Act	No. of Act	Short title of Act	How affected	No. and section of 1989 Act by which affected
1	2	3	4	5
1890	9	Indian Railways Act, 1890	Repealed (w.e.f.....)	24, s.200.
1911	3	Punjab Municipal Act, 1911	S. 67A inserted (w.e.f. 1-4-1988).	10, s. 3.
1913	1]	Punjab Pre-emption Act, 1913, as in force in the Union territories of Chandigarh and Delhi	Repealed.	22, s. 2.
1934	2]	Reserve Bank of India Act, 1934	Ss. 2, 17, 42 and 46C amended (w.e.f.....)	39, s. 53 and Second Schedule.
1947	14	Industrial Disputes Act, 1947	S. 2 amended (w.e.f...)	39, s. 53 and Second Schedule.
1948	34	Employees' State Insurance Act, 1948	ss. 1 partly, 2 partly and 84 partly amended (w.e.f. 20-10-1989) and partly (w.e.f.....)	2s, Ss 2, 3 and 32.
			Chapter II and ss. 4, 16, 23, 36, 45A, 54A, 62, 64, 68, 70, 75, 77, 82, 84, 85, 85A, 85C, 86, 90, 92, 94, 95, 97 and Second Schedule amended (w.e.f. 20-10-1989).	<i>Ibid.</i> , ss. 4, 5, 6, 8, 11, 15, 22, 24, 26, 27, 29, 30, 31, 33, 34, 36, 37, 39, 41, 42, 43, 44 and 47.
			S. 17 partly amended (w.e.f. 20-10-1989), partly (w.e.f. 8-11-1989) and partly (w.e.f.....)	<i>Ibid.</i> s. 7.]
			S. 46 partly amended (w.e.f. 20-10-1989) and partly (w.e.f.....)	<i>Ibid.</i> , s. 17.
			Ss. 41, 42, 51, 52, 56, 71, 85B, 90, 92, 94, 95 and 97 amended (w.e.f.....)	<i>Ibid.</i> , ss. 13, 14, 20, 21, 23, 28 and 35.
			S. 39 partly amended (w.e.f. 20-10-1989) and partly (w.e.f.....)	<i>Ibid.</i> , s. 12.
			Ss. 28A and 45C to 45-I inserted (w.e.f.....)	29, ss. 9 and 16.
			Ss. 86A, 91B and 91C inserted (w.e.f. 20-10-1989).	<i>Ibid.</i> , ss. 38 and 40.
			S. 47 and First Schedule omitted (w.e.f.....)	<i>Ibid.</i> , ss. 18 and 46.

1	2	3	4	5
1948	34	Employees State Insurance Act, 1948-- <i>contd.</i>	Ss. 34 and 63 substituted (w.e.f. 20-10-1989). Ss. 49, 50 and 99 substituted (w.e.f.).	<i>Ibid.</i> , ss. 10 and 25. <i>Ibid.</i> , ss. 19 and 45.
1949	10	Banking Regulation Act, 1949	Ss. 5, 18, 34A, 36AD and §56 amended (w.e.f.).	39, s. 53 and Second Schedule.
1950	43	Representation of the People Act, 1950.	S. 13CC inserted (w.e.f. 15-3-1989).	1, s. 2.
1950	43	Representation of the People Act, 1950	S. 9 and Fourth Schedule amended. Ss. 14 and 19 amended (w.e.f. 28-3-1989).	21, ss. 2 and 5. <i>Ibid.</i> , ss. 3 and 4.
1951	43	Representation of the People Act, 1951	Ss. 8, 58, 77, 123, 127, and 169 amended (w.e.f. 15-3-1989). Ss. 2 amended (w.e.f. 5-6-1989). Ss. 33 and 39 amended (w.e.f. 1-4-1989). Ss. 28A, 58A, 61A and 135A inserted (w.e.f. 15-3-1989). Part IV-A inserted (w.e.f. 15-6-1989).	1, ss. 4, 9, 12, 13, 14 and 16. <i>Ibid.</i> , s. 3 <i>Ibid.</i> , ss. 7 and 8. <i>Ibid.</i> , ss. 5, 10, 11 and 15. <i>Ibid.</i> , s. 6.
1954	28	High Court Judges (Conditions of Service) Act, 1954	Ss. 4 and 17A amended (w.e.f. 1-11-1986). S. 9 amended (w.e.f. 1-4-1986).	32, ss. 2 and 4. <i>Ibid.</i> , s. 3.
1954	30	Salary, Allowances and Pension of Members of Parliament Act, 1954	S. 6A amended.	30, s. 2.
1955	16	Medicinal, and Toilet Preparations (Excise Duties) Act, 1955	Schedule amended (w.e.f.).	13, & 39 and sixth Schedule.
1955	45	Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955	S. 2 and 10 amended. Schedule inserted.	31, ss. 2 and 3. <i>Ibid.</i> , 2s. 4
1956	74	Central Sales Tax Act, 1956	S. 14 amended (w.e.f.).	13, s., 50.
1957	27	Wealth-tax Act, 1957	Ss. 2, 4, 5, 6, 16, 16A, 17, 17B, 18, 18B, 23, 26, 34A, 35, 41 and 42A amended (w.e.f. 1-4-1989). S. 11 amended (w.e.f. 1-4-1988). S. 36 and Schedule III inserted (w.e.f. 1-4-1989). Ss. 7 and 18 A substituted (w.e.f. 1-4-1989).	3, ss. 58, 59, 60, 61, 64, 65, 66, 67, 68, 70, 71, 72, 73, 74, 76 and 77. <i>ibid.</i> , s. 63. <i>ibid.</i> , ss. 75 and 78. <i>ibid.</i> , ss. 62 and 69.

1	2	3	4	5
1957	27	Wealth-tax Act, 1957 <i>contd.</i>	S. 5 partly amended (w.e.f. 1-4-1988) partly (w.e.f. 1-4-1989) and partly (w.e.f. 1-4-1990). Ss. 17A and 21A amended (w.e.f. 1-4-1989). S. 25 amended (w.e.f. 1-6-1988). Ss. 15B, 16 and 34A amended (w.e.f. 1-4-1989) Schedule III partly amended (w.e.f. 1-4-1989) and partly (w.e.f. 1-4-1990).	13, s. 27. 13, ss. 28 and 29. 13, s. 30. 36, ss. 27, 28 and 29. <i>ibid.</i> , s. 30.
1957	58	Additional Duties of Excise (Goods of Special Importance) Act, 1957.	First Schedule amended (w.e.f.). Long title amended (w.e.f. 1-4-1989). Second Schedule substituted (w.e.f. 1-4-1989).	13, s. 38 and Fifth Schedule. 18, s. 2. <i>Ibid.</i> , s. 3.
1957	66	Delhi Municipal Corporation Act, 1957	S. 126 amended (w.e.f. 1-4-1988).	10, s. 2.
1958	18	Gift-tax Act, 1958	S. 16A amended (w.e.f. 1-4-1989). S. 24 amended (w.e.f. 1-6-1988). Ss. 14B, 15 and 33A amended (w.e.f. 1-4-1989). Ss. 3, 5, 15, 16, 16B, 17, 22, 25, 33A, 34 and 45 amended (w.e.f. 1-4-1989). S. 10 amended (w.e.f. 1-4-1988). S. 35E and Schedule II inserted (w.e.f. 1-4-1989). Ss. 6 and 17A substituted (w.e.f. 1-4-1989).	13, ss. 31 and 32. 13, ss. 31, 32 and 33. 36, ss. 31, 32 and 33. <i>Ibid.</i> , ss. 79, 80, 83, 84, 85, 86, 88, 89, 90, 91 and 93. <i>Ibid.</i> , s. 82. <i>Ibid.</i> , ss. 92 and 94. <i>Ibid.</i> , ss. 81 and 87.
1958	41	Supreme Court Judges (Conditions of Service) Act, 1958	S. 4 amended (w.e.f. 1-11-1986) and S. 9 (w.e.f. 1-4-1986) and s. 16A (w.e.f.)	32, s. 5. s. 6 s. 7
1961	43	Income-tax Act, 1961	S. 2 partly amended (w.e.f. 1-4-1962) partly (w.e.f. 1-4-1988) and partly (w.e.f. 1-4-1989) Ss. 3, 11, 32A, 32AB, 35, 40, 44AC, 64, 80C, 80CC, 80HHC, 86, 115A, 115J, 139, 143, 144A, 147, 148, 155, 198, 199, 200, 202, 203, 203A, 205, 215, 226, 234A, 234B, 234C, 244A, Sub-Heading to Chapter XX, 246, 249, 253, 255, 271, 273A, 275, 279A, 80A, 80P, 184 and 273B amended (w.e.f. 1-4-1989).	3, s. 2. 3, ss. 3, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 33, 37, 38, 39, 40, 41, 42, 43, 45, 46, 47, 50, 51, 52 and 57.

1	2	3	4	5
1961	43	Income-tax Act 1961— <i>contd.</i>	S. 10 partly amended (w.e.f. 1-4-1988), partly (w.e.f. 1-4-1989) and partly (w.e.f. 1-4-1990).	3, s. 4.
			Ss. 190, 206C and 209 amended (w.e.f. 1-6-1988).	<i>Ibid.</i> , ss. 29, 34 and 35.
			Ss. 194A, 269A, 269B, 222, 223, 224, 225, 226, 228 and 228A amended (w.e.f. 1-4-1988).	<i>Ibid.</i> , ss. 30, 48, 49 and 326.
			Second Schedule and Third Schedule partly amended (w.e.f. 1-4-1988) and partly (w.e.f. 1-4-1989)	<i>Ibid.</i> , ss. 54 and 55.
			Tenth Schedule amended (w.e.f. 1-4-1989).	<i>Ibid.</i> , s. 56.
			Ss. 67A, 80 HHD, 167B and 279B inserted (w.e.f. 1-4-1989).	<i>Ibid.</i> ss. 12, 16, 28 and 53.
			S. 167A omitted (w.e.f. 1-4-1989).	<i>Ibid.</i> , s. 27.
			S. 194E omitted (w.e.f. 1-4-1988).	<i>Ibid.</i> , s. 31.
			S. 246A omitted (w.e.f. 1-4-1989).	<i>Ibid.</i> , s. 44.
			Sub-heading Chapter XV substituted (w.e.f. 1-4-1989).	<i>Ibid.</i> , s. 26.
			S. 196A substituted (w.e.f.).	<i>Ibid.</i> , s. 32.
			Ss. 10, 80G (w.e.f. 24-1-1989).	11, ss. 2 and 3.
			S. 2 amended (w.e.f. 1-4-1970).	13., s. 3.
			S. 10 partly amended (w.e.f. 1-4-1989) and partly (w.e.f. 1-4-1990)	<i>Ibid.</i> , s. 4.
			Ss. 16, 17, 48, 54 E, 57, 80C, 80CC, 80U, 115B, 80A and 80P amended (w.e.f. 1-4-1990).	<i>Ibid.</i> , ss. 5, 6, 11, 12, 13, 14, 15, 17, 18 and 25.
			S. 32AB (partly) (w.e.f. 1-4-1991) and partly amended (w.e.f. 1-4-1987).	<i>Ibid.</i> s. 7.
			Ss. 36 and 153 (w.e.f. amended 1-4-1989).	<i>Ibid.</i> , ss., 8 and 20.
			S. 43B partly amended (w.e.f. 1-4-1984) and partly (w.e.f. 1-4-1989).	<i>Ibid.</i> , s. 91.
			S.115J(Partly) amended (w.e.f. 1-4-1988) and partly (w.e.f. 1-4-1989).	<i>Ibid.</i> , s. 19.
			Ss. 192, 193 and 285B amended (w.e.f. 1-6-1989).	<i>Ibid.</i> , ss. 21, 22 and 24.

1	2	3	4	5
1961	43	Income-tax Act, 1961 <i>concl.</i>	S. 263 amended (w.e.f. 1-6-1988) Ss. 44BBB and 80JJ inserted (w.e.f. 1-4-1990). S. 2 partly amended (w.e.f. 1-4-1989) and partly (w.e.f. 1-4-1990). Ss. 139, 140A, 142, 143, 144, 149, 184, 185, 186 and 275 amended (w.e.f. 1-4-1989). Ss. 6, 48, 80CC, 115D and 115J amended (w.e.f. 1-4-1990). Ss. 80C partly amended (w.e.f. 1-4-1984) and partly (w.e.f. 1-4-1990). S. 80L amended (w.e.f. 1-4-1984). S. 195 amended (w.e.f. 1-6-1987). Ss. 198, 199, 200, 203, 203A, 204 and 205 amended (w.e.f. 1-11-1989). Ss. 33 AC and 115BBA inserted (w.e.f. 1-4-1990). S. 194E inserted (w.e.f. 1-11-1989). S. 241 substituted (w.e.f. 1-4-1989).	13, s. 23. <i>Ibid.</i> , ss. 13, 10 and 16. 36, s. 2. <i>Ibid.</i> , ss. 4, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 26. <i>Ibid.</i> , ss. 3, 6, 8, 11 and 12. <i>Ibid.</i> , s. 7. <i>Ibid.</i> , s. 9. <i>Ibid.</i> , s. 23 <i>Ibid.</i> , s. 24. <i>Ibid.</i> , ss. 5 and 10. <i>Ibid.</i> , s. 22. <i>Ibid.</i> , s. 25.
1962	52	Customs Act, 1962	Ss. 123 and 135 amended.	40, ss. 2 and 3.
1962	57	Delhi Motor Vehicles Taxation Act, 1962	Ss. 3, 4 and 23 amended (w.e.f.). S. 10 and Schedule I substituted (w.e.f.).	25, ss. 2, 3 and 5. <i>Ibid.</i> , ss. 4 and 6.
1962	58	Warehousing Corporations Act, 1962	Ss. 1 and 2 amended. S. 2A inserted.	37, ss. 2 and 3. <i>Ibid.</i> , s. 4.
1965	21	Payment of Bonus Act, 1965	S. 32 amended (w.e.f.)	39, s. 53 and Second Schedule.
1968	50	Central Industrial Security Force Act, 1968	Long title, ss. 8, 10 and 11 amended.	20, ss. 2, 3, 4 and 5.
1972	57	General Insurance Business (Nationalisation) Act, 1972	S. 9 amended.	38, s. 2.
1973	24	North-Eastern Hill University Act, 1973	Ss. 1, 2, 3, 6 and 9 amended (w.e.f.)	35, s. 48.
1975	51	Customs Tariff Act, 1975	Schedule I amended (w.e.f.).	13, s. 34, Second Schedule and Third Schedule.
1976	13	Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976	ss. 2A inserted (w.e.f.).	2, s. 22.
1979	21	Finance Act, 1979	S. 35 amended (w.e.f.).	13, s. 51.

1	2	3	4	5
1979	24	Union Duties of Excise (Distribution) Act, 1979	Long title amended (w.e.f. 1-4-1989).	17, s. 2.
1983	33	Chandigarh Disturbed Areas Act, 1983	S. 6 amended.	15, s.2.
1985	61	Narcotic Drugs and Psychotropic Substances Act, 1985	Long title, ss.2, 8, 48, 59 and 76 amended (w.e.f.). Chapter IIA, 9A, 25A, 27A, 31A, 32A, 52A, 53A, 64A, Chapter VA and 74A inserted (w.e.f.). S. 65 omitted (w.e.f.) Ss.36 and 37 substituted (w.e.f.).	2, ss. 2, 3, 5, 13, 16 and 21. <i>ibid.</i> , ss. 4, 6, 7, 8, 9, 10, 14, 15, 17, 19 and 20. <i>ibid.</i> , s. 18. <i>ibid.</i> , ss. 11 and 12.
1986	5	Central Excise Tariff Act, 1985	Schedule amended (w.e.f.).	13, s. 36 and Fourth Schedule.
1987	28	Terrorist and Disruptive Activities (Prevention) Act, 1987	S. 1 amended. Ss. 2 and 3 substituted (w.e.f. 1-4-1989)	16, s. 2. <i>ibid.</i> , s. 3.
1987	35	Expenditure-tax Act, 1987	S. 4 amended (w.e.f. 1-6-1989).	13, s. 33.
1988	4	Direct Tax Laws (Amendment) Act, 1987	Ss. 3, 6, 9, 10, 13, 25, 61, 64, 88, 124, 126, 140, 160, 184 and 186 amended (w.e.f. 1-4-1989). Ss. 149 and 179 amended (w.e.f. 1-4-1988). Ss. 7, 8, 16 to 21, 24, 26, 29, 62, 63, 66, 67, 68, 69, 71, 72, 100, 101, 122, 106, 142, 143, 144, 147, 174, 175, 177 omitted (w.e.f. 1-4-1989).	3, s. 95,

PART II—CENTRAL ORDINANCES REPEALED

Year of Ordinance	No. of Ordinance	Short title of Ordinance	No. and section of 1989 Act by which repealed
1989	1	Income-tax (Amendment) Ordinance, 1989 (w.e.f. 24-1-1989).	11, s. 4.

PART III—CONSTITUTION OF INDIA AMENDED

How affected	No. and section of 1989 Act by which affected
Article 326 amended	Constitution (Sixty-first Amendment) Act, 1989, s. 2.

THE REPRESENTATION OF THE PEOPLE (AMENDMENT)
ACT, 1988

No. 1 OF 1989

[5th January, 1989.]

An Act further to amend the Representation of the People Act, 1950 and the Representation of the People Act, 1951.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Representation of the People (Amendment) Act, 1988.

Short title
and com-
mencement.

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

CHAPTER II

AMENDMENT OF THE REPRESENTATION OF THE PEOPLE ACT, 1950

2. In Part IIA of the Representation of the People Act, 1950, after section 13C, the following section shall be inserted, namely:—

Amend-
ment of
Act 43
of 1950.

“13CC. The officers referred to in this Part and any other officer or staff employed in connection with the preparation, revision and correction of the electoral rolls for, and the conduct of, all elections shall be deemed to be on deputation to the Election Commission for the period during which they are so employed and such officers and staff shall, during that period, be subject to the control, superintendence and discipline of the Election Commission.”

Chief
Electoral
Officers,
District
Election
Officers,
etc.,
deemed
to be on
deputation
to Election
Commis-
sion.

¹The provisions of all the sections except sections 3, 6, 7 and 8 shall come into force on 15-3-1989.

The provisions of sections 7 and 8 shall come into force on 1-4-1989.

Vide Notification No. G. S. R. 356 (E), dated 13-3-1989.

The provisions of sections 3 and 6 shall come into force on 15-6-1989: Vide Notification No. G. S. R. No. 624 (E), dated 15-6-1989.

CHAPTER III

AMENDMENTS OF THE REPRESENTATION OF THE PEOPLE ACT, 1951

Amend-
ment of
section 2.

3. In section 2 of the Representation of the People Act, 1951 (hereafter in this Chapter referred to as the principal Act), after clause (e), the following clause shall be inserted, namely:—

43 of 1951.

'(f) "political party" means an association or a body of individual citizens of India registered with the Election Commission as a political party under section 29A;'

Amend-
ment of
section 8.

4. In section 8 of the principal Act,—

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

'(1) A person convicted of an offence punishable under—

(a) section 153A (offence of promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony) or section 171E (offence of bribery) or section 171F (offence of undue influence or personation at an election) or sub-section (1) or sub-section (2) of section 376 or section 376A or section 376B or section 376C or section 376D (offences relating to rape) or section 498A (offence of cruelty towards a woman by husband or relative of a husband) or sub-section (2) or sub-section (3) of section 505 (offence of making statement creating or promoting enmity, hatred or ill-will between classes or offence relating to such statement in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies) of the Indian Penal Code; or

45 of 1860

(b) the Protection of Civil Rights Act, 1955 which provides for punishment for the preaching and practice of "untouchability", and for the enforcement of any disability arising therefrom; or

22 of 1955

(c) section 11 (offence of importing or exporting prohibited goods) of the Customs Act, 1962; or

52 of 1962

(d) sections 10 to 12 (offence of being a member of an association declared unlawful, offence relating to dealing with funds of an unlawful association, offence relating to contravention of an order made in respect of a notified place) of the Unlawful Activities (Prevention) Act, 1967; or

37 of 1967

(e) the Foreign Exchange (Regulation) Act, 1973; or

46 of 1973

(f) the Narcotic Drugs and Psychotropic Substances Act, 1985; or

61 of 1985

(g) section 3 (offence of committing terrorist acts) or section 4 (offence of committing disruptive activities) of the Terrorist and Disruptive Activities (Prevention) Act, 1987; or

28 of 1987

(h) section 7 (offence of contravention of the provisions of sections 3 to 6) of the Religious Institutions (Prevention of Misuse) Act, 1988; or

41 of 1988

(i) section 125 (offence of promoting enmity between classes in connection with the election) or section 135 (offence of removal of ballot papers from polling stations) or section 135A (offence of booth capturing) or clause (a) of sub-section (2) of section 136 (offence of fraudulently defacing or fraudulently destroying any nomination paper) of this Act,

shall be disqualified for a period of six years from the date of such conviction.

(2) A person convicted for the contravention of—

(a) any law ^{providing for} ~~providing for~~ the prevention of hoarding or profiteering; or

(b) any law relating to the adulteration of food or drugs; or

28 of 1961.

(c) any provisions of the Dowry Prohibition Act, 1961; or

3 of 1988.

(d) any provisions of the Commission of Sati (Prevention) Act, 1987,

and sentenced to imprisonment for not less than six months, shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.

(3) A person convicted of any offence and sentenced to imprisonment for not less than two years [other than any offence referred to in sub-section (1) or sub-section (2)] shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of six years since his release;

(b) sub-section (3) shall be renumbered as sub-section (4) thereof, and in sub-section (4) as so renumbered, for the words, brackets and figures "in sub-section (1) and sub-section (2)", the words, brackets and figures "in sub-section (1), sub-section (2) or sub-section (3)" shall be substituted.

5. After section 28 of the principal Act, the following section shall be inserted, namely:—

Insertion
section
28A.

"28A. The returning officer, assistant returning officer, presiding officer, polling officer and any other officer appointed under this Part, and any police officer designated for the time being by the State Government, for the conduct of any election shall be deemed to be on deputation to the Election Commission for the period commencing on and from the date of the notification calling for such election and ending with the date of declaration of the results of such election and accordingly, such officers shall, during that period, be subject to the control, superintendence and discipline of the Election Commission."

Returning
officer,
presiding
officer, etc.,
deemed
to be on
deputa-
tion to
Election
Com-
mission.

6. After Part IV of the principal Act, the following Part shall be inserted, namely:—

Insertion
of new
Part
IVA.

"PART IVA

REGISTRATION OF POLITICAL PARTIES

29A. (1) Any association or body of individual citizens of India calling itself a political party and intending to avail itself of the

Registra-
tion.

with the
Commission of
associations
and
bodies as
political
parties.

provisions of this Part shall make an application to the Election Commission for its registration as a political party for the purposes of this Act.

(2) Every such application shall be made,—

(a) if the association or body is in existence at the commencement of the Representation of the People (Amendment) Act, 1988, within sixty days next following such commencement;

(b) if the association or body is formed after such commencement, within thirty days next following the date of its formation.

(3) Every application under sub-section (1) shall be signed by the chief executive officer of the association or body (whether such chief executive officer is known as Secretary or by any other designation) and presented to the Secretary to the Commission or sent to such Secretary by registered post.

(4) Every such application shall contain the following particulars, namely:—

(a) the name of the association or body;

(b) the State in which its head office is situate;

(c) the address to which letters and other communications meant for it should be sent;

(d) the names of its president, secretary, treasurer and other office-bearers;

(e) the numerical strength of its members, and if there are categories of its members, the numerical strength in each category;

(f) whether it has any local units; if so, at what levels;

(g) whether it is represented by any member or members in either House of Parliament or of any State Legislature; if so, the number of such member or members.

(5) The application under sub-section (1) shall be accompanied by a copy of the memorandum or rules and regulations of the association or body, by whatever name called, and such memorandum or rules and regulations shall contain a specific provision that the association or body shall bear true faith and allegiance to the Constitution of India as by law established, and to the principles of socialism, secularism and democracy, and would uphold the sovereignty, unity and integrity of India.

(6) The Commission may call for such other particulars as it may deem fit from the association or body.

(7) After considering all the particulars as aforesaid in its possession and any other necessary and relevant factors and after giving the representatives of the association or body reasonable opportunity of being heard, the Commission shall decide either to register the association or body as a political party for the purposes of this Part, or not so to register it; and the Commission shall communicate its decision to the association or body:

Provided that no association or body shall be registered as a political party under this sub-section unless the memorandum or rules and regulations of such association or body conform to the provisions of sub-section (5).

(8) The decision of the Commission shall be final.

(9) After an association or body has been registered as a political party as aforesaid, any change in its name, head office, office-bearers, address or in any other material matters shall be communicated to the Commission without delay."

7. In section 33 of the principal Act, in sub-section (1), after the proviso, the following proviso shall be inserted, namely:—

Amendment of section 33.

'Provided further that in the case of a local authorities' constituency, graduates constituency or teachers' constituency, the reference to "an elector of the constituency as proposer" shall be construed as a reference to "ten per cent. of the electors of the constituency or ten such electors whichever is less, as proposers".'

8. In section 39 of the principal Act, in sub-section (2), in the proviso, clause (aa) shall be relettered as clause (ab) thereof, and before clause (ab) as so relettered, the following clause shall be inserted, namely:—

Amendment of section 39.

'(aa) the reference in the opening paragraph of sub-section (1) of section 33 to "an elector of the constituency as proposer" shall be construed as a reference to "ten per cent. of the elected members or of the members of the Legislative Assembly of a State or of the members of the electoral college of a Union territory, as the case may be, or ten members concerned whichever is less, as proposers":

Provided that where as a result of the calculation of the percentage referred to in this clause, the number of members arrived at is a fraction and if the fraction so arrived at is more than one-half counted as one, and if the fraction so arrived at is less than one-half it shall be ignored;'

9. In section 58 of the principal Act,—

Amendment of section 58.

(a) in sub-section (1), after clause (a), the following clause shall be inserted, namely:—

"(aa) any voting machine develops a mechanical failure during the course of the recording of votes; or";

(b) in sub-section (2), in clause (b), after the words "result of the election or that", the words "the mechanical failure of the voting machine or" shall be inserted.

10. After section 58 of the principal Act, the following section shall be inserted namely:—

Insertion of new section 58A.

58A. (1) If at any election,—

(a) booth capturing has taken place at a polling station or at a place fixed for the poll (hereafter in this section referred to as a place) in such a manner that the result of the poll at that polling station or place cannot be ascertained; or

(b) booth capturing takes place in any place for counting of votes in such a manner that the result of the counting at that place cannot be ascertained,

Adjournment of poll or countermanding of election on the ground of booth capturing.

the returning officer shall forthwith report the matter to the Election Commission.

(2) The Election Commission shall, on the receipt of a report from the returning officer under sub-section (1) and after taking all material circumstances into account, either—

(a) declare that the poll at that polling station or place be void, appoint a day, and fix the hours, for taking fresh poll at that polling station or place and notify the date so appointed and hours so fixed in such manner as it may deem fit; or

(b) if satisfied that in view of the large number of polling stations or places involved in booth capturing the result of the election is likely to be affected, or that booth capturing had affected counting of votes in such a manner as to affect the result of the election, countermand the election in that constituency.

Explanation.—In this section, “booth capturing” shall have the same meaning as in section 135A’.

Insertion
of new
section
61A.

11. After section 61 of the principal Act, the following section shall be inserted, namely:—

Voting
machines
of
elections.

‘61A. Notwithstanding anything contained in this Act or the machines, in such manner as may be prescribed, may be adopted in rules made thereunder, the giving and recording of votes by voting such constituency or constituencies as the Election Commission may, having regard to the circumstances of each case, specify.

Explanation.—For the purpose of this section, “voting machine” means any machine or apparatus whether operated electronically or otherwise used for giving or recording of votes and any reference to a ballot box or ballot paper in this Act or the rules made thereunder shall, save as otherwise provided, be construed as including a reference to such voting machine wherever such voting machine is used at any election.’

Amend-
ment of
section 77.

12. In section 77 of the principal Act, in sub-section (1), *Explanation 2* shall be omitted.

Amend-
ment of
section
123.

13. In section 123 of the principal Act,—

(a) after clause (7), and before the *Explanation*, the following clause shall be inserted, namely:—

“(8) Booth capturing by a candidate or his agent or other person.”;

(b) in the *Explanation*, after clause (3), the following clause shall be inserted, namely:—

“(4) For the purposes of clause (8), “booth capturing” shall have the same meaning as in section 135A.’

Amend-
ment of
section
127.

14. In section 127 of the principal Act, in sub-section (1), for the words “shall be punishable with fine which may extend to two hundred and fifty rupees”, the words “shall be punishable with imprisonment for a

term which may extend to three months or with fine which may extend to one thousand rupees, or with both" shall be substituted.

15. After section 135 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section
135A.

'135A. Whoever commits an offence of booth capturing shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years and with fine, and where such offence is committed by a person in the service of the Government, he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine.

Offence
of booth
capturing.

Explanation.—For the purposes of this section, "booth capturing" includes, among other things, all or any of the following activities, namely:—

(a) seizure of a polling station or a place fixed for the poll by any person or persons, making polling authorities surrender the ballot papers or voting machines and doing of any other act which affects the orderly conduct of elections;

(b) taking possession of a polling station or a place fixed for the poll by any person or persons and allowing only his or their own supporters to exercise their right to vote and prevent others from voting;

(c) threatening any elector and preventing him from going to the polling station or a place fixed for the poll to cast his vote;

(d) seizure of a place for counting of votes by any person or persons, making the counting authorities surrender the ballot papers or voting machines and the doing of anything which affects the orderly counting of votes;

(e) doing by any persons in the service of Government, of all or any of the aforesaid activities or aiding or conniving at, any such activity in the furtherance of the prospects of the election of a candidate.

16. In section 169 of the principal Act, in sub-section (2),—

Amend-
ment of
section 169.

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

"(ee) the manner of giving and recording of votes by means of voting machines and the procedure as to voting to be followed at polling stations where such machines are used;";

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

"(gg) the procedure as to counting of votes recorded by means of voting machines;";

(iii) in clause (h), for the words "ballot boxes", the words "ballot boxes, voting machines" shall be substituted.

THE NARCOTIC DRUGS AND PSYCHOTROPIC
SUBSTANCES (AMENDMENT) ACT, 1988

No. 2 OF 1989

[6th January, 1989.]

An Act to amend the Narcotic Drugs and Psychotropic Substances
Act, 1985.

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

Short
title
and com-
mence-
ment.

1. (1) This Act may be called the Narcotic Drugs and Psychotropic
Substances (Amendment) Act, 1988.

(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, and any reference
in any provision to the commencement of this Act shall be construed as
a reference to the coming into force of that provision.

Amend-
ment of
long title.

2. In the Narcotic Drugs and Psychotropic Substances Act, 1985
(hereinafter referred to as the principal Act), in the long title, after
the word "substances", the following shall be inserted, namely:—

61 of 198

“, to provide for the forfeiture of property derived from, or used
in, illicit traffic in narcotic drugs and psychotropic substances, to
implement the provisions of the International Conventions on Nar-
cotic Drugs and Psychotropic Substances”.

Amend-
ment of
section 2.

3. In section 2 of the principal Act,—

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

“(viii) “controlled substance” means any substance which
the Central Government may, having regard to the available
information as to its possible use in the production or manufac-
ture of narcotic drugs or psychotropic substances or to the pro-
visions of any International Convention, by notification in the
Official Gazette, declare to be a controlled substance;”;

1 29.5.1989: Vide Notification No. S.O. 379[E], dt. 29.5.1989.

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

‘(viiiia) “illicit traffic”, in relation to narcotic drugs and psychotropic substances, means—

(i) cultivating any coca plant or gathering any portion of coca plant;

(ii) cultivating the opium poppy or any cannabis plant;

(iii) engaging in the production, manufacture, possession, sale, purchase, transportation, warehousing, concealment, use or consumption, import inter-State, export inter-State, import into India, export from India or transshipment, of narcotic drugs or psychotropic substances;

(iv) dealing in any activities in narcotic drugs or psychotropic substances other than those referred to in sub-clauses (i) to (iii); or

(v) handling or letting out any premises for the carrying on of any of the activities referred to in sub-clauses (i) to (iv),

other than those permitted under this Act, or any rule or order made, or any condition of any licence, term or authorisation issued, thereunder, and includes—

(1) financing, directly or indirectly, any of the aforementioned activities;

(2) abetting or conspiring in the furtherance of or in support of doing any of the aforementioned activities; and

(3) harbouring persons engaged in any of the aforementioned activities;’;

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

‘(xxviiiia) “use”, in relation to narcotic drugs and psychotropic substances, means any kind of use except personal consumption;’.

4. After Chapter II of the principal Act, the following Chapter shall be inserted, namely:—

“CHAPTER IIA

NATIONAL FUND FOR CONTROL OF DRUG ABUSE

7A. (1) The Central Government may, by notification in the Official Gazette, constitute a Fund to be called the National Fund for Control of Drug Abuse (hereafter in this Chapter referred to as the Fund) and there shall be credited thereto—

(a) an amount which the Central Government may, after due appropriation made by Parliament by law in this behalf, provide;

Insertion
of new
Chapter
IIA.

National
Fund for
Control
of Drug
Abuse.

(b) the sale proceeds of any property forfeited under Chapter VA;

(c) any grants that may be made by any person or institution;

(d) any income from investment of the amounts credited to the Fund under the aforesaid provisions.

(2) The Fund shall be applied by the Central Government to meet the expenditure incurred in connection with the measures taken for combating illicit traffic in, or controlling abuse of, narcotic drugs and psychotropic substances for all or any of the purposes specified in sub-section (1) of section 71.

(3) The Central Government may constitute a Governing Body as it thinks fit to advise that Government in regard to the application of the Fund.

(4) The Governing Body shall consist of a Chairman (not below the rank of an Additional Secretary to the Central Government) and such other members not exceeding six as the Central Government may appoint.

(5) The Governing Body shall have the power to regulate its own procedure.

Annual report of activities financed under the Fund.

7B. 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 the activities financed under section 7A during the financial year, together with a statement of accounts."

Amendment of section 8.

5. In section 8 of the principal Act, after the proviso, the following proviso shall be inserted, namely:—

"Provided further that nothing in this section shall apply to the export of poppy straw for decorative purposes."

Insertion of new section 9A.

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

Power to control and regulate controlled substances.

"9A. (1) If the Central Government is of the opinion that, having regard to the use of any controlled substance in the production or manufacture of any narcotic drug or psychotropic substance, it is necessary or expedient so to do in the public interest, it may, by order, provide for regulating or prohibiting the production, manufacture, supply and distribution thereof and trade and commerce therein.

(2) Without prejudice to the generality of the power conferred by sub-section (1), an order made thereunder may provide for regulating by licences, permits or otherwise, the production, manufacture, possession, transport, import inter-State, export inter-State, sale, purchase, consumption, use, storage, distribution, disposal or acquisition of any controlled substance.”

7. After section 25 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 25A.

“25A. If any person contravenes an order made under section 9A, he shall be punishable with rigorous imprisonment for a term which may extend to ten years and shall also be liable to fine which may extend to one lakh rupees:

Punishment for contravention of orders made under section 9A.

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding one lakh rupees.”

8. After section 27 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 27A.

“27A. Whoever indulges in financing, directly or indirectly, any, of the activities specified in sub-clauses (i) to (v) of clause (viii) of section 2 or harbours any person engaged in any of the aforementioned activities, shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees:

Punishment for financing illicit traffic and harbouring offenders.

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees.”

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

Insertion of new section 31A.

“31A. (1) Notwithstanding anything contained in section 31, if any person who has been convicted of the commission of, or attempt to commit, or abetment of, or criminal conspiracy to commit, any of the offences punishable under section 15 to section 25 (both inclusive) or section 27A, is subsequently convicted of the commission of, or attempt to commit, or abetment of, or criminal conspiracy to commit, an offence relating to,—

Death penalty for certain offences after previous conviction.

(a) engaging in the production, manufacture, possession, transportation, import into India, export from India or transshipment, of the narcotic drugs or psychotropic substances specified under column (1) of the Table below and involving the quantity which is equal to or more than the quantity indicated

against each such drug or substance, as specified in column (2) of the said Table:

TABLE

Particulars of narcotic drugs/psychotropic substances		Quantity
(1)		(2)
(i)	Opium	10 kgs.
(ii)	Morphine	1 kg.
(iii)	Heroin	1 kg.
(iv)	Codeine	1 kg.
(v)	Thebaine	1 kg.
(vi)	Cocaine	500 grams
(vii)	Hashish	20 kgs.
(viii)	Any mixture with or without any neutral material of any of the above drugs	1,500 grams
(ix)	LSD, LSD-25 (+)-N, N-Diethyllysergamide (d-lysergic acid diethylamide)	500 grams
(x)	THC (Tetrahydrocannabinols, the following Isomers: 6a (10a), 6a (7), 7, 8, 9, 10, 9 (11) and their stereochemical variants)	500 grams
(xi)	Methamphetamine (+)-2-Methylamine-1-Phenylpropane	1,500 grams
(xii)	Methaqualone (2-Methyl-3-O-tolyl-4-(3h-)-quinazolinone)	1,500 grams
(xiii)	Amphetamine (+)-2-amino-1-phenylpropane	1,500 grams
(xiv)	Salts and preparations of the psychotropic substances mentioned in (ix) to (xiii)	1,500 grams.;

(b) financing, directly or indirectly, any of the activities specified in clause (a),

shall be punishable with death.

(2) Where any person is convicted by a competent court of criminal jurisdiction outside India under any law corresponding to the provisions of section 15 to section 25 (both inclusive), section 27A, section 28 or section 29, such person, in respect of such conviction, shall be dealt with for the purposes of sub-section (1) as if he had been convicted by a court in India.”.

10. After section 32 of the principal Act, the following section shall be inserted, namely:—

“32A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any other law for the time being in

Insertion
of new
section
32A.

No suspen-
sion, re-

force but subject to the provisions of section 33, no sentence awarded under this Act (other than section 27) shall be suspended or remitted or commuted.”.

mis-
sion or
commuta-
tion in
any
sentence
awarded
under
this
Act.

11. For section 36 of the principal Act, the following sections shall be substituted, namely:—

Substitu-
tion of
new
sections
for sec-
tion 36.

“36. (1) The Government may, for the purpose of providing speedy trial of the offences under this Act, by notification in the Official Gazette, constitute as many Special Courts as may be necessary for such area or areas as may be specified in the notification.

Constitu-
tion of
Special
Courts.

(2) A Special Court shall consist of a single Judge who shall be appointed by the Government with the concurrence of the Chief Justice of the High Court.

Explanation.—In this sub-section, “High Court” means the High Court of the State in which the Sessions Judge or the Additional Sessions Judge of a Special Court was working immediately before his appointment as such Judge.

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

36A. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973,—

Offences
triable
by
Special
Courts.

2 of 1974.

(a) all offences under this Act shall be triable only by the Special Court constituted for the area in which the offence has been committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the Government;

2 of 1974.

(b) where a person accused of or suspected of the commission of an offence under this Act is forwarded to a Magistrate under sub-section (2) or sub-section (2A) of section 167 of the Code of Criminal Procedure, 1973, such Magistrate may authorise the detention of such person in such custody as he thinks fit for a period not exceeding fifteen days in the whole where such Magistrate is a Judicial Magistrate and seven days in the whole where such Magistrate is an Executive Magistrate:

Provided that where such Magistrate considers—

(i) when such person is forwarded to him as aforesaid;

or

(ii) upon or at any time before the expiry of the period of detention authorised by him,

that the detention of such person is unnecessary, he shall order such person to be forwarded to the Special Court having jurisdiction;

(c) the Special Court may exercise, in relation to the person forwarded to it under clause (b), the same power which a Magistrate having jurisdiction to try a case may exercise under section 167 of the Code of Criminal Procedure, 1973, in relation to an accused person in such case who has been forwarded to him under that section;

2 of 1974

(d) a Special Court may, upon a perusal of police report of the facts constituting an offence under this Act or upon a complaint made by an officer of the Central Government or a State Government authorised in the behalf, take cognizance of that offence without the accused being committed to it for trial.

(2) When trying an offence under this Act, a Special Court may also try an offence other than an offence under this Act, with which the accused may, under the Code of Criminal Procedure, 1973, be charged at the same trial.

2 of 1974.

(3) Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding bail under section 439 of the Code of Criminal Procedure, 1973 and the High Court may exercise such powers including the power under clause (b) of sub-section (1) of that section as if the reference to "Magistrate" in that section included also a reference to a "Special Court" constituted under section 36.

2 of 1974.

Appeal
and
revision.

36B. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973, on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

2 of 1974.

Applica-
tion of
Code to
proceed-
ings
before a
Special
Court.

36C. Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 (including the provisions as to bail and bonds) shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting a prosecution before a Special Court, shall be deemed to be a Public Prosecutor.

2 of 1974.

Transi-
tional
provi-
sions.

36D. (1) Any offence committed under this Act on or after the commencement of the Narcotic Drugs and Psychotropic Substances (Amendment) Act, 1988, until a Special Court is constituted under section 36, shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973, be tried by a Court of Session:

2 of 1974.

Provided that offences punishable under sections 26, 27 and 32 may be tried summarily.

(2) Nothing in sub-section (1) shall be construed to require the transfer to a Special Court of any proceedings in relation to an offence taken cognizance of by a Court of Session under the said sub-section (1) and the same shall be heard and disposed of by the Court of Session.”.

12. For section 37 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 37.

2 of 1974.

“37. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973,—

Offences to be cognizable and non-bailable.

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for a term of imprisonment of five years or more under this Act shall be released on bail or on his own bond unless—

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

2 of 1974.

(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 or any other law for the time being in force on granting of bail.”.

13. In section 48 of the principal Act, after the words “State Government”, the words and figures “or any officer of a gazetted rank empowered under section 42” shall be inserted.

Amendment of section 48.

14. After section 52 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 52A.

“52A. (1) The Central Government may, having regard to the hazardous nature of any narcotic drugs or psychotropic substances, their vulnerability to theft, substitution, constraints of proper storage space or any other relevant considerations, by notification published in the Official Gazette, specify such narcotic drugs or psychotropic substances or class of narcotic drugs or class of psychotropic substances which shall, as soon as may be after their seizure, be disposed of by such officer and in such manner as that Government may, from time to time, determine after following the procedure hereinafter specified.

Disposal of seized narcotic drugs and psychotropic substances.

(2) Where any narcotic drug or psychotropic substance has been seized and forwarded to the officer-in-charge of the nearest police

station or to the officer empowered under section 53, the officer referred to in sub-section (1) shall prepare an inventory of such narcotic drugs or psychotropic substances containing such details relating to their description, quality, quantity, mode of packing, marks, numbers or such other identifying particulars of the narcotic drugs or psychotropic substances or the packing in which they are packed, country of origin and other particulars as the officer referred to in sub-section (1) may consider relevant to the identity of the narcotic drugs or psychotropic substances in any proceedings under this Act and make an application, to any Magistrate for the purpose of—

(a) certifying the correctness of the inventory so prepared;
or

(b) taking, in the presence of such Magistrate, photographs of such drugs or substances and certifying such photographs as true; or

(c) allowing to draw representative samples of such drugs or substances, in the presence of such Magistrate and certifying the correctness of any list of samples so drawn.

(3) Where an application is made under sub-section (2), the Magistrate shall, as soon as may be, allow the application.

(4) Notwithstanding anything contained in the Indian Evidence Act, 1872 or the Code of Criminal Procedure, 1973, every court trying an offence under this Act, shall treat the inventory, the photographs of narcotic drugs or psychotropic substances and any list of samples drawn under sub-section (2) and certified by the Magistrate, as primary evidence in respect of such offence.”

1 of 1872.
2 of 1974.

Insertion
of new
section
53A.

Relevancy
of state-
ments
under
certain
circum-
stances.

15. After section 53 of the principal Act, the following section shall be inserted, namely:—

“53A. (1) A statement made and signed by a person before any officer empowered under section 53 for the investigation of offences, during the course of any inquiry or proceedings by such officer, shall be relevant for the purpose of proving, in any prosecution for an offence under this Act, the truth of the facts which it contains,—

(a) when the person who made the statement is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or whose presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the court considers unreasonable;
or

(b) when the person who made the statement is examined as a witness in the case before the court and the court is of the opinion that, having regard to the circumstances of the case, the statement should be admitted in evidence in the interest of justice.

(2) The provisions of sub-section (1) shall, so far as may be, apply in relation to any proceedings under this Act or the rules or

orders made thereunder, other than a proceeding before a court, as they apply in relation to a proceeding before a court.”.

16. In section 59 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

Amendment of section 59.

“(2) Any officer on whom any duty has been imposed by or under this Act or any person who has been given the custody of—

(a) any addict; or

(b) any other person who has been charged with an offence under this Act,

and who wilfully aids in, or connives at, the contravention of any provision of this Act or any rule or order made thereunder, shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years, and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees.

Explanation.—For the purposes of this sub-section, the expression “officer” includes any person employed in a hospital or institution maintained or recognised by the Government or a local authority under section 64A for providing de-addiction treatment.”.

17. After section 64 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 64A.

“64A. Any addict, who is not charged with any offence punishable under sections 15 to 25 (both inclusive) or section 27A, who voluntarily seeks to undergo medical treatment for de-toxification or de-addiction from a hospital or an institution maintained or recognised by the Government or a local authority and undergoes such treatment shall not be liable to prosecution under section 27 once in his lifetime:

Immunity from prosecution to addicts volunteering for treatment.

Provided that the said immunity from prosecution may be withdrawn if the addict does not undergo the complete treatment for de-toxification or de-addiction.”.

18. Section 65 of the principal Act shall be omitted.

Omission of section 65.

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

Insertion of new Chapter VA.

‘CHAPTER VA

FORFEITURE OF PROPERTY DERIVED FROM, OR USED IN, ILLICIT TRAFFIC

68A. (1) The provisions of this Chapter shall apply only to the persons specified in sub-section (2).

Application.

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

(a) every person who has been convicted of an offence punishable under this Act with imprisonment for a term of five years or more;

(b) every person who has been convicted of a similar offence by a competent court of criminal jurisdiction outside India;

(c) every person in respect of whom an order of detention has been made under the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988, or under the Jammu and Kashmir Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988:

46 of 1988.

J & K Act
XXIII of
1988.

Provided that such order of detention has not been revoked on the report of the Advisory Board constituted under the said Acts or such order of detention has not been set aside by a court of competent jurisdiction;

(d) every person who is a relative of a person referred to in clause (a) or clause (b) or clause (c);

(e) every associate of a person referred to in clause (a) or clause (b) or clause (c);

(f) any holder (hereafter in this clause referred to as the "present holder") of any property which was at any time previously held by a person referred to in clause (a) or clause (b) or clause (c) unless the present holder or, as the case may be, any one who held such property after such person and before the present holder, is or was a transferee in good faith for adequate consideration.

**Defini-
tions.**

68B. In this Chapter, unless the context otherwise requires,—

(a) "Appellate Tribunal" means the Appellate Tribunal for Forfeited Property constituted under section 68N;

(b) "associate" in relation to a person whose property is liable to be forfeited under this Chapter, means—

(i) any individual who had been or is residing in the residential premises (including out-houses) of such person;

(ii) any individual who had been or is managing the affairs or keeping the accounts of such person;

(iii) any association of persons, body of individuals, partnership firm, or private company within the meaning of the Companies Act, 1956, of which such person had been or is a member, partner or director;

1 of 19:

(iv) any individual who had been or is a member, partner or director of an association of persons, body of individuals, partnership firm or private company referred to in sub-clause (iii) at any time when such person had been or

is a member, partner or director of such association, body, partnership firm or private company;

(v) any person, who had been or is managing the affairs, or keeping the accounts, of any association of persons, body of individuals, partnership firm or private company referred to in sub-clause (iii);

(vi) the trustee of any trust, where,—

(1) the trust has been created by such person; or

(2) the value of the assets contributed by such person (including the value of the assets, if any, contributed by him earlier) to the trust amounts, on the date on which contribution is made, to not less than twenty per cent. of the value of the assets of the trust on that date;

(vii) where the competent authority, for reasons to be recorded in writing, considers that any properties of such person are held on his behalf by any other person, such other person;

(c) "competent authority" means an officer of the Central Government authorised by it under section 68D;

(d) "concealment" means the concealment or disguise of the nature, source, disposition, movement or ownership of property and includes the movement or conversion of such property by electronic transmission or by any other means;

(e) "freezing" means temporarily prohibiting the transfer, conversion, disposition or movement of property by an order issued under section 68F;

(f) "identifying" includes establishment of proof that the property was derived from, or used in, the illicit traffic;

(g) "illegally acquired property", in relation to any person to whom this Chapter applies, means,—

(i) any property acquired by such person, whether before or after the commencement of this Chapter, wholly or partly out of or by means of any income, earnings or assets derived or obtained from or attributable to illicit traffic; or

(ii) any property acquired by such person, whether before or after the commencement of this Chapter, for a consideration, or by any means wholly or partly traceable to any property referred to in sub-clause (i) or the income or earning from such property,

and includes—

(A) any property held by such person which would have been, in relation to any previous holder thereof, illegally acquired property under this clause if such previous holder had not ceased to hold it, unless such person or any

other person who held the property at any time after such previous holder or, where there are two or more such previous holders, the last of such previous holders is or was a transferee in good faith for adequate consideration;

(B) any property acquired by such person, whether before or after the commencement of this Chapter, for a consideration, or by any means, wholly or partly traceable to any property falling under item (A), or the income or earnings therefrom;

(h) "property" means property and assets of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangible and deeds and instruments evidencing title to, or interest in, such property or assets, derived from, or used in, the illicit traffic;

(i) "relative" means—

(1) spouse of the person;

(2) brother or sister of the person;

(3) brother or sister of the spouse of the person;

(4) any lineal ascendant or descendant of the person;

(5) any lineal ascendant or descendant of the spouse of the person;

(6) spouse of a person referred to in sub-clause (2), sub-clause (3), sub-clause (4) or sub-clause (5);

(7) any lineal descendant of a person referred to in sub-clause (2) or sub-clause (3);

(j) "tracing" means determining the nature, source, disposition, movement, title or ownership of property;

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

68C. (1) As from the commencement of this Chapter, it shall not be lawful for any person to whom this Chapter applies to hold any illegally acquired property either by himself or through any other person on his behalf.

(2) Where any person holds any illegally acquired property in contravention of the provisions of sub-section (1), such property shall be liable to be forfeited to the Central Government in accordance with the provisions of this Chapter:

Provided that no property shall be forfeited under this Chapter if such property was acquired by a person to whom this Act applies before a period of six years from the date on which he was charged for an offence relating to illicit traffic.

68D. (1) The Central Government may, by order published in the Official Gazette, authorise any Collector of Customs or Collector of Central Excise or Commissioner of Income-tax or any other officer of the Central Government of equivalent rank to perform the functions of the competent authority under this Chapter.

Prohibition of holding illegally acquired property.

Competent authority.

(2) The competent authorities shall perform their functions in respect of such persons or classes of persons as the Central Government may, by order, direct.

68E. (1) Every officer empowered under section 53 and every officer-in-charge of a police station, shall, on receipt of information that any person to whom this Chapter applies has been charged with any offence punishable under this Act, whether committed in India or outside, proceed to take all steps necessary for tracing and identifying any property illegally acquired by such person.

Identifying
illegally
acquired
property.

(2) The steps referred to in sub-section (1) may include any inquiry, investigation or survey in respect of any person, place, property, assets, documents, books of account in any bank or public financial institution or any other relevant matters.

(3) Any inquiry, investigation or survey referred to in sub-section (2) shall be carried out by an officer mentioned in sub-section (1) in accordance with such directions or guidelines as the competent authority may make or issue in this behalf.

68F. (1) Where any officer conducting an inquiry or investigation under section 68E has reason to believe that any property in relation to which such inquiry or investigation is being conducted is an illegally acquired property and such property is likely to be concealed, transferred or dealt with in any manner which will result in frustrating any proceeding relating to forfeiture of such property under this Chapter, he may make an order for seizing such property and where it is not practicable to seize such property, he may make an order that such property shall not be transferred or otherwise dealt with, except with the prior permission of the officer making such order, or of the competent authority and a copy of such order shall be served on the person concerned.

Seizure
or free-
zing of
illegally
acquired
property.

Provided that the competent authority shall be duly informed of any order made under this sub-section and a copy of such an order shall be sent to the competent authority within forty-eight hours of its being made.

(2) Any order made under sub-section (1) shall have no effect unless the said order is confirmed by an order of the competent authority within a period of thirty days of its being made.

Explanation.—For the purposes of this section, “transfer of property” means any disposition, conveyance, assignment, settlement, delivery, payment or other alienation of property and, without limiting the generality of the foregoing, includes—

(a) the creation of a trust in property;

(b) the grant or creation of any lease, mortgage, charge, easement, licence, power, partnership or interest in property;

(c) the exercise of a power of appointment of property vested in any person, not the owner of the property, to determine its disposition in favour of any person other than the donee of the power; and

(d) any transaction entered into by any person with intent thereby to diminish directly or indirectly the value of his own property and to increase the value of the property of any other person.

Manage-
ment of
propert-
ies
seized
or forfeit-
ed under
this
Chapter.

68G. (1) The Central Government may, by order published in the Official Gazette, appoint as many of its officers (not below the rank of a Joint Secretary to the Government) as it thinks fit, to perform the functions of an Administrator.

(2) The Administrator appointed under sub-section (1) shall receive and manage the property in relation to which an order has been made under sub-section (1) of section 68F or under section 68-I in such manner and subject to such conditions as may be prescribed.

(3) The Administrator shall also take such measures, as the Central Government may direct, to dispose of the property which is forfeited to the Central Government.

Notice of
forfeiture
of
property.

68H. (1) If, having regard to the value of the properties held by any person to whom this Chapter applies, either by himself or through any other person on his behalf, his known sources of income, earnings or assets, and any other information or material available to it as a result of a report from any officer making an investigation under section 68E or otherwise, the competent authority has reason to believe (the reasons for such belief to be recorded in writing) that all or any of such properties are illegally acquired properties, it may serve a notice upon such person (hereinafter referred to as the person affected) calling upon him within a period of thirty days specified in the notice to indicate the sources of his income, earnings or assets, out of which or by means of which he has acquired such property, the evidence on which he relies and other relevant information and particulars, and to show cause why all or any of such properties, as the case may be, should not be declared to be illegally acquired properties and forfeited to the Central Government under this Chapter.

(2) Where a notice under sub-section (1) to any person specifies any property as being held on behalf of such person by any other person, a copy of the notice shall also be served upon such other person.

Forfeit-
ure of
property
in cer-
tain
cases.

68-I. (1) The competent authority may, after considering the explanation, if any, to the show cause notice issued under section 68H, and the materials available before it and after giving to the person affected (and in a case where the person affected holds any property specified in the notice through any other person, to such other person also) a reasonable opportunity of being heard, by order, record a finding whether all or any of the properties in question are illegally acquired properties:

Provided that if the person affected (and in a case where the person affected holds any property specified in the notice through any other person such other person also) does not appear before the competent authority or represent his case before it within a period of thirty days specified in the show cause notice, the com-

petent authority may proceed to record a finding under this sub-section *ex parte* on the basis of evidence available before it.

(2) Where the competent authority is satisfied that some of the properties referred to in the show cause notice are illegally acquired properties but is not able to identify specifically such properties, then, it shall be lawful for the competent authority to specify the properties which, to the best of its judgment, are illegally acquired properties and record a finding accordingly under sub-section (1).

(3) Where the competent authority records a finding under this section to the effect that any property is illegally acquired property, it shall declare that such property shall, subject to the provisions of this Chapter, stand forfeited to the Central Government free from all encumbrances.

(4) Where any shares in a company stand forfeited to the Central Government under this Chapter, then, the company shall, notwithstanding anything contained in the Companies Act, 1956 or the articles of association of the company, forthwith register the Central Government as the transferee of such shares.

1 of 1956.

68J. In any proceedings under this Chapter, the burden of proving that any property specified in the notice served under section 68H is not illegally acquired property shall be on the person affected.

Burden of proof.

68K. (1) Where the competent authority makes a declaration that any property stands forfeited to the Central Government under section 68-I and it is a case where the source of only a part of the illegally acquired property has not been proved to the satisfaction of the competent authority, it shall make an order giving an option to the person affected to pay, in lieu of forfeiture, a fine equal to the market value of such part.

Fine in lieu of forfeiture.

(2) Before making an order imposing a fine under sub-section (1), the person affected shall be given a reasonable opportunity of being heard.

(3) Where the person affected pays the fine due under sub-section (1), within such time as may be allowed in that behalf, the competent authority may, by order, revoke the declaration of forfeiture under section 68-I and thereupon such property shall stand released.

68L. In the case of any person referred to in sub-clause (vi) of clause (b) of section 68B, if the competent authority, on the basis of the information and materials available to it, has reason to believe (the reasons for such belief to be recorded in writing) that any property held in trust is illegally acquired property, it may serve a notice upon the author of the trust or as the case may be, the contributor of the assets out of or by means of which such property was acquired by the trust and the trustees, calling upon them within a period of thirty days specified in the notice, to explain the source of money or other assets out of or by means of which

Procedure in relation to certain trust properties.

such property was acquired or, as the case may be, the source of money or other assets which were contributed to the trust for acquiring such property and thereupon such notice shall be deemed to be a notice served under section 68H and all the other provisions of this Chapter shall apply accordingly.

Explanation.—For the purposes of this section “illegally acquired property”, in relation to any property held in trust, includes—

(i) any property which if it had continued to be held by the author of the trust or the contributor of such property to the trust would have been illegally acquired property in relation to such author or contributor;

(ii) any property acquired by the trust out of any contributions made by any person which would have been illegally acquired property in relation to such person had such person acquired such property out of such contributions.

Certain transfers to be null and void.

68M. Where after the making of an order under sub-section (1) of section 68F or the issue of a notice under section 68H or under section 68L, any property referred to in the said order or notice is transferred by any mode whatsoever such transfer shall, for the purposes of the proceedings under this Chapter, be ignored and if such property is subsequently forfeited to the Central Government under section 68-I, then, the transfer of such property shall be deemed to be null and void.

Constitution of Appellate Tribunal.

68N. (1) The Central Government may, by notification in the Official Gazette, constitute an Appellate Tribunal to be called the Appellate Tribunal for Forfeited Property consisting of a Chairman and such number of other members (being officers of the Central Government not below the rank of a Joint Secretary to the Government) as the Central Government thinks fit, to be appointed by that Government for hearing appeals against the orders made under section 68F, section 68-I, sub-section (1) of section 68K or section 68L.

(2) The Chairman of the Appellate Tribunal shall be a person who is or has been or is qualified to be a Judge of the Supreme Court or of a High Court.

(3) The terms and conditions of service of the Chairman and other members shall be such as may be prescribed.

Appeals.

68-O. (1) Any person aggrieved by an order of the competent authority made under section 68F, section 68-I, sub-section (1) of section 68K or section 68L, may, within forty-five days from the date on which the order is served on him, prefer an appeal to the Appellate Tribunal:

Provided that the Appellate Tribunal may entertain an appeal after the said period of forty-five days, but not after sixty days, from the date aforesaid 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 Tribunal may, after giving an opportunity to the appellant to be heard, if he so desires, and after making such further inquiry as it deems fit, confirm, modify or set aside the order appealed against.

(3) The powers and functions of the Appellate Tribunal may be exercised and discharged by Benches consisting of three members and constituted by the Chairman of the Appellate Tribunal.

(4) Notwithstanding anything contained in sub-section (3), where the Chairman considers it necessary so to do for the expeditious disposal of appeals under this section, he may constitute a Bench of two members and a Bench so constituted may exercise and discharge the powers and functions of the Appellate Tribunal:

Provided that if the members of a Bench so constituted differ on any point or points, they shall state the point or points on which they differ and refer the same to a third member (to be specified by the Chairman) for hearing of such point or points and such point or points shall be decided according to the opinion of that member.

(5) The Appellate Tribunal may regulate its own procedure.

(6) On application to the Appellate Tribunal and on payment of the prescribed fee, the Tribunal may allow a party to any appeal or any person authorised in his behalf by such party to inspect at any time during office hours, any relevant records and registers of the Tribunal and obtain a certified copy of any part thereof.

68P. No notice issued or served, no declaration made, and no order passed, under this Chapter shall be deemed to be invalid by reason of any error in the description of the property or person mentioned therein if such property or person is identifiable from the description so mentioned.

Notice or order not to be invalid for error in description.

68Q. No order passed or declaration made under this Chapter shall be appealable except as provided therein and no civil court shall have jurisdiction in respect of any matter which the Appellate Tribunal or any competent authority is empowered by or under this Chapter to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Chapter.

Bar of jurisdiction.

68R. The competent authority and the Appellate 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:—

Competent Authority and Appellate Tribunal to have 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 documents;

(c) receiving evidence on affidavits;

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

5 of 1908.

(e) issuing commissions for examination of witnesses or documents;

(f) any other matter which may be prescribed.

Information to competent authority.

68S. (1) Notwithstanding anything contained in any other law, the competent authority shall have power to require any officer or authority of the Central Government or a State Government or a local authority to furnish information in relation to such persons, points or matters as in the opinion of the competent authority will be useful for, or relevant to, the purposes of this Chapter.

(2) Every officer referred to in section 68T may furnish *suo motu* any information available with him to the competent authority if in the opinion of the officer such information will be useful to the competent authority for the purposes of this Chapter.

Certain officers to assist Administrator, competent authority and Appellate Tribunal.

68T. For the purposes of any proceedings under this Chapter, the following officers are hereby empowered and required to assist the Administrator appointed under section 68G, competent authority and the Appellate Tribunal, namely:—

- (a) officers of the Narcotics Control Bureau;
- (b) officers of the Customs Department;
- (c) officers of the Central Excise Department;
- (d) officers of the Income-tax Department;
- (e) officers of enforcement appointed under the Foreign Exchange Regulation Act, 1973;
- (f) officers of police;
- (g) officers of the Narcotics Department;
- (h) officers of the Central Economic Intelligence Bureau;
- (i) officers of the Directorate of Revenue Intelligence;
- (j) such other officers of the Central or State Government as are specified by the Central Government in this behalf by notification in the Official Gazette.

46 of 197

Power to take possession.

68U. (1) Where any property has been declared to be forfeited to the Central Government under this Chapter, or where the person affected has failed to pay the fine due under sub-section (1) of section 68K within the time allowed therefor under sub-section (3) of that section, the competent authority may order the person affected as well as any other person who may be in possession of the property to surrender or deliver possession thereof to the Administrator appointed under section 68G or to any person duly authorised by him in this behalf within thirty days of the service of the order.

(2) If any person refuses or fails to comply with an order made under sub-section (1), the Administrator may take possession of the property and may for that purpose use such force as may be necessary.

(3) Notwithstanding anything contained in sub-section (2), the Administrator may, for the purpose of taking possession of any property referred to in sub-section (1), requisition the service of any police officer to assist him and it shall be the duty of such officer to comply with such requisition.

68V. With a view to rectifying any mistakes apparent from record, the competent authority or the Appellate Tribunal, as the case may be, may amend any order made by it within a period of one year from the date of 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.

68W. No finding of any officer or authority under any other law shall be conclusive for the purposes of any proceedings under this Chapter.

Findings
under
other
laws not
conclu-
sive for
proceed-
ings
under
this
Chapter.

68X. Any notice or order issued or made under this Chapter shall be served—

Service
of
notices
and
orders.

(a) by tendering the notice or order or sending it by registered post to the person for whom it is intended or to his agent;

(b) if the notice or order cannot be served in the manner provided in clause (a), by affixing it on a conspicuous place in the property in relation to which the notice or order is issued or made or on some conspicuous part of the premises in which the person for whom it is intended is known to have last resided or carried on business or personally worked for gain.

68Y. Any person who knowingly acquired, by any mode whatsoever, any property in relation to which proceedings are pending under this Chapter shall be punishable with imprisonment for a term which may extend to five years and with fine which may extend to fifty thousand rupees.

Punish-
ment for
acquiring
property
in rela-
tion to
which
proceed-
ings have
been taken,
under
this
Chapter.

20. After section 74 of the principal Act, the following section shall be inserted, namely:—

Insert-
tion of
new
section
74A.

"74A. The Central Government may give such directions as it may deem necessary to a State Government regarding the carrying

Power of
Central

Government to give directions.

Amendment of section 76.

into execution of the provisions of this Act, and the State Government shall comply with such directions.”.

21. In section 76 of the principal Act, in sub-section (2), after clause (d), the following clauses shall be inserted, namely:—

“(da) the manner in which and the conditions subject to which properties shall be managed by the Administrator under sub-section (2) of section 68G;

(db) the terms and conditions of service of the Chairman and other members of the Appellate Tribunal under sub-section (3) of section 68N;

(dc) the fees which shall be paid for the inspection of the records and registers of the Appellate Tribunal or for obtaining the certified copy of any part thereof under sub-section (6) of section 68-O;

(dd) the powers of a civil court that may be exercised by the competent authority and the Appellate Tribunal under clause (f) of section 68R;

(de) the disposal of all articles or things confiscated under this Act;

(df) the drawing of samples and testing and analysis of such samples;

(dg) the rewards to be paid to the officers, informers and other persons;”.

Amendment of Act 13 of 1976.

Act not to apply to certain persons.

22. In the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976, after section 2, the following section shall be inserted, namely:—

“2A. On and from the commencement of the provisions of Chapter VA of the Narcotic Drugs and Psychotropic Substances Act, 1985, the provisions of this Act shall not apply to persons in relation to whom any order, or proceeding, may be made or taken under that Chapter.”.

THE DIRECT TAX LAWS (AMENDMENT) ACT, 1989

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title and commencement.

CHAPTER II

AMENDMENTS TO THE INCOME-TAX ACT, 1961

2. Amendment of section 2.
3. Amendment of section 3.
4. Amendment of section 10.
5. Amendment of section 11.
6. Amendment of section 32A.
7. Amendment of section 32AB.
8. Amendment of section 35.
9. Amendment of section 40.
10. Amendment of section 44AC.
11. Amendment of section 64.
12. Insertion of new section 67A.
13. Amendment of section 80C.
14. Amendment of section 80CC.
15. Amendment of section 80HHC.
16. Insertion of new section 80HHD.
17. Amendment of section 86.
18. Amendment of section 115A.
19. Amendment of section 115J.
20. Amendment of section 139.
21. Amendment of section 143.
22. Amendment of section 144A.
23. Amendment of section 147.

SECTIONS

24. Amendment of section 148.
25. Amendment of section 155.
26. Substitution of new sub-heading for sub-heading DD of Chapter XV.
27. Omission of section 167A.
28. Insertion of new section 167B.
29. Amendment of section 190.
30. Amendment of section 194A.
31. Omission of section 194E.
32. Substitution of new section for section 196A.
33. Amendment of sections 198, 199, 200, 202, 203, 203A, 205 and 215.
34. Amendment of section 206C.
35. Amendment of section 209.
36. Amendment of sections 222, 223, 224, 225, 226, 228 and 228A.
37. Amendment of section 226.
38. Amendment of section 234A.
39. Amendment of section 234B.
40. Amendment of section 234C.
41. Amendment of section 244A.
42. Amendment of sub-heading to Chapter XX.
43. Amendment of section 246.
44. Omission of section 246A.
45. Amendment of section 249.
46. Amendment of section 253.
47. Amendment of section 255.
48. Amendment of section 269A.
49. Amendment of section 269B.
50. Amendment of section 271.
51. Amendment of section 273A.
52. Amendment of section 275.
53. Insertion of new section 279B.
54. Amendment of Second Schedule.
55. Amendment of Third Schedule.
56. Amendment of Tenth Schedule.
57. Consequential amendments.

CHAPTER III

AMENDMENTS TO THE WEALTH-TAX ACT, 1957

SECTIONS

58. Amendment of section 2.
59. Amendment of section 4.
60. Amendment of section 5.
61. Amendment of section 6.
62. Substitution of new section for section 7.
63. Amendment of section 11.
64. Amendment of section 16.
65. Amendment of section 16A.
66. Amendment of section 17.
67. Amendment of section 17B.
68. Amendment of section 18.
69. Substitution of new section for section 18A.
70. Amendment of section 18B.
71. Amendment of section 23.
72. Amendment of section 26.
73. Amendment of section 34A.
74. Amendment of section 35.
75. Insertion of new section 36.
76. Amendment of section 41.
77. Amendment of section 42A.
78. Insertion of new Schedule III.

CHAPTER IV

AMENDMENTS TO THE GIFT-TAX ACT, 1958

79. Amendment of section 3.
80. Amendment of section 5.
81. Substitution of new section for section 6.
82. Amendment of section 10.
83. Amendment of section 15.
84. Amendment of section 16.
85. Amendment of section 16B.
86. Amendment of section 17.
87. Substitution of new section for section 17A.

SECTIONS

- 88. Amendment of section 22.
- 89. Amendment of section 25.
- 90. Amendment of section 33A.
- 91. Amendment of section 34.
- 92. Insertion of new section 35E.
- 93. Amendment of section 45.
- 94. Insertion of new Schedule II.

CHAPTER V

AMENDMENTS TO THE DIRECT TAX LAWS (AMENDMENT) ACT, 1987

- 95. Amendment of Act 4 of 1988.

THE DIRECT TAX LAWS (AMENDMENT) ACT, 1989

No. 3 OF 1989

[15th March, 1989.]

An Act further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958 and the Direct Tax Laws (Amendment) Act, 1987.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Direct Tax Laws (Amendment) Act, 1989.

Short title and commencement.

(2) Save as otherwise provided in this Act, sections 2 to 31 and 33 to 95 shall come into force on the 1st day of April, 1989.

CHAPTER II

AMENDMENTS TO THE INCOME-TAX ACT, 1961

43 of 1961. 2. In section 2 of the Income-tax Act, 1961 (hereafter in this Chapter referred to as the Income-tax Act),—

Amendment of section 2.

(a) in clause (24),—

4 of 1988.

(i) in sub-clause (iia) [as amended by section 3 of the Direct Tax Laws (Amendment) Act, 1987], for the words, brackets, letters and figures "or by a trust or institution of national importance referred to in clause (d) of sub-section (1) of section 80F", the words, brackets, figures and letter "or by an association or institution referred to in clause (21) or clause (23), or by a fund or trust or institution referred to in sub-clause (iv) or sub-clause (v) of clause (23C), of section 10" shall be substituted;

(ii) after sub-clause (iii), the following sub-clauses shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1962, namely:—

"(iia) any special allowance or benefit, other than perquisite included under sub-clause (iii), specifically granted to the assessee to meet expenses wholly, necessarily and exclusively for the performance of the duties of an office or employment of profit;

(iib) any allowance granted to the assessee either to meet his personal expenses at the place where the duties of his office or employment or profit are ordinarily performed by him or at a place where he ordinarily resides or to compensate him for the increased cost of living;";

(b) in clause (25) [as substituted by clause (k) of section 3 of the Direct Tax Laws (Amendment) Act, 1987], the words, brackets and figure "sub-section (1) or" shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1988;

4 of 1988.

(c) in clause (37A) [as amended by clause (o) of section 3 of the Direct Tax Laws (Amendment) Act, 1987],—

4 of 1988.

(A) in sub-clause (i), the words, figures and letter "or section 167A", wherever they occur, shall be omitted;

(B) in sub-clause (ii), the figures and letter "194E" shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1988.

Amend-
ment of
section 3.

3. In section 3 of the Income-tax Act [as substituted by section 4 of the Direct Tax Laws (Amendment) Act, 1987], in sub-section (2), after the proviso, the following provisos shall be inserted, namely:—

4 of 1988.

'Provided further that in the case of a business or profession newly set up, or a source of income newly coming into existence on or after the 1st day of April, 1987 but before the 1st day of April, 1988 and where the accounts in relation to such business or profession or source of income have not been made up to the 31st day of March, 1988, the "previous year" in relation to the assessment year commencing on the 1st day of April, 1989, shall be the period beginning with the date of setting up of the business or profession or, as the case may be, the date on which the source of income newly comes into existence and ending on the 31st day of March, 1989:

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

Amend-
ment of
section
10.

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

(a) after clause (6B), the following clause shall be inserted, namely:—

"(6C) any income arising to such foreign company, as the Central Government may, by notification in the Official Gazette, specify in this behalf, by way of fees for technical services received in pursuance of an agreement entered into with that Government for providing services in or outside India in projects connected with security of India;";

26 of 1988.

(b) in clause (15), after sub-clause (iic) [as inserted by section 4 of the Finance Act, 1988], the following sub-clause shall be inserted, namely:—

'(iid) interest on such bonds, as the Central Government may, by notification in the Official Gazette, specify, arising to—

(a) a non-resident Indian, being an individual owning the bonds; or

(b) any individual owning the bonds by virtue of being a nominee or survivor of the non-resident Indian; or

(c) any individual to whom the bonds have been gifted by the non-resident Indian:

Provided that the aforesaid bonds are purchased by a non-resident Indian in foreign exchange and the interest and principal received in respect of such bonds, whether on their maturity or otherwise, is not allowable to be taken out of India:

Provided further that where as individual, who is a non-resident Indian in any previous year in which the bonds are acquired, becomes a resident in India in any subsequent year, the provisions of this sub-clause shall continue to apply in relation to such individual:

Provided also that in a case where the bonds are encashed in a previous year prior to their maturity by an individual who is so entitled, the provisions of this sub-clause shall not apply to such individual in relation to the assessment year relevant to such previous year.

Explanation.—For the purposes of this sub-clause, the expression "non-resident Indian" shall have the meaning assigned to it in clause (e) of section 115C;

4 of 1988.

(c) for clause (21) [as it stood immediately before its omission by clause (k) of section 6 of the Direct Tax Laws (Amendment) Act, 1987], the following clause shall be substituted with effect from the 1st day of April, 1990, namely:—

'(21) any income of a scientific research association for the time being approved for the purpose of clause (ii) of sub-section (1) of section 35:

Provided that the scientific research association—

(a) applies its income, or accumulates it for application, wholly and exclusively to the objects for which it is established, and the provisions of sub-section (2) and sub-section (3) of section 11 shall apply in relation to such accumulation subject to the following modifications, namely:—

(i) in sub-section (2),—

(1) the words, brackets, letters and figure "referred to in clause (a) or clause (b) of sub-section (1) read with the *Explanation* to that sub-section shall be omitted;

(2) for the words "to charitable or religious purposes", the words "for the purposes of scientific research" shall be substituted;

(3) the reference to "Assessing Officer" in clause (a) thereof shall be construed as a reference to the "prescribed authority" referred to in clause (ii) of sub-section (1) of section 35;

(ii) in sub-section (3), in clause (a), for the words "charitable or religious purposes", the words "the purposes of scientific research" shall be substituted; and

(b) does not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture or any other article as the Board may, by notification in the Official Gazette, specify) for any period during the previous year otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11:

Provided further that nothing contained in this clause shall apply in relation to any income of the scientific research association, being profits and gains of business, unless the business is incidental to the attainment of its objectives and separate books of accounts are maintained by it in respect of such business;

(d) for clause (23) [as it stood immediately before its omission by clause (k) of section 6 of the Direct Tax Laws (Amendment) Act, 1987], the following clause shall be substituted with effect from the 1st day of April, 1990, namely:—

4 of 1988.

'(23) any income of an association or institution established in India which may be notified by the Central Government in the Official Gazette having regard to the fact that the association or institution has as its object the control, supervision, regulation or encouragement in India of the games of cricket, hockey, football, tennis or such other games or sports as the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that the association or institution shall make an application in the prescribed form and manner to the prescribed authority for the purpose of grant of the exemption, or continuance thereof, under this clause:

Provided further that the Central Government may, before notifying the association or institution under this clause call for such documents (including audited annual accounts) or information from the association or institution as it thinks necessary in order to satisfy itself about the genuineness of the activities of the association or institution and that Government may also make such inquiries as it may deem necessary in this behalf:

Provided also that the association or institution,—

(a) applies its income or accumulates it for application, wholly and exclusively to the objects for which it is established and the provisions of sub-section (2) and sub-section

(3) of section 11 shall apply in relation to such accumulation subject to the following modifications, namely:—

(i) in sub-section (2),—

(1) the words, brackets, letters and figure “referred to in clause (a) or clause (b) of sub-section (1) read with the *Explanation* to that sub-section” shall be omitted;

(2) for the words “to charitable or religious purposes”, the words “for the purposes of games or sports” shall be substituted;

(3) the reference to “Assessing Officer” in clause (a) thereof shall be construed as a reference to the “prescribed authority” referred to in the first proviso to this clause;

(ii) in sub-section (3), in clause (a), for the words “charitable or religious purposes”, the words “the purposes of games or sports” shall be substituted; and

(b) does not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture or any other article as the Board may, by notification in the Official Gazette, specify) for any period during the previous year otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11; and

(c) does not distribute any part of its income in any manner to its members except as grants to any association or institution affiliated to it:

Provided also that the exemption under this clause shall not be denied in relation to any funds invested or deposited before the 1st day of April, 1989 otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 if such funds do not continue to remain so invested or deposited after the 30th day of March, 1990:

Provided also that nothing contained in this clause shall apply in relation to any income of the association or institution, being profits and gains of business, unless the business is incidental to the attainment of its objectives and separate books of accounts are maintained by it in respect of such business:

Provided also that any notification issued by the Central Government under this clause in relation to any association or institution shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years (including an assessment year or years commencing before the date on which such notification is issued) as may be specified in the notification; ;

(e) in clause (23C) [as it stood immediately before its amendment by section 6 of the Direct Tax Laws (Amendment) Act, 1987],

for sub-clauses (iv) and (v), the following sub-clauses shall be substituted with effect from the 1st day of April, 1990, namely:—

“(iv) any other fund or institution established for charitable purposes which may be notified by the Central Government in the Official Gazette, having regard to the objects of the fund or institution and its importance throughout India or throughout any State or States; or

(v) any trust (including any other legal obligation) or institution wholly for public religious purposes or wholly for public religious and charitable purposes, which may be notified by the Central Government in the Official Gazette, having regard to the manner in which the affairs of the trust or institution are administered and supervised for ensuring that the income accruing thereto is properly applied for the objects thereof:

Provided that the fund or trust or institution referred to in sub-clause (iv) or sub-clause (v) shall make an application in the prescribed form and manner to the prescribed authority for the purpose of grant of the exemption, or continuance thereof under sub-clause (iv) or sub-clause (v):

Provided further that the Central Government may, before notifying the fund or trust or institution under sub-clause (iv) or sub-clause (v), call for such documents (including audited annual accounts) or information from the fund or trust or institution as it thinks necessary in order to satisfy itself about the genuineness of the activities of the fund or trust or institution and that Government may also make such inquiries as it may deem necessary in this behalf:

Provided also that the fund or trust or institution referred to in sub-clause (iv) or sub-clause (v)—

(a) applies its income, or accumulates it for application, wholly and exclusively to the objects for which it is established; and

(b) does not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture or any other article as the Board may, by notification in the Official Gazette, specify) for any period during the previous year otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11:

Provided also that the exemption under sub-clause (iv) or sub-clause (v) shall not be denied in relation to any funds invested or deposited before the 1st day of April, 1989 otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 if such funds do not continue to remain so invested or deposited after the 30th day of March, 1990:

Provided also that nothing contained in sub-clause (iv) or sub-clause (v) shall apply in relation to any income of the fund or trust or institution, being profits and gains of business, unless

the business is incidental to the attainment of its objectives and separate books of accounts are maintained by it in respect of such business:

Provided also that any notification issued by the Central Government under sub-clause (iv) or sub-clause (v) shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years (including an assessment year or years commencing before the date on which such notification is issued) as may be specified in the notification;"

(f) in clause (23D), the words "including the condition that at least ninety per cent. of such income shall be distributed to the holders of its units every year," shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1988.

4 of 1988. 5. In section 11 of the Income-tax Act [as it stood immediately before its omission by section 7 of the Direct Tax Laws (Amendment) Act, 1987],—

Amendment of section 11.

(a) in sub-section (1),—

(i) after clause (c) and before the *Explanation*, the following clause shall be inserted, namely:—

"(d) income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus of the trust or institution;"

(ii) in the *Explanation*, in clause (2),—

(1) the words, brackets and figure "or sub-section (2)" shall be omitted;

(2) the words "whether fixed originally or on extension" shall be omitted;

(b) in sub-section (5),—

of 1956. (i) in clause (vii), for the words and figures "Government company as defined in section 617 of the Companies Act, 1956", the words "public sector company" shall be substituted;

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

"(xii) any other form or mode of investment or deposit as may be prescribed."

6. In section 32A of the Income-tax Act,—

(a) in sub-section (1),—

(i) for the words "Provided that", the following shall be substituted, namely:—

'Provided that in respect of a ship or an aircraft or machinery or plant specified in sub-section (8B), this sub-section shall have effect as if for the words "twenty-five per cent.", the words "twenty per cent." had been substituted:

Provided further that'

Amendment of section 32A.

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

Explanation.—For the purposes of this sub-section, “actual cost” means the actual cost of the ship, aircraft, machinery or plant to the assessee as reduced by that part of such cost which has been met out of the amount released to the assessee under sub-section (6) of section 32AB.;

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

“Provided that nothing contained in clauses (a) and (b) shall apply in relation to—

(i) a new ship or new aircraft acquired, or

(ii) any new machinery or plant installed,

after the 31st day of March, 1987 but before the 1st day of April, 1988, unless such ship or aircraft is acquired or such machinery or plant is installed in the circumstances specified in clause (a) of sub-section (8B) and the assessee furnishes evidence to the satisfaction of the Assessing Officer as specified in that clause;”;

(c) in sub-section (2C), after the words, figures and letters “the 31st day of May, 1983”, the words, figures and letters “but before the 1st day of April, 1987” shall be inserted;

(d) in sub-section (4), in clause (ii), in sub-clause (a), for the words “the proviso”, the words “the second proviso” shall be substituted;

(e) in sub-section (5), in clause (b), for the words “the proviso”, the words “the second proviso” shall be substituted;

(f) for sub-section (8B), the following sub-sections shall be substituted, namely:—

“(8B) Notwithstanding anything contained in sub-section (8) or the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. G.S.R. 870(E), dated the 12th June, 1986, issued thereunder, the provisions of this section shall apply in respect of,—

(a) (i) a new ship or new aircraft acquired after the 31st day of March, 1987 but before the 1st day of April, 1988, if the assessee furnishes evidence to the satisfaction of the Assessing Officer that he had, before the 12th day of June, 1986, entered into a contract for the purchase of such ship or aircraft with the builder or manufacturer or owner thereof, as the case may be;

(ii) any new machinery or plant installed after the 31st day of March, 1987 but before the 1st day of April, 1988, if the assessee furnishes evidence to the satisfaction of the Assessing Officer that before the 12th day of June, 1986, he had purchased such machinery or plant or had entered into a contract for the purchase of such machinery or plant with the manufacturer or owner of, or a dealer in, such machinery

or plant, or had, where such machinery or plant has been manufactured in an undertaking owned by the assessee, taken steps for the manufacture of such machinery or plant:

Provided that nothing contained in sub-section (1) shall entitle the assessee to claim deduction in respect of a ship or aircraft or machinery or plant referred to in this clause in any previous year except the previous year relevant to the assessment year commencing on the 1st day of April, 1989;

(b) a new ship or new aircraft acquired or any new machinery or plant installed after the 31st day of March, 1988, but before such date as the Central Government, if it considers necessary or expedient so to do, may, by notification in the Official Gazette, specify in this behalf.

(8C) Subject to the provisions of clause (ii) of sub-section (3), where a deduction has been allowed to an assessee under sub-section (1) in any assessment year, no deduction shall be allowed to the assessee under section 32AB in the said assessment year (hereinafter referred to as the initial assessment year) and a block of further period of four years beginning with the assessment year immediately succeeding the initial assessment year."

7. In section 32AB of the Income-tax Act, for sub-section (10), the following sub-section shall be substituted, namely:—

"(10) Where a deduction has been allowed to an assessee under this section in any assessment year, no deduction shall be allowed to the assessee under sub-section (1) of section 32A in the said assessment year (hereinafter referred to as the initial assessment year) and a block of further period of four years beginning with the assessment year immediately succeeding the initial assessment year."

Amend-
ment of
section
32AB.

8. In section 35 of the Income-tax Act (as it stood immediately before its omission by section 10 of the Direct Tax Laws (Amendment) Act, 1987), in sub-section (1),—

4 of 1988.

(a) in clause (ii), in the proviso, after the words "prescribed authority", the words "by notification in the Official Gazette" shall be inserted;

(b) in clause (iii), after the words "prescribed authority", the words "by notification in the Official Gazette" shall be inserted;

(c) the following provisos shall be inserted at the end, namely:—

"Provided that the scientific research association, university, college or other institution referred to in clause (ii) or clause (iii) shall make an application in the prescribed form and manner to the prescribed authority for the purpose of grant of approval, or continuance thereof, under clause (ii) or, as the case may be, clause (iii):

Amend-
ment of
section
35.

Provided further that the prescribed authority may, before granting approval under clause (ii) or clause (iii), call for such documents (including audited annual accounts) or information from the scientific research association, university, college or other institution as it thinks necessary in order to satisfy itself about the genuineness of the activities of the scientific research association, university, college or other institution and that authority may also make such inquiries as it may deem necessary in this behalf:

Provided also that any notification issued by the prescribed authority under clause (ii) or clause (iii) shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years (including an assessment year or years commencing before the date on which such notification is issued) as may be specified in the notification.”.

Amend-
ment of
section
40.

9. In section 40 of the Income-tax Act, after clause (b) [as it stood immediately before its substitution by clause (ii) of section 13 of the Direct Tax Laws (Amendment) Act, 1987] the following clause shall be inserted, namely:—

4 of 1988

‘(ba) in the case of an association of persons or body of individuals (other than a company or a cooperative society or a society registered under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India), any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by such association or body to a member of such association or body.

21 of 1860

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

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

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

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

Explanation 3.—Where an individual is a member of an association or body otherwise than as member in a representative capacity,

interest paid by the association or body to such individual shall not be taken into account for the purposes of this clause, if such interest is received by him on behalf, or for the benefit, of any other person.'

26 of 1899.

10. In section 44AC of the Income-tax Act (as inserted by section 15 of the Finance Act, 1988), in sub-section (1), in clause (a), the following proviso shall be inserted, namely:—

Amendment of section 44AC.

“Provided that nothing contained in this clause shall apply to a buyer where the goods are not obtained by him by way of auction and where the sale price of such goods to be sold by the buyer is fixed by or under any State Act;”.

4 of 1988.

11. In section 64 of the Income-tax Act, in sub-section (1) [as it stood immediately before its amendment by section 17 of the Direct Tax Laws (Amendment) Act, 1987],—

Amendment of section 64.

(a) in clauses (v) and (vii), the brackets and words “(not being a married daughter)” shall be omitted;

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

Explanation 3.—For the purposes of clauses (iv), (v) and (vi), where the assets transferred directly or indirectly by an individual to his spouse or minor child or son's wife or son's minor child (hereafter in this *Explanation* referred to as “the transferee”) are invested by the transferee in any business, that part of the income arising out of the business to the transferee in any previous year, which bears the same proportion to the income of the transferee from the business, as the value of the assets aforesaid as on the 1st day of the previous year bears to the total investment in the business by the transferee as on the said day, shall be included in the total income of the individual in that previous year.'

4 of 1988.

12. After section 67 of the Income-tax Act [as it stood immediately before its substitution by section 18 of the Direct Tax Laws (Amendment) Act, 1987], the following section shall be inserted, namely:—

Insertion of new section 67A.

21 of 1860.

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

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

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

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

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

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

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

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

Amend-
ment of
section
80C.

13. In section 80C of the Income-tax Act,—

(a) in sub-section (2),—

(i) in clause (d), the words "or ten thousand rupees, whichever is less" shall be omitted;

(ii) in clause (h), in sub-clause (ii), in item (c), in sub-item (6), after the words "public company", the words "or a public sector company or a University established by law or a college affiliated to such University or a local authority" shall be inserted;

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

'(d) "contribution" to any fund shall not include any sums in repayment of loan.'

Amend-
ment of
section
80CC.

14. In section 80CC of the Income-tax Act, in sub-section (3), in clause (a), after sub-clause (ii), the following sub-clause shall be inserted, namely:—

"(iii) a hotel approved by the prescribed authority;".

Amend-
ment of
section
80 HHC.

15. In section 80HHC of the Income-tax Act [as amended by section 24 of the Finance Act, 1988],—

(a) in sub-sections (1) and (1A), for the words "whole of the income", the word "profits" shall be substituted;

(b) in sub-section (4), for the words "net foreign exchange realisation as determined in accordance with the Import and Export policy of the Government of India for the relevant period", the words "export turnover" shall be substituted;

(c) in sub-section (4A), in clause (a), for the word "income", the word "profits" shall be substituted;

(d) in the *Explanation*,—

(i) clause (c) shall be omitted;

(ii) clauses (d) and (e) shall be renumbered as clauses (c) and (d) respectively.

16. After section 80HHC of the Income-tax Act, the following section shall be inserted, namely:—

Insertion
of new
section
80HHD.

80HHD. (1) Where an assessee, being an Indian company or a person (other than a company) resident in India, is engaged in the business of a hotel, or of a tour operator, approved by the prescribed authority in this behalf or of a travel agent, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction of a sum equal to the aggregate of—

Deduction
in respect
of earn-
ings in
converti-
ble foreign
exchange.

(a) fifty per cent. of the profits derived by him from services provided to foreign tourists; and

(b) so much of the amount out of the remaining profits referred to in clause (a) as is debited to the profit and loss account of the previous year in respect of which the deduction is to be allowed and credited to a reserve account to be utilised for the purposes of the business of the assessee in the manner laid down in sub-section (4).

(2) This section applies only to services provided to foreign tourists the receipts in relation to which are received by the assessee in convertible foreign exchange.

(3) For the purposes of sub-section (1), profits derived from services provided to foreign tourists shall be,—

(a) in a case where the business carried on by the assessee consists exclusively of services provided to foreign tourists resulting in receipts in convertible foreign exchange, the profits of the business as computed under the head "Profits and gains of business or profession";

(b) in a case where the business carried on by the assessee does not consist exclusively of services provided to foreign tourists resulting in receipts in convertible foreign exchange, the amount which bears to the profits of the business (as computed under the head "Profits and gains of business or profession") the same proportion as the receipts in convertible foreign exchange bear to the total receipts of the business carried on by the assessee.

(4) The amount credited to the reserve account under clause (b) of sub-section (1), shall be utilised by the assessee before the expiry of a period of five years next following the previous year in which the amount was credited for the following purposes, namely:—

(a) construction of new hotels approved by the prescribed authority in this behalf or expansion of facilities in existing hotels already so approved;

(b) purchase of new cars and new coaches by tour operators already so approved or by travel agents;

(c) purchase of sports equipment for mountaineering, trekking, golf, river-rafting and other sports in or on water;

(d) construction of conference or convention centres;

(e) provision of such new facilities for the growth of Indian tourism as the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that where any of the activities referred to in clauses (a) to (e) would result in creation of any asset owned by the assessee outside India, such asset should be created only after obtaining prior approval of the prescribed authority.

(5) Where any amount credited to the reserve account under clause (b) of sub-section (1),—

(a) has been utilised for any purpose other than those referred to in sub-section (4), the amount so utilised; or

(b) has not been utilised in the manner specified in sub-section (4), the amount not so utilised,

shall be deemed to be the profits,—

(i) in a case referred to in clause (a), in the year in which the amount was so utilised; or

(ii) in a case referred to in clause (b), in the year immediately following the period of five years specified in sub-section (4),

and shall be charged to tax accordingly.

(6) The deduction under sub-section (1) shall not be admissible unless the assessee furnishes in the prescribed form, along with the return of income, the report of an accountant, as defined in the Explanation below sub-section (2) of section 288, certifying that the deduction has been correctly claimed on the basis of the amount of convertible foreign exchange received by the assessee for services provided by him to the foreign tourists.

Explanation.—For the purposes of this section,—

(a) "travel agent" means a travel agent or other person (not being an airline or a shipping company) who holds a valid licence granted by the Reserve Bank of India under section 32 of the Foreign Exchange Regulation Act, 1973;

(b) "convertible foreign exchange" shall have the meaning assigned to it in clause (a) of the *Explanation* to section 80HHC;

(c) "services provided to foreign tourists" shall not include services by way of sale in any shop owned or managed by the person who carries on the business of a hotel or of a tour operator or of a travel agent.

4 of 1988. 17. In section 86 of the Income-tax Act [as it stood immediately before its substitution by section 29 of the Direct Tax Laws (Amendment) Act, 1987], for clause (v), the following clause shall be substituted, namely:—

Amend-
ment of
section
86.

21 of 1860. "(v) if the assessee is a member of an association of persons or a body of individuals (other than a company or a cooperative society or a society registered under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India), his share in the income of the association or body computed in the manner provided in section 67A:

Provided that,—

(a) where the association or body is chargeable to tax on its total income at the maximum marginal rate or any higher rate, under any of the provisions of this Act, the share of a member computed as aforesaid shall not be included in his total income;

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

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

18. In section 115A of the Income-tax Act, in sub-section (1),—

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

Amend-
ment of
section
115A.

"(ab) income received in respect of units, purchased in foreign currency, of a Mutual Fund specified under clause (23D) of section 10; or";

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

"(ib) the amount of income-tax calculated on the income in respect of units referred to in clause (ab), if any, included in the total income, at the rate of twenty-five per cent.;"

(iii) in the *Explanation*,—

(A) clause (b) shall be omitted;

(B) clause (bb) shall be re-lettered as clause (b).

Amend-
ment of
section
115J.

19. In section 115J of the Income-tax Act, in sub-section (1),—

(a) in the opening portion, after the words “a company”, the brackets and words “(other than a company engaged in the business of generation or distribution of electricity)” shall be inserted;

(b) in the *Explanation*,—

(i) in clause (b), after the words “any reserves”, the brackets, words, figures and letters “(other than the reserves specified in section 80HHD)” shall be inserted;

(ii) in clause (f), for the word “applies,”, the words “applies; or” shall be substituted;

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

“(g) the amount withdrawn from the reserve account under section 80HHD, where it has been utilised for any purpose other than those referred to in sub-section (4) of that section; or

(h) the amount credited to the reserve account under section 80HHD, to the extent that amount has not been utilised within the period specified in sub-section (4) of that section,”;

(iv) for the words “if any such amount is debited”, the words, brackets and letters “if any amount referred to in clauses (a) to (f) is debited or, as the case may be, the amount referred to in clauses (g) and (h) is not credited” shall be substituted;

(v) in clause (i), after the words “from reserves”, the brackets, words, figures and letters “(other than the reserves specified in section 80HHD)” shall be inserted;

(vi) clause (iii) shall be renumbered as clause (iv) and before clause (iv) as so renumbered, the following clause shall be inserted, namely:—

“(iii) the amounts [as arrived at after increasing the net profit by the amounts referred to in clauses (a) to (f) and reducing the net profit by the amounts referred to in clauses (i) and (ii)] attributable to the business, the profits from which are eligible for deduction under section 80HHC or section 80HHD; so, however, that such amounts are computed in the manner specified in sub-section (3) or sub-section (3A) of section 80HHC or sub-section (3) of section 80HHD, as the case may be; or”.

Amend-
ment of
section
139.

20. In section 139 of the Income-tax Act [as amended by section 42 of the Direct Tax Laws (Amendment) Act, 1987],—

(a) for sub-section (4A), the following sub-section shall be substituted, 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

(*iii*) 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).”;

(*b*) in sub-section (10), in the proviso, for clause (*d*), the following clause shall be substituted, namely:—

“(d) a return of a person who has claimed exemption of income from property held for charitable or religious purposes;”.

4 of 1988. 21. In section 143 of the Income-tax Act [as substituted by section 48 of the Direct Tax Laws (Amendment) Act, 1987],—

Amend-
ment of
section
143.

(*a*) in sub-section (1), in clause (*a*), after the proviso, the following proviso shall be inserted, namely:—

“Provided further that an intimation for any tax or interest due under this clause shall not be sent after the expiry of two years from the end of the assessment year in which the income was first assessable.”;

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

“(1A) (*a*) Where, in the case of any person, the total income, as a result of the adjustments made under the proviso to clause (*a*) of sub-section (1), exceeds the total income declared in the return by any amount, the Assessing Officer shall,—

(*i*) further increase the amount of tax payable under sub-section (1) by an additional income-tax calculated at the rate of twenty per cent. of the tax payable on such excess amount and specify the additional income-tax in the intimation to be sent under sub-clause (*i*) of clause (*a*) of sub-section (1);

(*ii*) where any refund is due under sub-section (1), reduce the amount of such refund by an amount equivalent to the additional income-tax calculated under sub-clause (*i*).

(*b*) Where as a result of an order under section 154 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264, the amount on which additional income-tax is payable under clause (*a*) has been increased or reduced, as the case may be, the additional income-tax shall be increased or reduced accordingly, and,—

(*i*) in a case where the additional income-tax is increased, the Assessing Officer shall serve on the assessee a notice of demand under section 156;

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

Explanation.—For the purposes of this sub-section “tax payable on such excess amount” means,—

(i) in any case where the amount of adjustments made under the proviso to clause (a) of sub-section (1) exceed the total income, the tax that would have been chargeable had the amount of the adjustments been the total income;

(ii) in any other case, the difference between the tax on the total income and the tax that would have been chargeable had such total income been reduced by the amount of adjustments.’

Amend-
ment of
section
144A.

22. In section 144A of the Income-tax Act, in the *Explanation*, for the word “sub-section”, the word “section” shall be substituted.

Amend-
ment of
section
147.

23. In section 147 of the Income-tax Act [as substituted by section 54 of the Direct Tax Laws (Amendment) Act, 1987], for the words “, for reasons to be recorded by him in writing, is of the opinion”, the words “has reason to believe” shall be substituted.

4 of 1988.

Amend-
ment of
section
148.

24. Section 148 of the Income-tax Act [as substituted by section 54 of the Direct Tax Laws (Amendment) Act, 1987], shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

4 of 1988.

“(2) The Assessing Officer shall, before issuing any notice under this section, record his reasons for doing so.”.

Amend-
ment of
section
155.

25. In section 155 of the Income-tax Act, in sub-section (4A), in clause (b), for the words “the proviso”, the words “the second proviso” shall be substituted.

Substitu-
tion of
new sub-
heading
for sub-
heading
DD of
Chapter
XV.

26. In Chapter XV of the Income-tax Act, for the sub-heading “DD.—*Association of persons—special cases*” [as it stood immediately before its substitution by section 66 of the Direct Tax Laws (Amendment) Act, 1987], the sub-heading “DD.—*Association of persons and body of individuals*” shall be substituted.

4 of 1988.

Omission
of section
167A.

27. Section 167A of the Income-tax Act [as it stood immediately before its substitution by section 66 of the Direct Tax Laws (Amendment) Act, 1987] shall be omitted.

4 of 1988.

Insertion
of new
section
167B.

28. After section 167A of the Income-tax Act (as omitted by section 27 of this Act), the following section shall be inserted, namely:—

Charge
of tax
where
shares of

“167B. (1) Where the individual shares of the members of an association of persons or body of individuals (other than a company or a cooperative society or a society registered under the Socie-

4 of 1988.

21 of 1860.

ties Registration Act, 1860 or under any law corresponding to that Act in force in any part of India) in the whole or any part of the income of such association or body are indeterminate or unknown, tax shall be charged on the total income of the association or body at the maximum marginal rate:

Provided that, where the total income of any member of such association or body is chargeable to tax at a rate which is higher than the maximum marginal rate, tax shall be charged on the total income of the association or body at such higher rate.

(2) Where, in the case of an association of persons or body of individuals as aforesaid [not being a case falling under sub-section (1)],—

(i) the total income of any member thereof for the previous year (excluding his share from such association or body) exceeds the maximum amount which is not chargeable to tax in the case of that member under the Finance Act of the relevant year, tax shall be charged on the total income of the association or body at the maximum marginal rate;

(ii) any member or members thereof is or are chargeable to tax at a rate or rates which is or are higher than the maximum marginal rate, tax shall be charged on that portion or portions of the total income of the association or body which is or are relatable to the share or shares of such member or members at such higher rate or rates, as the case may be, and the balance of the total income of the association or body shall be taxed at the maximum marginal rate.

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

29. In section 190 of the Income-tax Act, in sub-section (1), after the words “payable by deduction”, the words “or collection” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1988.

Amend-
ment of
section
190.

30. In section 194A of the Income-tax Act, in sub-section (3), after clause (iii), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1988, namely:—

Amend-
ment of
section
194A.

“(iv) to such income credited or paid by a firm to a partner of the firm;”.

31. Section 194E of the Income-tax Act shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1988.

Omission
of section
194E.

members
in asso-
ciation of
persons
or body
of indivi-
duals un-
known,
etc.

Substitution of new section for section 196A.

32. For section 196A of the Income-tax Act, the following section shall be substituted, namely:—

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

“196A. (1) Subject to the provisions of sub-section (2), no deduction of tax shall be made from any income payable in respect of units of a Mutual Fund, specified under clause (23D) of section 10, to its units-holders being persons other than foreign companies.

(2) Where any income referred to in sub-section (1) is payable to a unit-holder, being a foreign company, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of twenty-five per cent.”.

Amendment of sections 198, 199, 200, 202, 203, 203A, 205 and 215.

33. In sections 198, 199, 200, 202, 203, sub-section (1) of section 203A, section 205 and sub-section (5) of section 215 of the Income-tax Act, for the words and figures “and section 195”, the words, figures and letter “, section 195 and section 196A” shall be substituted.

Amendment of section 206C.

34. In section 206C of the Income-tax Act,—

(a) in sub-section (1), in the Table, in column (3) against item (iii), for the words “Ten per cent.”, the words “Five per cent.” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 1988;

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

“(5A) Every person collecting tax in accordance with the provisions of this section shall prepare half yearly returns for the period ending on 30th September and 31st March in each financial year, and deliver or cause to be delivered to the prescribed income-tax authority such returns in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed.”.

Amendment of section 209.

35. In section 209 of the Income-tax Act, in sub-section (1), in clause (d), for the words “deductible at source”, the words “deductible or collectible at source” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 1988.

Amendment of sections 222, 223, 224, 225.

36. In sections 222, 223, 224, 225, 226, 228 and 228A of the Income-tax Act [as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1987], for the words “Income-tax Officer”, wherever they occur, the words “Assessing Officer” shall be

substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1988.

226, 228
and 228A.

37. In section 226 of the Income-tax Act (as amended by section 36 of this Act), in sub-sections (2), (3), (4) and (5), after the words "Assessing Officer", wherever they occur, the words "or Tax Recovery Officer" shall be inserted.

Amend-
ment of
section
226.

4 of 1988. 38. In section 234A of the Income-tax Act [as inserted by section 94 of the Direct Tax Laws (Amendment) Act, 1987],—

Amend-
ment of
section
234A.

(a) in sub-section (1),—

(i) for the words "the tax on the total income as determined on regular assessment as reduced by the advance tax, if any, paid and any tax deducted at source", the words, brackets and figures "the tax on the total income as determined under sub-section (1) of section 143 or on regular assessment as reduced by the advance tax, if any, paid and any tax deducted or collected at source" shall be substituted;

(ii) for *Explanation 2*, the following *Explanation* shall be substituted, namely:—

*'Explanation 2.—*In this sub-section, "tax on the total income as determined under sub-section (1) of section 143" shall not include the additional income-tax, if any, payable under section 143.;

(iii) after *Explanation 3*, the following *Explanation* shall be inserted, namely:—

*'Explanation 4.—*In this sub-section, "tax on the total income as determined under sub-section (1) of section 143 or on regular assessment" shall, for the purposes of computing the interest payable under section 140A, be deemed to be tax on total income as declared in the return.;

(b) in sub-section (3),—

(i) after the words and figures "under section 148 issued", the words, brackets and figures "after the determination of income under sub-section (1) of section 143 or" shall be inserted;

(ii) for the words "income determined on the basis of the earlier assessment aforesaid", the words, brackets and figures "income determined under sub-section (1) of section 143 or on the basis of the earlier assessment aforesaid" shall be substituted;

(iii) the *Explanation* shall be omitted.

4 of 1988. 39. In section 234B of the Income-tax Act [as inserted by section 94 of the Direct Tax Laws (Amendment) Act, 1987],—

Amend-
ment of
section
234B.

(a) in sub-section (1),—

(i) for the words "to the date of the regular assessment", the words, brackets and figures "to the date of determination of

total income under sub-section (1) of section 143 or regular assessment" shall be substituted;

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

Explanation 1.—In this section, "assessed tax" means,—

(a) for the purposes of computing the interest payable under section 140A, the tax on the total income as declared in the return referred to in that section;

(b) in any other case, the tax on the total income determined under sub-section (1) of section 143 or on regular assessment,

as reduced by the amount of tax deducted or collected at source in accordance with the provisions of Chapter XVII on any income which is subject to such deduction or collection and which is taken into account in computing such total income.;

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

Explanation 3.—In *Explanation 1* and in sub-section (3), "tax on the total income determined under sub-section (1) of section 143" shall not include the additional income-tax, if any, payable under section 143.;

(b) in sub-section (2), in the opening portion, after the words "date of", the words, brackets and figures "determination of total income under sub-section (1) of section 143 or" shall be inserted;

(c) in sub-section (3),—

(i) for the words "the date of the regular assessment", the words, brackets and figures "the date of determination of total income under sub-section (1) of section 143 or regular assessment" shall be substituted;

(ii) for the words "income determined on the basis of the regular assessment aforesaid", the words, brackets and figures "income determined under sub-section (1) of section 143 or on the basis of the regular assessment aforesaid" shall be substituted;

(iii) the *Explanation* shall be omitted.

Amend-
ment of
section
234C.

40. In section 234C of the Income-tax Act, in sub-section (1),—

(a) the following proviso shall be inserted before the *Explanation*, namely:—

"Provided that nothing contained in this sub-section shall apply to any shortfall in the payment of the tax due on the re-

turned income where such shortfall is on account of under-estimate or failure to estimate—

(a) the amount of capital gains; or

(b) income of the nature referred to in sub-clause (ix) of clause (24) of section 2,

and the assessee has paid the whole of the amount of tax payable in respect of income referred to in clause (a) or clause (b), as the case may be, had such income been a part of the total income, as part of the instalment of advance tax which is immediately due or where no such instalment is so due, by the 31st day of March of the financial year.”;

(b) in the *Explanation*, for the words, figures and letter “the amount of tax deductible at source in accordance with the provisions of Chapter XVII-B on any income which is subject to such deduction”, the words and figures “the amount of tax deductible or collectible at source in accordance with the provisions of Chapter XVII on any income which is subject to such deduction or collection” shall be substituted.

of 1988. 41. In section 244A of the Income-tax Act [as inserted by section 98 of the Direct Tax Laws (Amendment) Act, 1987],—

Amendment of section 244A.

(a) in sub-section (1),—

(i) for the words “Where, in pursuance of any order passed under this Act, refund of any amount becomes due to the assessee”, the words “Where refund of any amount becomes due to the assessee under this Act” shall be substituted;

(ii) in clause (a),—

(a) in the opening portion, after the words “out of any tax”, the words, figures and letter “collected at source under section 206C or” shall be inserted;

(b) in the proviso, after the words “tax as determined”, the words, brackets and figures “under sub-section (1) of section 143 or” shall be inserted;

(b) in sub-section (3), after the words “an order under”, the words, brackets and figures “sub-section (3) of section 143 or section 144 or” shall be inserted.

of 1988. 42. In the sub-heading to Chapter XX of the Income-tax Act [as substituted by section 99 of the Direct Tax Laws (Amendment) Act, 1987], the words “or applications” shall be omitted.

Amendment of sub-heading to Chapter XX.

of 1988. 43. In section 246 of the Income-tax Act [as substituted by section 99 of the Direct Tax Laws (Amendment) Act, 1987],—

Amendment of section 246.

(a) in sub-section (1),—

(i) in clauses (g) and (h), the words, figures and letters “in respect of any assessment for the assessment year commencing

on the 1st day of April, 1988 or any earlier assessment year" occurring at the end shall be omitted;

(ii) in clause (l),—

(1) in sub-clause (ii), for the words, figures and letters "section 271E or section 272A", the words, figures and letters "section 271E, section 272A, section 272AA or section 272BB" shall be substituted;

(2) in sub-clause (iii), the words, brackets and figures "sub-section (1) of section 271," shall be omitted;

(b) in sub-section (2),—

(i) in clause (b), after the words, brackets and figure "sub-section (1)", the words, figures and letters "or an order under section 104, as it stood immediately before the 1st day of April, 1988 in respect of any assessment for the assessment year commencing on the 1st day of April, 1987 or any earlier assessment year," shall be inserted;

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

"(ff) an order made by a Deputy Commissioner imposing a penalty under section 272AA;"

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

"(g) an order imposing a penalty under Chapter XXI by the Income-tax Officer or the Assistant Commissioner, where such penalty has been imposed with the previous approval of the Deputy Commissioner under sub-section (2) of section 274;"

Omission
of section
246A.

44. Section 246A of the Income-tax Act [as inserted by section 99 of the Direct Tax Laws (Amendment) Act, 1987] shall be omitted.

4 of 1

Amend-
ment of
section
249.

45. In section 249 of the Income-tax Act, in sub-section (4), in the proviso,—

(i) after the words "Provided that," the words, brackets and letter "in a case falling under clause (b) and" shall be inserted;

(ii) for the words "this sub-section", the words "that clause" shall be substituted.

Amend-
ment of
section
253.

46. In section 253 of the Income-tax Act, in sub-section (1),—

(i) in clause (a), the words, brackets and figures "sub-section (2) of section 131," shall be omitted;

(ii) in clause (c), the words, figures and letter "or an order passed by a Chief Commissioner or a Director General or a Director under section 272A" shall be inserted at the end.

47. In section 255 of the Income-tax Act, in sub-section (3), for the words "forty thousand rupees", the words "one lakh rupees" shall be substituted.

Amend-
ment of
section
255.

48. In section 269A of the Income-tax Act, in clause (b), for the words "an Assistant Commissioner of Income-tax", the words "a Deputy Commissioner" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1988.

Amend-
ment of
section
269A.

49. In section 269B of the Income-tax Act, in sub-section (1), in clause (a), for the words "Assistant Commissioners of Income-tax", the words "Deputy Commissioners" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1988.

Amend-
ment of
section
269B.

50. In section 271 of the Income-tax Act [as it stood immediately before its substitution by section 106 of the Direct Tax Laws (Amendment) Act, 1987],—

Amend-
ment of
section
271.

4 of 1988.

(a) in sub-section (1),—

(i) clause (a) shall be omitted;

(ii) clause (i) shall be omitted;

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

"(ii) in the cases referred to in clause (b), in addition to any tax payable by him, a sum which shall not be less than one thousand rupees but which may extend to twenty-five thousand rupees for each such failure;"

(iv) in clause (iii),—

(1) for the word "twice" the words "three times" shall be substituted;

(2) the proviso shall be omitted;

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

"*Explanation 3*.—Where any person who has not previously been assessed under this Act, fails, without reasonable cause, to furnish within the period specified in sub-section (1) of section 153 a return of his income which he is required to furnish under section 139 in respect of any assessment year commencing on or after the 1st day of April, 1989, and until the expiry of the period aforesaid, no notice has been issued to him under clause (i) of sub-section (1) of section 142 or section 148 and the Assessing Officer or the Deputy Commissioner (Appeals) or the Commissioner (Appeals) is satisfied that in respect of such assessment year such person has taxable income, then, such person shall, for the purposes of clause (c) of this sub-section, be deemed to have concealed the particulars of his income in

respect of such assessment year, notwithstanding that such person furnishes a return of his income at any time after the expiry of the period aforesaid in pursuance of a notice under section 148.”;

(vi) in *Explanation 5*, in clause (2), the words, brackets and letters “clause (a) or clause (b) of” shall be omitted;

(vii) after *Explanation 5*, the following *Explanation* shall be inserted, namely:—

“*Explanation 6*.—Where any adjustment is made in the income or loss declared in the return under the proviso to clause (a) of sub-section (1) of section 143 and additional tax charged under that section, the provisions of this sub-section shall not apply in relation to the adjustment so made.”;

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

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

“(5) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1989 shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.”.

Amendment of section 273A.

51. In section 273A of the Income-tax Act [as amended by section 113 of the Direct Tax Laws (Amendment) Act, 1987],—

4 of 1988.

(a) in sub-section (1),—

(i) clauses (i) and (iii) shall be omitted;

(ii) clauses (a) and (c) shall be omitted;

(iii) for the words, brackets and letters “in all the cases referred to in clauses (a), (b) and (c)”, the words, brackets and letter “in the case referred to in clause (b)” shall be substituted;

(b) in sub-section (2), clause (a) shall be omitted;

(c) in sub-section (6), after the words “of this section”, the words, brackets and figures “as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1989” shall be inserted.

Amendment of section 275.

52. In section 275 of the Income-tax Act, in clause (a) [as substituted by section 116 of the Direct Tax Laws (Amendment) Act, 1987], after the words “the order of”, the words and brackets “the Deputy Commissioner (Appeals) or” shall be inserted.

4 of 1988.

53. After section 279A of the Income-tax Act, the following section shall be inserted, namely:—

Insertion of new section 279B.

“279B. Entries in the records or other documents in the custody of an Income-tax authority shall be admitted in evidence in any proceedings for the prosecution of any person for an offence under this Chapter, and all such entries may be proved, either by the production of the records or other documents in the custody of the Income-tax authority containing such entries, or by the production of a copy of the entries certified by the Income-tax authority having custody of the records or other documents under its signature and stating that it is a true copy of the original entries and that such original entries are contained in the records or other documents in its custody.”

Proof of entries in records of documents.

54. In the Second Schedule to the Income-tax Act—

4 of 1988.

(a) [as it stood immediately before its amendment by the Direct Tax Laws (Amendment) Act, 1987], for the words “Income-tax Officer”, wherever they occur, the words “Assessing Officer” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1988;

(b) [as amended by clause (a) of this section],—

(1) in rule 2, for the words “When a certificate has been received by the Tax Recovery Officer from the Assessing Officer”, the words “When a certificate has been drawn up by the Tax Recovery Officer” shall be substituted;

(2) in rule 9, for the words “Assessing Officer”, the words “Tax Recovery Officer” shall be substituted;

(3) in rule 14, for the words “Assessing Officer”, the words “Tax Recovery Officer” shall be substituted;

(4) in rule 25, in sub-rule (1), for the words “and the Assessing Officer shall bear such sum as the Tax Recovery Officer shall require in order to defray the cost of such arrangements”, the words “and he shall have power to defray the cost of such arrangements” shall be substituted;

(5) in rule 27, for the words “Assessing Officer”, wherever they occur, the words “Tax Recovery Officer” shall be substituted;

(6) in rule 31, for the words “Assessing Officer” occurring in the proviso, the words “Tax Recovery Officer” shall be substituted;

(7) in rule 47, for the words “direct that such coins or notes, or a part thereof sufficient to satisfy the certificate, be paid over to the Assessing Officer”, the words and figure “direct that such coins or notes shall be credited to the Central Government and the amount so credited shall be dealt with in the manner specified in rule 8” shall be substituted;

(8) in rule 60, in sub-rule (1), in clause (a), the words “for payment to the Assessing Officer” shall be omitted;

(9) in rule 61, for the words "Assessing Officer", the words "such Income-tax Officer as may be authorised by the Chief Commissioner or Commissioner in this behalf" shall be substituted;

(10) in rule 74, for the words "the Tax Recovery Officer shall proceed to hear the Assessing Officer and take all such evidence as may be produced by him in support of execution by arrest, and shall then give the defaulter", the words "the Tax Recovery Officer shall give the defaulter" shall be substituted;

(11) in rule 85, for the words "If at any time after the issue of the certificate by the Assessing Officer to the Tax Recovery Officer", the words "If at any time after the certificate is drawn up by the Tax Recovery Officer" shall be substituted;

(12) in rule 90, in sub-rule (1), for the words "Assessing Officer", the words "Tax Recovery Officer" shall be substituted.

Amend-
ment of
Third
Schedule.

55. In the Third Schedule to the Income-tax Act—

(a) [as it stood immediately before its amendment by the Direct Tax Laws (Amendment) Act, 1987], for the words "Income-tax Officer", the words "Assessing Officer" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1988;

(b) [as amended by clause (a) of this section], after the words "Assessing Officer", the words "or Tax Recovery Officer" shall be inserted.

Amend-
ment of
Tenth
Schedule.

56. In the Tenth Schedule to the Income-tax Act [as inserted by section 125 of the Direct Tax Laws (Amendment) Act, 1987],—

(i) in rule 1,—

(a) for the words "the proviso", the words "the first proviso or the third proviso" shall be substituted;

(b) for the words "the said proviso", the words "the said first proviso or, as the case may be, the said third proviso" shall be substituted;

(ii) in rule 3,—

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

"Provided further that the amount of ten thousand rupees, specified in column (2) of the said Table against subsection (2) of section 48, shall be increased during the transitional previous year only where the long-term capital gain arises as a result of two or more transfers of long-term capital assets and at least one of the said transfers is made during the initial period of twelve months comprised within the transitional previous year and the remaining transfer or transfers is or are made during the period beyond the said period of twelve months comprised within the transitional previous year."

4 of 1988

4 of 1988

Provided also that where more than one period in respect of different sources of income are included in the transitional previous year under the first proviso or the third proviso to sub-section (2) of section 3, then the amount or amounts specified in column (2) of the said Table shall be increased to such extent and in such manner as the Board may, having regard to,—

(a) length of the period or periods included in the transitional previous year in respect of different sources of income;

(b) length of the transitional previous year; and

(c) other relevant factors,

prescribe in this behalf.”;

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

“TABLE

Provision of the Act (1)	Amount (2)
	Rs.
Section 10(3)	5,000
Section 12A(b)	25,000
Section 13 (2)(g)	1,000
Section 16(i)	12,000
Section 16(i), proviso	1,000
Section 16(ii)	5,000 and 7,500
Section 23(1) (d) (ii)	3,600
Section 24(2), proviso	5,000
Section 33A(7), proviso	40,000, 35,000 and 30,000
Section 35A	1/14th of the amount of capital expenditure
Section 35AB	1/6th or 1/3rd of the amount paid as lumpsum consideration.
Section 35D	1/10th of the amount of certain preliminary expenses.
Section 37(2A)	5,000 and 50,000
Section 40A(12)	10,000
Section 44AA (2) (i) and (ii)	25,000 and 2,50,000
Section 44AB	40,00,000 and 10,00,000
Section 48(2)	10,000
Section 80C(1)	6,000, 9,000 and 12,000
Section 80C(3)	1/10th of the actual capital sum assured
Section 80C(4)	60,000 and 40,000

Provision of the Act (1)	Amount (2)
	Rs.
Section 80C(7)(e)	10,000
Section 80CC(2)	20,000
Section 80CCA(1)	30,000
Section 80D(1)	3,000
Section 80L(1)	7,000 (occurring in two places)
Section 80L(1), 1st proviso	3,000
Section 80L(1), 2nd proviso	3,000
Section 80P(2)(c)	40,000 and 20,000
Section 80P(2)(f)	20,000
Section 80U	15,000
Section 139A(2)	50,000” ;

(iii) for rules 4 and 5, the following rules shall be substituted, namely:—

Modifica-
tion in
section 6.

4. Where the transitional previous year comprises a period of eighteen months or more, then, sub-section (1) of section 6 shall be subject to the modification that references therein to the periods of one hundred and eighty-two days, ninety days and sixty days shall be construed as references, respectively, to the periods of two hundred and seventy-three days, one hundred and thirty-five days and ninety days.

Modifica-
tion in
respect
of depre-
ciation
allowance.

5. Where the assessee's income under the head "Profits and gains of business or profession" or under the head "Income from other sources" for a period of thirteen months or more is included in his total income for the transitional previous year, the allowance under clause (ii) of sub-section (1) of section 32 or, as the case may be, under clause (ii) of section 57 in respect of depreciation on block of assets calculated in the manner stated in clause (ii) of sub-section (1) of section 32, shall be increased by multiplying it by a fraction of which the numerator is the number of months in the transitional previous year and the denominator is twelve:

Provided that where more than one period in respect of income under the head "Profits and gains of business or profession" or under the head "Income from other sources" are included in the transitional previous year under the first proviso or the third proviso to sub-section (2) of section 3, the allowance in respect of depreciation on block of assets shall be calculated separately for each such period included in the transitional previous year in the manner stated in clause (ii) of sub-section (1) of section 32 and increased, where necessary, by multiplying it by a fraction of which the numerator is the number of months in such period (after excluding the number of months relatable to the period in relation to which depreciation on block of assets has been allowed or is allowable in the previous year relevant

to the assessment year commencing on the 1st day of April, 1988) and the denominator is twelve.';

(iv) in rule 6, the following proviso shall be inserted at the end, namely:—

“Provided that where more than one period in respect of different sources of income are included in the transitional previous year under the first proviso or the third proviso to sub-section (2) of section 3, then the tax shall be chargeable at the average rate of tax, calculated in accordance with the provisions of this rule, on the total income of the transitional previous year after excluding from such total income the income relatable to any such period or periods which has already been included or is includible in the total income of the previous year or previous years relevant to the assessment year commencing on the 1st day of April, 1988.”.

57. The following amendments (being amendments of a consequential nature) shall be made in the Income-tax Act, namely:—

Consequ-
ential
amend-
ments.

4 of 1988.

(1) in section 80A, in sub-section (3) [as it stood immediately before its substitution by section 21 of the Direct Tax Laws (Amendment) Act, 1987],—

(a) after the figures and letters “80HHC”, the words, figures and letters “or section 80HHD” shall be inserted;

(b) the words, figures and letters “or section 80QQ or section 80T” shall be omitted;

(2) in section 80P, in sub-section (3),—

(a) after the words, figures and letters “or section 80HHC”, the words, figures and letters “or section 80HHD” shall be inserted;

(b) after the figures and letters “80HHC,” the word, figures and letters “section 80HHD,” shall be inserted;

4 of 1988.

(3) in section 184 [as it stood immediately before its substitution by section 68 of the Direct Tax Laws (Amendment) Act, 1987], in sub-section (7), in the proviso, in clause (ii), for the words, brackets and figures “sub-section (1) or sub-section (2) of section 139 (whether fixed originally or on extension)”, the words, brackets and figures “sub-section (1) of section 139” shall be substituted;

4 of 1988.

(4) in section 273B [as amended by section 114 of the Direct Tax Laws (Amendment) Act, 1987], after the words “in the provisions of”, the words, brackets, letter and figure “clause (b) of sub-section (1) of” shall be inserted.

CHAPTER III

AMENDMENTS TO THE WEALTH-TAX ACT, 1957

27 of 1957.

58. In section 2 of the Wealth-tax Act, 1957 (hereafter in this Chapter referred to as the Wealth-tax Act), in clause (m), the *Explanation* shall be renumbered as *Explanation 1* and after *Explanation 1* as so renumbered, the following *Explanation* shall be inserted, namely:—

Amend-
ment of
section
2.

“*Explanation 2*.—Where a debt falling under sub-clause (ii) is secured on, or has been incurred in relation to, any asset which is

not to be included wholly or partly in the net wealth by virtue of the provisions of sub-section (1A) of section 5, the amount of such debt shall, for the purposes of the said sub-clause, be limited to the value of the said asset which is not includible in the net wealth under sub-section (1A) of section 5.”.

Amend-
ment of
section
4.

59. In section 4 of the Wealth-tax Act,—

(a) in sub-section (1),—

(i) for the portion beginning with the words “In computing the net wealth of an individual” and ending with the words “on the valuation date are held—”, the following shall be substituted, namely:—

“In computing the net wealth—

(a) of an individual, there shall be included, as belonging to that individual, the value of assets which on the valuation date are held—”;

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

“(b) of an assessee who is a partner in a firm or a member of an association of persons (not being a co-operative housing society), there shall be included, as belonging to that assessee, the value of his interest in the firm or association determined in the manner laid down in Schedule III:

Provided that where a minor is admitted to the benefits of partnership in a firm, the value of the interest of such minor in the firm, determined in the manner specified above, shall be included in the net wealth of that parent of the minor whose net wealth (excluding the interest of the minor in the firm referred to in this clause) is greater; and where any such interest is once included in the net wealth of either parent for any assessment year, any such interest in any succeeding year shall not be included in the net wealth of the other parent unless the Assessing Officer is satisfied, after giving that parent an opportunity of being heard, that it is necessary so to do.”;

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

Amend-
ment of
section 5.

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

(a) in sub-section (1), after clause (xvif), the following clause shall be inserted, namely:—

“(xvig) in the case of an individual who is a non-resident Indian during the year ending on the valuation date, or a nominee or survivor of such individual or an individual receiving by way of gift from such individual, the bonds specified under sub-clause (iid) of clause (15) of section 10 of the Income-tax Act:

Provided that where an individual, who is a non-resident Indian during the year ending on the valuation date in which the bonds are acquired, becomes a resident in India in any

subsequent year ending on the valuation date, the provisions of this clause shall continue to apply in relation to such individual.

Explanation.—For the purposes of this clause, an individual shall be deemed to be a non-resident Indian during the year ending on the valuation date if in respect of that year the individual is a non-resident Indian within the meaning of clause (e) of section 115C of the Income-tax Act;”;

(b) in sub-section (1A), the following *Explanation* shall be inserted at the end, namely:—

Explanation.—Where a debt is secured on, or has been incurred in relation to, any asset referred to in this sub-section, the exemption under this sub-section shall be allowed first against the value of the asset on which or in relation to which such debt is secured or incurred and, thereafter, against the value of any other asset so referred to.”;

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

“(4) Where the assessee is a partner of a firm or member of an association of persons, and the firm or association owns any one or more of the assets which are exempt under sub-section (1), then, for the purposes of his assessment under this Act, the value of his interest in the firm or association shall be deemed to include the value of a part of each such asset of the firm or association in the same proportion in which he is entitled to share the profits of the firm or association and the assessment shall be made after allowing the exemption under sub-section (1) in respect of those assets on the basis of such proportionate value.”;

61. In section 6 of the Wealth-tax Act, in *Explanation* 1A, for the word, brackets, figure and letter “clause (4A)”, the words, brackets and figures “sub-clause (ii) of clause (4)” shall be substituted.

Amendment of section 6.

62. For section 7 of the Wealth-tax Act, the following section shall be substituted, namely:—

Substitution of new section for section 7.

7. (1) Subject to the provisions of sub-section (2), the value of any asset, other than cash, for the purposes of this Act shall be its value as on the valuation date determined in the manner laid down in Schedule III.

Value of assets how to be determined.

(2) The value of a house belonging to the assessee and exclusively used by him for residential purposes throughout the period of twelve months immediately preceding the valuation date, may, at the option of the assessee, be taken to be the value determined in the manner laid down in Schedule III as on the valuation date next following the date on which he became the owner of the house or the valuation date relevant to the assessment year commencing on the 1st day of April, 1971, whichever valuation date is later:

Provided that where more than one house belonging to the assessee is exclusively used by him for residential purposes, the provisions of this sub-section shall apply only in respect of one of such houses which the assessee may, at his option, specify in this behalf in the return of net wealth.

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

(i) where the house has been constructed by the assessee, he shall be deemed to have become the owner thereof on the date on which the construction of such house was completed;

(ii) "house" includes a part of a house being an independent residential unit.

Amend-
ment of
section 11.

63. In section 11 of the Wealth-tax Act [as substituted by section 131 of the Direct Tax Laws (Amendment) Act, 1987], in sub-section (2), in clause (b), for the brackets and figure "(5)", the brackets and figure "(4)" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1988.

4 of 1988.

Amend-
ment of
section 16.

64. In section 16 of the Wealth-tax Act [as substituted by section 138 of the Direct Tax Laws (Amendment) Act, 1987],—

4 of 1988.

(a) in sub-section (1), in clause (a), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that an intimation for any tax or interest due under this clause shall not be sent after the expiry of two years from the end of the assessment year in which the net wealth was first assessable.";

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

'(1A) (a) Where in the case of any person, the net wealth, as a result of the adjustments made under the proviso to clause (a) of sub-section (1), exceeds the net wealth declared in the return by any amount, the Assessing Officer shall,—

(i) further increase the amount of tax payable under sub-section (1) by an additional wealth-tax calculated at the rate of twenty per cent. of the tax payable on such excess amount and specify the additional wealth-tax in the intimation to be sent under sub-clause (i) of clause (a) of sub-section (1);

(ii) where any refund is due under sub-section (1), reduce the amount of such refund by an amount equivalent to the additional wealth-tax calculated under sub-clause (i).

(b) Where as a result of an order under section 23 or section 24 or section 25 or section 27 or section 29 or section 35, the amount on which additional wealth-tax is payable under clause (a) has been increased or reduced, as the case may be, the

additional wealth-tax shall be increased or reduced accordingly, and,—

(i) in a case where the additional wealth-tax is increased, the Assessing Officer shall serve on the assessee a notice of demand under section 30;

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

Explanation.—For the purposes of this sub-section, “tax payable on such excess amount” means the difference between the tax on the net wealth and the tax that would have been chargeable had such net wealth been reduced by the amount of adjustments.

65. In section 16A of the Wealth-tax Act, in sub-section (1), in the opening portion, after the words “under this Act,” the words and figures “where under the provisions of section 7 read with the rules made under this Act or, as the case may be, the rules in Schedule III, the market value of any asset is to be taken into account in such assessment,” shall be inserted.

Amend-
ment of
section
16A.

66. In section 17 of the Wealth-tax Act, in sub-section (1) [as substituted by clause (a) of section 139 of the Direct Tax Laws (Amendment) Act, 1987],—

4 of 1988.

(a) for the words “, for reasons to be recorded by him in writing, is of the opinion”, the words “has reason to believe” shall be substituted;

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

“Provided further that the Assessing Officer shall, before issuing any notice under this sub-section, record his reasons for doing so.”

Amend-
ment of
section
17.

4 of 1988.

67. In section 17B of the Wealth-tax Act [as inserted by section 141 of the Direct Tax Laws (Amendment) Act, 1987],—

(a) in sub-section (1),—

(i) after the words “net wealth as determined”, the words, brackets and figures “under sub-section (1) of section 16 or” shall be inserted;

(ii) for *Explanation 2*, the following *Explanation* shall be substituted, namely:—

Explanation 2.—In this sub-section, “tax payable on the net wealth as determined under sub-section (1) of section 16” shall not include the additional wealth-tax, if any, payable under section 16.’;

(iii) after *Explanation 3*, the following *Explanation* shall be inserted, namely:—

Explanation 4.—In this sub-section, “tax payable on the net wealth as determined under sub-section (1) of

Amend-
ment of
section
17B.

section 16 or on regular assessment" shall, for the purposes of computing the interest payable under section 15B, be deemed to be tax payable on the net wealth as declared in the return.;

(b) in sub-section (3),—

(i) after the words, brackets and figures "sub-section (1) of section 17 issued", the words, brackets and figures "after the determination of net wealth under sub-section (1) of section 16 or" shall be inserted;

(ii) after the words "net wealth as determined", the words, brackets and figures "under sub-section (1) of section 16 or" shall be inserted;

(iii) the *Explanation* shall be omitted.

Amend-
ment of
section
18.

68. In section 18 of the Wealth-tax Act [as it stood immediately before its substitution by section 142 of the Direct Tax Laws (Amendment) Act, 1987],—

4 of 1988.

(a) in sub-section (1),—

(i) clause (a) shall be omitted;

(ii) clause (i) shall be omitted;

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

"(ii) in the cases referred to in clause (b), in addition to the amount of wealth-tax payable by him, a sum which shall not be less than one thousand rupees but which may extend to twenty-five thousand rupees for each such failure;"

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

"Provided that in the cases referred to in clause (b), no penalty shall be imposable if the person proves that there was a reasonable cause for the failure referred to in that clause.";

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

"*Explanation 3*.—Where any person who has not previously been assessed under this Act, fails, without reasonable cause, to furnish within the period specified in sub-section (1) of section 17A, a return of his net wealth which he is required to furnish under section 14 in respect of any assessment year commencing on or after the 1st day of April, 1989, and until the expiry of the period aforesaid, no notice has been issued to him under clause (i) of sub-section (4) of section 16 or sub-section (1) of section 17 and the Assessing Officer or the Deputy Commissioner (Appeals) or the Commissioner (Appeals) is satisfied that in respect of such assessment year such person has assessable net wealth,

then, such person shall, for the purposes of clause (c) of this sub-section, be deemed to have concealed the particulars of his assets or furnished inaccurate particulars of any assets or debts in respect of such assessment year, notwithstanding that such person furnishes a return of his net wealth at any time after the expiry of either of the periods aforesaid applicable to him in pursuance of a notice under section 17.”;

(vi) after *Explanation 5*, the following *Explanation* shall be inserted, namely:—

“*Explanation 6*.—Where any adjustment is made in the wealth declared in the return under the proviso to clause (a) of sub-section (1) of section 16 and additional wealth-tax charged under that section, the provisions of this sub-section shall not apply in relation to the adjustments so made.”;

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

“(3) No order imposing a penalty under sub-section (1) shall be made—

(i) by the Income-tax Officer, where the penalty exceeds ten thousand rupees;

(ii) by the Assistant Commissioner, where the penalty exceeds twenty thousand rupees,

except with the prior approval of the Deputy Commissioner.”;

(c) sub-section (3A) shall be omitted;

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

“(5) No order imposing a penalty under this section shall be passed—

(i) in a case where the assessment to which the proceedings for imposition of penalty relate is the subject-matter of an appeal to the Deputy Commissioner (Appeals) or the Commissioner (Appeals) under section 23 or an appeal to the Appellate Tribunal under sub-section (2) of section 24, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which the order of the Deputy Commissioner (Appeals) or the Commissioner (Appeals) or, as the case may be, the Appellate Tribunal is received by the Chief Commissioner or Commissioner, whichever is later;

(ii) in a case where the relevant assessment is the subject-matter of revision under sub-section (2) of section 25, after the expiry of six months from the end of the month in which such order of revision is passed;

(iii) in any other case, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later.

Explanation.—In computing the period of limitation for the purposes of this section,—

(i) any period during which the immunity granted under section 22H remained in force;

(ii) the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 39; and

(iii) any period during which a proceeding under this section for the levy of penalty is stayed by an order or injunction of any court,

shall be excluded.

(6) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1989 shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.”.

Substitution of new section for section 18A.

Penalty for failure to answer questions, sign statements, furnish information, allow inspection, etc.

69. For section 18A of the Wealth-tax Act [as it stood immediately before its substitution by section 142 of the Direct Tax Laws (Amendment) Act, 1987], the following section shall be substituted, namely:—

4 of 1

‘18A. (1) If any person,—

(a) being legally bound to state the truth of any matter touching the subject of his assessment, refuses to answer any question put to him by a wealth-tax authority in the exercise of his powers under this Act; or

(b) refuses to sign any statement made by him in the course of any proceedings under this Act, which a wealth-tax authority may legally require him to sign; or

(c) to whom a summons is issued under sub-section (1) of section 37 either to attend to give evidence or produce books of account or other documents at a certain place and time, omits to attend or produce the books of account or documents at the place and time,

he shall pay, by way of penalty, a sum which shall not be less than five hundred rupees but which may extend to ten thousand rupees for each such default or failure:

Provided that no penalty shall be imposable under clause (c) if the person proves that there was reasonable cause for the said failure.

(2) If a person fails to furnish in due time any statement or information which such person is bound to furnish to the Assessing Officer under section 38, he shall pay, by way of penalty, a sum which shall not be less than one hundred rupees but which may extend to two hundred rupees for every day during which the failure continues:

Provided that no penalty shall be imposable under this sub-section if the person proves that there was reasonable cause for the said failure.

(3) Any penalty imposable under sub-section (1) or sub-section (2) shall be imposed—

(a) in a case where the contravention, failure or default in respect of which such penalty is imposable occurs in the course of any proceeding before a wealth-tax authority not lower in rank than a Deputy Director or a Deputy Commissioner, by such wealth-tax authority;

(b) in any other case, by the Deputy Director or the Deputy Commissioner.

(4) No order under this section shall be passed by any wealth-tax authority referred to in sub-section (3) unless the person on whom the penalty is proposed to be imposed has been heard, or has been given a reasonable opportunity of being heard in the matter, by such authority.

Explanation.—In this section, “wealth-tax authority” includes a Director General, Director, Deputy Director, Assistant Director and a Valuation Officer while exercising the powers vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the matters specified in sub-section (1) of section 37.

of 1908.

70. In section 18B of the Wealth-tax Act,—

(a) in sub-section (1),—

(i) clause (i) shall be omitted;

(ii) clause (a) shall be omitted;

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

“(6) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1989, shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.”

Amend-
ment of
section
18B.

Amend-
ment of
section 23.

71. In section 23 of the Wealth-tax Act [as amended by section 146 of the Direct Tax Laws (Amendment) Act, 1987],—

4 of 1988.

(i) in sub-section (1), in clause (d), the words, figures and letters "as it stood immediately before the 1st day of April, 1989 or under section 18 as amended by the Direct Tax Laws (Amendment) Act, 1987" occurring at the end shall be omitted;

4 of 1988.

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

"(b) objecting to any penalty imposed under sub-section (1) of section 18 with the previous approval of the Deputy Commissioner as specified in sub-section (3) of that section;"

Amend-
ment of
section
26.

72. In section 26 of the Wealth-tax Act, in sub-section (1), after the word and figures "section 25", the words, figures and letter "or an order passed by the Director General or Director under section 18A" shall be inserted.

Amend-
ment of
section
34A.

73. In section 34A of the Wealth-tax Act,—

(a) in sub-section (1), in the proviso [as inserted by clause (i) of section 150 of the Direct Tax Laws (Amendment) Act, 1987], in clause (b), for the words "total income", the words "net wealth" shall be substituted;

4 of 1988.

(b) in sub-section (4B) [as inserted by section 150 of the Direct Tax Laws (Amendment) Act, 1987],—

4 of 1988.

(i) in clause (a), for the words "Where, in pursuance of any order passed under this Act, the refund of any amount becomes due to the assessee", the words "Where refund of any amount becomes due to the assessee under this Act," shall be substituted;

(ii) in clause (c), after the words "an order under", the words, brackets and figures "sub-section (3) or sub-section (5) of section 16 or" shall be inserted.

Amend-
ment of
section
35.

74. In section 35 of the Wealth-tax Act [as amended by section 160 of the Direct Tax Laws (Amendment) Act, 1987], in sub-section (1), in clause (c), the words, figures and letter "or section 23A" shall be omitted.

4 of 1988.

Insertion
of new
section 36.

75. After section 35-O of the Wealth-tax Act, the following section shall be inserted, namely:—

Proof of
entries in
records or
docu-
ments.

"36. Entries in the records or other documents in the custody of a wealth-tax authority shall be admitted in evidence in any proceedings for the prosecution of any person for an offence under this Act, and all such entries may be proved either by the production of the records or other documents in the custody of the wealth-tax authority containing such entries or by the production of a copy of the entries certified by the wealth-tax authority having custody of the records or other documents under its signature and stating that it is a true

copy of the original entries and that such original entries are contained in the records or other documents in its custody.”.

76. In section 41 of the Wealth-tax Act, in sub-section (2), for the words “and in the case of any other association of persons”, the words “and in the case of a company or any other association of persons” shall be substituted.

Amendment of section 41.

77. In section 42A of the Wealth-tax Act, the following *Explanation* shall be inserted at the end, namely:—

Amendment of section 42A.

“*Explanation.*—In the case of a company, the names of the directors, secretaries and treasurers, or managers of the company, may also be published if, in the opinion of the Central Government, the circumstances of the case justify it.”.

78. In the Wealth-tax Act, after Schedule II, the following Schedule shall be inserted, namely:—

Insertion of new Schedule III.

SCHEDULE III

[See section 7(1)]

RULES FOR DETERMINING THE VALUE OF ASSETS

PART A

General

1. The value of any asset, other than cash, for the purposes of this Act, shall be determined in the manner laid down in these rules.

Value of assets how to be determined.

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

Definitions.

(1) “accounting year” in relation to a company means a period in respect of which any profit and loss account of the company laid before it in the annual general meeting is made up;

(2) “debenture” includes debenture stock, bonds and any other securities of a company, whether constituting a charge on the assets of the company or not;

(3) “equity share” means any share in the share capital of a company other than a preference share.

(4) “gold” means gold, including its alloy, whether virgin, melted, remelted, wrought or unwrought, in any shape or form of a purity of not less than nine carats and includes any gold coin (whether legal tender or not), any gold ornament and other article of gold;

(5) “gold ornament” means any article in a finished form, meant for personal adornment or for the adornment of any idol, deity or any other object of religious worship, made of, or manufactured from, gold, whether or not set with stones or gems, real or artificial.

or with pearls, real, cultured or imitation, or with all or any of them and includes parts, pendants or broken pieces of gold ornaments;

(6) "investment company" means a company whose gross total income consists mainly of income which is chargeable to income-tax under the heads "income from house property", "Capital gains" and "Income from other sources".

Explanation.—In this clause, the expression "gross total income" shall have the meaning assigned to it in section 80B of the Income-tax Act;

(7) "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 stones, and whether or not worked or sewn into any wearing apparel;

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

(8) "preference share" has the meaning assigned to it in section 85 of the Companies Act, 1956;

1 of 1956

(9) "quoted share" or "quoted debenture", in relation to an equity share or a preference share or, as the case may be, a debenture, means a share or debenture quoted on any recognised stock exchange with regularity from time to time, where the quotations of such shares or debentures are based on current transactions made in the ordinary course of business.

Explanation.—Where any question arises whether a share or debenture is a "quoted share" or a "quoted debenture" within the meaning of this clause, a certificate to that effect furnished by the concerned stock exchange in the prescribed form shall be accepted as conclusive;

(10) "recognised stock exchange" has the meaning assigned to it in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956;

42 of 19

(11) "unquoted share" or "unquoted debenture", in relation to an equity share or a preference share or, as the case may be, a debenture, means a share or debenture which is not a quoted share or a quoted debenture.

PART B

Immovable property

Valua-
tion of
immov-
able pro-
perty.

3. Subject to the provisions of rules 4, 5, 6, 7 and 8, for the purposes of sub-section (1) of section 7, the value of any immovable property, being a building or land appurtenant thereto, or part thereof, shall be the amount arrived at by multiplying the net maintainable rent by the figure 12.5:

Provided that in relation to any such property which is constructed on leasehold land, this rule shall have effect as if for the figure 12.5,—

(a) where the unexpired period of the lease of such land is fifty years or more, the figure 10.0 had been substituted; and

(b) where the unexpired period of the lease of such land is less than fifty years, the figure 8.0 had been substituted:

Provided further that where such property is acquired or construction of which is completed after the 31st day of March, 1974, if the value so arrived at is lower than the cost of acquisition or the cost of construction, as increased, in either case, by the cost of any improvement to the property, **the cost of acquisition or, as the case may be, the cost of construction, as so increased, shall be taken to be the value of the property under this rule:**

Provided also that the provisions of the second proviso shall not apply for determining the value of one house belonging to the assessee, where such house is acquired or the construction whereof is completed after the 31st day of March, 1974, and the house is exclusively used by the assessee for his own residential purposes throughout the period of twelve months immediately preceding the valuation date and the cost of acquisition or, as the case may be, the cost of construction, as increased, in either case, by the cost of any improvement to the house, does not exceed,—

(a) if the house is situate at Bombay, Calcutta, Delhi or Madras, fifty lakh rupees;

(b) if the house is situated at any other place, twenty-five lakh rupees:

Provided also that where more than one house belonging to the assessee is exclusively used by him for residential purposes, the provisions of the third proviso shall apply only in respect of one of such houses which the assessee may, at his option, specify in this behalf.

4. For the purposes of rule 3, "net maintainable rent" in relation to an immovable property referred to in that rule, shall be the amount of gross maintainable rent as reduced by—

(i) the amount of taxes levied by any local authority in respect of the property; and

(ii) a sum equal to fifteen per cent. of the gross maintainable rent.

Net
main-
tainable
rent how
to be
computed.

5. For the purposes of rule 4, "gross maintainable rent", in relation to any immovable property referred to in rule 3, means—

(i) where the property is let, the amount received or receivable by the owner as annual rent or the annual value assessed by the local authority in whose area the property is situated for the purposes of levy of property tax or any other tax on the basis of such assessment, whichever is higher;

(ii) where the property is not let, the amount of annual rent assessed by the local authority in whose area the property is

Gross
main-
tainable
rent
how to
be com-
puted.

situated for the purpose of levy of property tax or any other tax on the basis of such assessment, or, if there is no such assessment or the property is situated outside the area of any local authority, the amount which the owner can reasonably be expected to receive as annual rent had such property been let.

Explanation.—In this rule,—

(1) “annual rent” means,—

(a) where the property is let throughout the year ending on the valuation date (hereinafter referred to as “previous year”), the actual rent received or receivable by the owner in respect of such year;

(b) where the property is let for only a part of the previous year, the amount which bears the same proportion to the amount of actual rent received or receivable by the owner for the period for which the property is let as the period of twelve months bears to the number of months (including part of a month) during which the property is let during the previous year:

Provided that in the following cases, such actual rent under sub-clauses (a) and (b) shall be increased in the manner specified below:—

(i) where the property is in the occupation of a tenant and taxes levied by any local authority in respect of the property are borne wholly or partly by the tenant, by the amount of the taxes so borne by the tenant;

(ii) where the property is in the occupation of a tenant and expenditure on repairs in respect of the property is borne by the tenant, by one-ninth of the actual rent;

(iii) where the owner has accepted any amount as deposit (not being advance payment towards rent for a period of three months or less), by the amount calculated at the rate of 15 per cent. per annum on the amount of deposit outstanding from month to month, for the number of months (excluding part of a month) during which such deposit was held by the owner in the previous year, and if the owner is liable to pay interest on such deposit, the increase to be made under this clause shall be limited to the sum by which the amount calculated as aforesaid exceeds the interest actually paid;

(iv) where the owner has received any amount by way of premium or otherwise as consideration for leasing of the property or any modification of the terms of the lease, by the amount obtained by dividing the premium or other amount by the number of years of the period of the lease;

(v) where the owner derives any benefit or perquisite, whether convertible into money or not, as consideration for leasing of the property or any modification of the terms of the lease, by the value of such benefit or perquisite.

(2) "rent received or receivable" shall include all payments for the use of the property, by whatever name called, the value of all benefits or perquisites whether convertible into money or not, obtained from a tenant or occupier of the property and any sum paid by a tenant or occupier of the property in respect of any obligation which, but for such payment, would have been payable by the owner.

6. Where the unbuilt area of the plot of land on which the property referred to in rule 3 is constructed exceeds the specified area, the value arrived at in accordance with the provisions of rule 3 shall be increased by an amount calculated in the following manner, namely:—

(a) where the difference between the unbuilt area and the specified area exceeds five per cent. but does not exceed ten per cent. of the aggregate area, by an amount equal to twenty per cent. of such value;

(b) where the difference between the unbuilt area and the specified area exceeds ten per cent. but does not exceed fifteen per cent. of the aggregate area, by an amount equal to thirty per cent. of such value;

(c) where the difference between the unbuilt area and the specified area exceeds fifteen per cent. but does not exceed twenty per cent. of the aggregate area, by an amount equal to forty per cent. of such value.

Explanation.—For the purposes of this rule and rule 6,—

(a) "aggregate area", in relation to the plot of land on which the property is constructed, means the aggregate of the area on which the property is constructed and the unbuilt area;

(b) "specified area", in relation to the plot of land on which the property is constructed, means—

(i) where the property is situate at Bombay, Calcutta, Delhi or Madras, sixty per cent. of the aggregate area;

(ii) where the property is situate at Agra, Ahmedabad, Allahabad, Amritsar, Bangalore, Bhopal, Cochin, Hyderabad, Indore, Jabalpur, Jamshedpur, Kanpur, Lucknow, Ludhiana, Madurai, Nagpur, Patna, Pune, Salem, Sholapur, Srinagar, Surat, Tiruchirappalli, Trivandrum, Vadodara (Baroda) or Varanasi (Banaras), sixty-five per cent. of the aggregate area; and

(iii) where the property is situate at any other place, seventy per cent. of the aggregate area:

Provided that where, under any law for the time being in force, the minimum area of the plot of land required to be kept as open space for the enjoyment of the property exceeds the specified area, such minimum area shall be deemed to be the specified area;

(c) "unbuilt area", in relation to the aggregate area of the plot of land on which the property is constructed, means that part of such aggregate area on which no building has been erected

Adjustments to value arrived at under rule 3, for unbuilt area of plot of land.

Adjust-
ment for
unearned
increase
in the
value of
the land.

7. Where the property is constructed on land obtained on lease from the Government, a local authority or any authority referred to in clause (20A) of section 10 of the Income-tax Act, and the Government or any such authority is, under the terms of the lease, entitled to claim and recover a specified part of the unearned increase in the value of the land at the time of the transfer of the property, the value of such property as determined under rule 3 shall be reduced by the amount so liable to be claimed and recovered or by an amount equal to fifty per cent. of the value of the property as so determined, whichever is less, as if the property had been transferred on the valuation date.

Explanation.—For the purpose of this rule, “unearned increase” means the difference between the value of such land on the valuation date as determined by the Government or such authority for the purpose of calculating such increase and the amount of the premium paid or payable to the Government or such authority for the lease of the land.

Rule 3
not to
apply in
certain
cases.

8. Nothing contained in rule 3 shall apply,—

(a) where, having regard to the facts and circumstances of the case, the Assessing Officer, with the previous approval of the Deputy Commissioner, is of opinion that it is not practicable to apply the provisions of the said rule to such a case; or

(b) where the difference between the unbuilt area and the specified area exceeds twenty per cent. of the aggregate area; or

(c) where the property is constructed on leasehold land and the lease expires within a period not exceeding fifteen years from the relevant valuation date and the deed of lease does not give an option to the lessee for the renewal of the lease,

and in any case referred to in clause (a) or clause (b) or clause (c), the value of the property shall be determined in the manner laid down in rule 20.

PART C

Shares in or debentures of companies

Quoted
shares
and de-
bentures
of com-
panies.

9. The value of an equity share or a preference share in any company or a debenture of any company which is a quoted share or a quoted debenture shall be taken as the value quoted in respect of such share or debenture on the valuation date or where there is no such quotation on the valuation date, the quotation on the date closest to the valuation date and immediately preceding such date.

Un-
quoted
prefer-
ence
shares.

10. (1) Subject to the provisions of sub-rule (2), the value of un-quoted preference share in any company shall—

(a) where the preference share is issued before the valuation date at a rate of dividend of not less than eight per cent., be the paid-up value of such share; and

(b) where the preference share is issued before the valuation date at a rate of dividend of less than eight per cent., be the adjusted paid-up value of such share.

(2) Where no dividend has been paid in respect of an unquoted preference share by any company continuously for not less than three accounting years ending on the valuation date or, in a case where the accounting year of the company does not end on the valuation date, for not less than three continuous accounting years ending on a date immediately before the valuation date, the paid-up value or, as the case may be, the adjusted paid-up value shall be reduced—

(a) in the case of a non-cumulative preference share, as indicated in the Table below:—

TABLE

Number of accounting years ending on the valuation date or, in a case where the accounting year does not end on the valuation date, the number of accounting years ending on a date immediately preceding the valuation date, for which no dividend has been paid	Rate of reduction
(1)	(2)
Three years	10 per cent. of the paid-up value or the adjusted paid-up value, as the case may be ;
Four years	20 —do—
Five years	30 —do—
Six Years and above	40 —do—

(b) in the case of a cumulative preference share, by one half of the rates specified in the aforesaid Table.

Explanation.—For the purposes of this rule, “adjusted paid-up value”, in relation to a preference share, means an amount which bears to the paid-up value of the preference share the same proportion as the stipulated rate of dividend [being the rate of dividend on the preference share specified in the terms of issue of such share, and in a case where such dividend is required to be increased under the provisions of section 3 of the Preference Shares (Regulation of Dividends) Act, 1960, the rate of dividend as so increased] on such share bears to the rate of eight per cent.

63 of 1960.

11. (1) The value of an unquoted equity share in any company, other than an investment company, shall be determined in the manner set out in sub-rule (2).

(2) The value of all the liabilities as shown in the balance-sheet of such company shall be deducted from the value of all its assets shown in that balance-sheet; the net amount so arrived at shall be divided by the total amount of its paid-up equity share capital as shown in the balance-sheet; the result multiplied by the paid-up value of each equity share shall be the break-up of each unquoted equity share, and an

Unquoted equity shares in companies other than investment companies.

amount equal to eighty per cent. of the break-up value so determined shall be the value of the unquoted equity share for the purposes of this Act.

(3) For the purposes of sub-rule (2),—

(a) the following amounts shown as assets in the balance-sheet shall not be treated as assets, namely:—

(i) any amount paid as advance-tax under the Income-tax Act;

(ii) any amount shown in the balance-sheet including the debit balance of the profit and loss account or the profit and loss appropriation account which does not represent the value of any asset;

(b) the following amounts shown as liabilities in the balance-sheet shall not be treated as liabilities, namely:—

(i) the paid-up capital in respect of equity shares;

(ii) the amount set apart for payment of dividends on preference shares and equity shares where such dividends have not been declared before the valuation date at a general body meeting of the company;

(iii) reserves, by whatever name called, other than those set apart towards depreciation;

(iv) credit balance of the profit and loss account;

(v) any amount representing provision for taxation, other than the amount referred to in sub-clause (i) of clause (a), to the extent of the excess over the tax payable with reference to the book profits in accordance with the law applicable thereto;

(vi) any amount representing contingent liabilities other than arrears of dividends payable in respect of cumulative preference shares.

Explanation.—For the purposes of this rule, “balance-sheet”, in relation to any company, means the balance-sheet of such company (including the Notes annexed thereto and forming part of the accounts) as drawn up on the valuation date and, where there is no such balance-sheet, the balance-sheet drawn up on a date immediately preceding the valuation date, and, in the absence of both, the balance-sheet drawn up on a date immediately after the valuation date.

12. (1) Subject to rule 13, the value of an unquoted equity share in an investment company shall be determined in the manner specified in sub-rule (2).

(2) The value of all the liabilities as shown in the balance-sheet of such company shall be deducted from the value of all its assets shown in that balance-sheet; the net amount so arrived at shall be divided by the total paid-up equity share capital of the company as shown in the balance-sheet, and the result multiplied by the paid-up value of each equity share

Un-
quoted
equity
shares
in invest-
ment
com-
panies.

shall be the value of the unquoted equity share in that investment company for the purposes of this Act.

(3) For the purposes of sub-rule (2), the value of an asset disclosed in the balance-sheet of the company shall be taken to be its value determined in accordance with the rules as applicable to that particular asset and, in the absence of any such rule, the value of such asset shall be its value as determined under rule 20.

(4) For the purposes of this rule,—

(a) "balance-sheet" has the same meaning as in rule 11;

(b) the amounts referred to in sub-rule (3) of rule 11 shall not be treated as assets or liabilities.

(5) For the purpose of facilitating the valuation of unquoted equity shares under this rule and rule 13, the company concerned shall have such valuation made by its auditors appointed under section 224 of the Companies Act, 1956, and a certificate of the auditors relating to such valuation in the prescribed form shall be furnished to the Assessing Officer in the case of the company; and the valuation made by the auditors shall be taken into account in the assessments of the shareholders of the company.

1 of 1956.

13. (1) The value of an unquoted equity share in one of the two interlocked companies held by the other interlocked company for the purposes of rule 12 shall be equal to the paid-up value of such share or the value determined under sub-rule (2), whichever is higher.

Unquoted equity shares in interlocked companies.

(2) For the purpose of sub-rule (1), the aggregate value of all the equity shares in an interlocked company shall be arrived at by multiplying the maintainable profits of such company by—

(a) the fraction $\frac{100}{8.5}$ in a case where the gross total income of the company consists, to the extent of not less than 51 per cent. of income chargeable under the head "Income from house property"; or

(b) the fraction $\frac{100}{10}$ in the case of any other interlocked company,

and the resultant amount divided by the number of such equity shares shall be the value of such an equity share in such company.

(3) The maintainable profits of the company, for the purpose of sub-rule (2), shall be computed in the following manner, namely:—

(a) the book profits of the company for the five accounting years of the company immediately preceding the valuation date shall first be ascertained;

(b) adjustments shall be made to the book profits for each of the said five years for all non-recurring and extraordinary items of income and expenditure and losses;

(c) adjustments shall be made to the book profits for expenditure which is not of a revenue nature but is debited in the

accounts and for receipts which are in the nature of revenue receipts but are not accounted for in the profit and loss account;

(d) any development rebate or investment allowance debited in the books of account shall be added back to the book profits;

(e) the tax liability of the company on the book profits, arrived at after the adjustments at items (a), (b), (c) and (d), shall be deducted from such book profits;

(f) amounts required for paying dividends on preference shares or shares with prior rights shall be deducted from such book profits;

(g) the aggregate of the book profits for the five accounting years so arrived at, divided by 5, shall be the maintainable profits of the company.

Explanation.—For the purposes of this rule, “interlocked companies” means any two investment companies each of which holds shares in the other company.

PART D

Assets of business

Global
valuation
of assets
of business.

14. (1) Where the assessee is carrying on a business for which accounts are maintained by him regularly, the net value of the assets of the business as a whole, having regard to the balance-sheet of such business on the valuation date after adjustments specified in sub-rule (2) shall be taken as the value of such assets for the purposes of this Act.

(2) For the purposes of sub-rule (1)—

(a) the value of any asset as disclosed in the balance-sheet shall be taken to be,—

(i) in the case of an asset on which depreciation is admissible, its written-down value;

(ii) in the case of an asset on which no depreciation is admissible, its book value;

(iii) in the case of closing stock, its value adopted for the purposes of assessment under the Income-tax Act for the previous year relevant to the corresponding assessment year;

(b) where the value of any of the assets referred to in clause (a), determined in accordance with the provisions of this Schedule as applicable to that particular asset or if there are no such provisions, determined in accordance with rule 20, exceeds the value arrived at in accordance with clause (a) by more than 20 per cent., then the higher value shall be taken to be the value of that asset;

(c) the value of an asset not disclosed in the balance-sheet, shall be taken to be the value determined in accordance with the provisions of this Schedule as applicable to that asset;

(d) the value of the following assets which are disclosed in the balance-sheet shall not be taken into account, namely:—

(i) any amount paid as advance tax under the Income-tax Act;

(ii) the debt due to the assessee according to the balance-sheet or part thereof which has been allowed as a deduction under clause (vii) of sub-section (1) of section 36 of the Income-tax Act, for the purposes of assessment for the previous year relevant to the corresponding assessment year under that Act;

(iii) the value of any asset in respect of which wealth-tax is not payable under this Act;

(iv) any amount shown in the balance-sheet including the debit balance in the profit and loss account or profit and loss appropriation account which does not represent the value of any asset;

(v) any asset shown in the balance-sheet not really pertaining to the business;

(e) the following amounts shown as liabilities in the balance-sheet shall not be taken into account, namely:—

(i) capital employed in the business other than that attributable to borrowed money;

(ii) reserves by whatever name called;

(iii) any provision made for meeting any future or contingent liability;

(iv) any liability shown in the balance-sheet not really pertaining to the business;

(v) any debt owed by the assessee to the extent to which it has been specifically utilised for acquiring an asset in respect of which wealth-tax is not payable under this Act:

Provided that where it is not possible to calculate the amount of debt so utilised, it shall be taken as the amount which bears the same proportion to the total of the debts owed by the assessee as the value of that asset bears to the total value of the assets of the business.

Explanation.—Provision for any purpose other than taxation shall be treated as a reserve.

PART E

Interest in firm or association of persons

15. The value of the interest of a person in a firm of which he is a partner or in an association of persons of which he is a member shall be determined in the manner provided in rule 16.

Valuation of interest in firm or association of persons.

Compu-
tation
of net
wealth
of the
firm or
associa-
tion
and its
alloca-
tion
amongst
the
partners
or
members.

16. The net wealth of the firm or association of persons on the valuation date shall first be determined as if it were the assessee and, thereafter,—

(i) that portion of the net wealth of the firm or association as is equal to the amount of its capital shall be allocated among the partners or members in the proportion in which capital has been contributed by them;

(ii) the residue of the net wealth of the firm or association shall be allocated amongst the partners or members in accordance with the agreement of partnership or association for the distribution of assets in the event of dissolution of the firm or association or, in the absence of such agreement, in the proportion in which the partners or members are entitled to share the profits,

and the sum total of amounts so allocated to a partner or member under clause (i) and clause (ii) shall be treated as the value of the interest of that partner or member in the firm or association:

Provided that in determining the net wealth of the firm or association for the purposes of this rule, no account shall be taken of the exemptions in sub-sections (1) and (1A) of section 5.

Explanation.—For the purposes of this rule,—

(a) where the net wealth of the firm or association computed in accordance with this rule includes the value of any assets located outside India, the value of the interest of any partner or member in the assets located in India shall be determined having regard to the proportion which the value of assets located in India diminished by the debts relating to those assets bears to the net wealth of the firm or association;

(b) where the net wealth of the firm or association computed in accordance with this rule includes the value of any assets which are exempt from inclusion in the net wealth under sub-sections (1) and (1A) of section 5, the value of the interest of a partner or member shall be deemed to include the value of his proportionate share in the said assets and, the provisions of sub-sections (1) and (1A) of section 5 shall apply to him accordingly;

(c) where the net wealth of the firm or association computed in accordance with this rule includes the value of any assets referred to in sub-section (2) of section 5, the value of the interest of a partner or member shall be deemed to include the value of his proportionate share in the said assets, and the provisions of sub-section (2) of section 5 shall apply to him accordingly.

PART F

Life Interest

Valua-
tion of
life
interest.

17. (1) For the purposes of sub-section (1) of section 7, the value of the life interest of an assessee shall be arrived at by multiplying the average annual income that accrued to the assessee from the life interest by the fraction, $\frac{P}{P+d}$ minus 1, where 'P' represents the annual premium for a whole life insurance without profits on the life of the

life tenant for unit sum assured as specified in the Appendix to these rules, and 'd' is equal to $\frac{i}{1+i}$, 'i' being the rate of interest.

Explanation.—In this rule,—

(a) "life tenant" means a person for the duration of whose life the life interest is to subsist;

(b) "average annual income" means the average of the gross income derived by the assessee from the life interest during each year of the period ending on the valuation date, reduced by the average of the expenses incurred on the collection of such income in each of those years:

Provided that the amount of the reduction for such expenses shall, in no case, exceed five per cent. of the average of the annual gross income:

Provided further that in case the income so derived is for a period exceeding three years, only that income derived during the three years ending on the valuation date shall be taken into account;

(c) the rate of interest shall be $6\frac{1}{2}$ per cent. per annum.

(2) Notwithstanding anything contained in sub-rule (1),—

(a) the Assessing Officer may, if he is of the opinion that in the case of the life tenant, a life insurance company would not take the risk of insuring his life at the normal premium rates in force but would demand a higher premium, vary the valuation suitably;

(b) the value of the life interest so determined shall, in no case, exceed the value as on the valuation date as determined under this Schedule, of the corpus of the trust from which the life interest is derived.

PART G

Jewellery

18. The value of jewellery shall be—

(a) where the value declared by the assessee in the return of net wealth does not exceed rupees five lakhs, and the return is supported by a statement in the prescribed form, the value so declared in the return;

Valua-
tion of
jewellery.

(b) in any other case, subject to rule 19, the price which in the opinion of the Valuation Officer, on a reference made to him under section 16A, the jewellery would fetch if sold in the open market on the valuation date.

19. The value of any jewellery determined in accordance with clause (b) of rule 18 for any assessment year (hereinafter referred to as the first assessment year), shall be taken to be the value of such jewellery for the subsequent four assessment years, subject to the following adjustments, namely:—

Adjust-
ment in
value of
jewellery
for sub-
sequent
assess-
ment
years.

(a) where the jewellery includes gold or silver or any alloy containing gold or silver, the value of such gold or silver or such alloy as on the valuation date relevant to the concerned subsequent

assessment year shall be substituted for the value of such gold or silver or alloy on the valuation date relevant to the first assessment year;

(b) where any jewellery or part of jewellery is sold or otherwise disposed of by the assessee, or any jewellery or part of jewellery is acquired by him, on or before the valuation date relevant to the concerned subsequent year, the value of the jewellery determined for the first assessment year shall be reduced or increased, as the case may be, and the value as so reduced or increased shall be the value of the jewellery for such subsequent assessment year.

PART H
Residuary

Valuation of assets in other cases.

20. (1) The value of any asset, other than cash, being an asset which is not covered by rules 3 to 19, for the purposes of this Act, shall be estimated to be the price which, in the opinion of the Assessing Officer, it would fetch if sold in the open market on the valuation date.

(2) Notwithstanding anything contained in sub-rule (1), where the valuation of any asset referred to in that sub-rule is referred by the Assessing 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.

(3) Where the value of any asset cannot be estimated under this rule because it is not saleable in the open market, the value shall be determined in accordance with such guidelines or principles as may be specified by the Board from time to time by general or special order.

Restrictive covenants to be ignored in determining market value.

21. For the removal of doubts, it is hereby declared that the price or other consideration for which any property may be acquired by or transferred to any person under the terms of a deed of trust or through or under any restrictive covenant in any instrument of transfer shall be ignored for the purposes of determining under any provision of this Schedule, the price such property would fetch if sold in the open market on the valuation date.

[APPENDIX
(See rule 17)

TABLE OF $\left(\frac{1}{P+d} - 1\right)$

Age nearer birth-day	Premium for unit sum assured	$\left(\frac{1}{P+d} - 1\right)$ Value of life interest of Rupee 1 per annum at 6½% rate of interest
1	2	3
0	0.02906	10.100
1	0.01590	11.999

1	2	3
2	0.01295	12 517
3	0.01162	12.765
4	0.01095	12 893
5	0.01065	12 951
6	0.01058	12.965
7	0.01063	12.955
8	0.01076	12.930
9	0.01095	12.893
10	0.01117	12.850
11	0.01142	12.803
12	0.01169	12.751
13	0.01197	12.699
14	0.01226	12.644
15	0.01257	12.587
16	0.01286	12.534
17	0.01319	12.473
18	0.01350	12.417
19	0.01387	12 351
20	0.01431	12.273
21	0.01469	12.207
22	0.01512	12.132
23	0.01556	12.057
24	0.01606	11.972
25	0.01656	11.888
26	0.01706	11.806
27	0.01762	11.715
28	0.01825	11.614
29	0.01894	11.505
30	0.01962	11.359
31	0.02037	11.285
32	0.02112	11.173
33	0.02194	11.053
34	0.02281	10 927
35	0 02369	10.804
36	0.02462	10.675
37	0.02562	10.541
38	0.02669	10.400
39	0.02787	10.249
40	0.02912	10.093

1	2	3
41	0.03044	9.932
42	0.03181	9.771
43	0.03325	9.607
44	0.03475	9.441
45	0.03637	9.267
46	0.03806	9.092
47	0.03987	8.911
48	0.04181	8.724
49	0.04387	8.533
50	0.04612	8.333
51	0.04850	8.130
52	0.05100	7.926
53	0.05362	7.722
54	0.05637	7.518
55	0.05931	7.310
56	0.06244	7.099
57	0.06575	6.888
58	0.06925	6.676
59	0.07294	6.464
60	0.07681	6.255
61	0.08167	6.008
62	0.08589	5.806
63	0.09025	5.610
64	0.09475	5.419
65	0.09938	5.234
66	0.10415	5.054
67	0.10907	4.879
68	0.11414	4.709
69	0.11938	4.543
70	0.12483	4.380
71	0.13054	4.220
72	0.13652	4.062
73	0.14278	3.907
74	0.14936	3.753
75	0.15627	3.602
76	0.16356	3.453
77	0.17125	3.305
78	0.17937	3.160
79	0.18796	3.016
80	0.19706	2.875]

CHAPTER IV

AMENDMENTS TO THE GIFT-TAX ACT, 1958

18 of 1958.

79. In section 3 of the Gift-tax Act, 1958 (hereafter in this Chapter referred to as the Gift-tax Act), in sub-section (1), for the words "the Schedule", the word and figure "Schedule I" shall be substituted.

Amendment of section 3.

80. In section 5 of the Gift-tax Act, in sub-section (1), after clause (iia), the following clause shall be inserted, namely:—

Amendment of section 5.

'(iie) being an individual who is a non-resident Indian, to any relative, of property in the form of the bonds specified under sub-clause (iia) of clause (15) of section 10 of the Income-tax Act:

Provided that the exemption conferred by this clause shall be available only if the gift of such bonds is made after a period of three years from the date of their purchase:

Provided further that where an individual, who is a non-resident Indian in any previous year in which the bonds are acquired, becomes a resident in India in any subsequent year, the provisions of this clause shall apply in respect of the gifts of property referred to in this clause in such subsequent year or any year thereafter.

Explanation.—For the purposes of this clause, the expressions—

(a) "relative" shall have the meaning assigned to it in clause (41) of section 2 of the Income-tax Act;

(b) "non-resident Indian" shall have the meaning assigned to it in clause (e) of section 115C of the Income-tax Act;'

81. For section 6 of the Gift-tax Act, the following section shall be substituted, namely:—

Substitution of new section for section 6.

"6. (1) Subject to the provisions of sub-section (2), the value of any property, other than cash, transferred by way of gift shall, for the purpose of this Act, be its value as on the date on which the gift was made and shall be determined in the manner laid down in Schedule II.

Value of gifts, how determined.

(2) Where a person makes a gift which is not revocable for a specified period, the value of the property gifted shall be the capitalised value of the income from such property during the period for which the gift is not revocable."

4 of 1988.

82. In section 10 of the Gift-tax Act [as substituted by section 164 of the Direct Tax Laws (Amendment) Act, 1987], in sub-section (2), in clause (5), for the brackets and figure "(5)", the brackets and figure "(4)" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1988.

Amendment of section 10.

Amend-
ment of
section
15.

83. In section 15 of the Gift-tax Act [as substituted by section 170 of the Direct Tax Laws (Amendment) Act, 1987],—

4 of 1988.

(a) in sub-section (1), in clause (a), after the proviso, the following proviso shall be inserted, namely:—

“Provided further that an intimation for any tax or interest due under this clause shall not be sent after the expiry of two years from the end of the assessment year in which the gifts were first assessable.”;

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

‘(1A) (a) Where in the case of any person, the taxable gift, as a result of the adjustments made under the proviso to clause (a) of sub-section (1), exceeds the taxable gift declared in the return by any amount, the Assessing Officer shall,—

(i) further increase the amount of tax payable under sub-section (1) by an additional gift-tax calculated at the rate of twenty per cent. of the tax payable on such excess amount and specify the additional gift-tax in the intimation to be sent under sub-clause (i) of clause (a) of sub-section (1);

(ii) where any refund is due under sub-section (1), reduce the amount of such refund by an amount equivalent to the additional gift-tax calculated under sub-clause (i).

(b) Where as a result of an order under section 22 or section 23 or section 24 or section 26 or section 28 or section 34, the amount on which additional gift-tax is payable under clause (a) has been increased or reduced, as the case may be, the additional gift-tax shall be increased or reduced accordingly, and,—

(i) in a case where the additional gift-tax is increased, the Assessing Officer shall serve on the assessee a notice of demand under section 31;

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

Explanation.—For the purposes of this sub-section, “tax payable on such excess amount” means the difference between the tax on the taxable gift and the tax that would have been chargeable had such taxable gift been reduced by the amount of adjustments.’;

(c) in sub-section (6), in the opening portion, after the words “under this Act,” the words and figures “where under the provisions of section 6 read with Schedule II, the fair market value of any property transferred by way of gift is to be taken into account in such assessment,” shall be inserted.

4 of 1988. 84. In section 16 of the Gift-tax Act, in sub-section (1) [as substituted by clause (a) of section 171 of the Direct Tax Laws (Amendment) Act, 1987],—

Amendment of section 16.

(a) for the words “, for reasons to be recorded by him in writing, is of the opinion”, the words “has reasons to believe” shall be substituted;

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

“Provided further that the Assessing Officer shall, before issuing any notice under this sub-section, record his reasons for doing so.”.

4 of 1988. 85. In section 16B of the Gift-tax Act [as inserted by section 173 of the Direct Tax Laws (Amendment) Act, 1987],—

Amendment of section 16B.

(a) in sub-section (1),—

(i) after the words “taxable gifts as determined”, the words, brackets and figures “under sub-section (1) of section 15 or” shall be inserted;

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

Explanation 1.—In this sub-section, “tax payable on the taxable gifts as determined under sub-section (1) of section 15” shall not include the additional gift-tax, if any, payable under section 15.’;

(iii) after *Explanation 2*, the following *Explanation* shall be inserted, namely:—

Explanation 3.—In this sub-section, “tax payable on the taxable gifts as determined under sub-section (1) of section 15 or on regular assessment” shall, for the purposes of computing the interest payable under section 14B, be deemed to be tax payable on the taxable gifts as declared in the return.’;

(b) in sub-section (3),—

(i) after the words, brackets and figures “under sub-section (1) of section 16 issued”, the words, brackets and figures “after the determination of taxable gifts under sub-section (1) of section 15 or” shall be inserted;

(ii) after the words “taxable gifts as determined”, the words, brackets and figures “under sub-section (1) of section 15 or” shall be inserted;

(iii) the *Explanation* shall be omitted.

4 of 1988. 86. In section 17 of the Gift-tax Act [as it stood immediately before its substitution by section 174 of the Direct Tax Laws (Amendment) Act, 1987],—

Amendment of section 17.

(a) in sub-section (1),—

(i) clause (a) shall be omitted;

(ii) clause (i) shall be omitted;

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

“(ii) in the cases referred to in clause (b), in addition to the amount of gift-tax payable by him, a sum which shall not be less than one thousand rupees but which may extend to twenty-five thousand rupees for each such failure;”;

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

“Provided that in the cases referred to in clause (b), no penalty shall be imposable if the person proves that there was a reasonable cause for the failure referred to in that clause.”;

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

“*Explanation.*—Where any adjustment is made in the taxable gifts declared in the return under the proviso to clause (a) of sub-section (1) of section 15 and additional gift-tax charged under that section, the provisions of this sub-section shall not apply in relation to the adjustments so made.”;

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

“(3) No order imposing a penalty under sub-section (1) shall be made,—

(i) by the Income-tax Officer, where the penalty exceeds ten thousand rupees;

(ii) by the Assistant Commissioner, where the penalty exceeds twenty thousand rupees,

except with the prior approval of the Deputy Commissioner.”;

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

“(5) No order imposing a penalty under this section shall be passed—

(i) in a case where the assessment to which the proceedings for imposition of penalty relate is the subject-matter of an appeal to the Deputy Commissioner (Appeals) or Commissioner (Appeals) under section 22 or an appeal to the Appellate Tribunal under sub-section (2) of section 23, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which the order of the Deputy Commissioner (Appeals) or the Commissioner (Appeals) or, as the case may be, the Appellate Tribunal is received by the Chief Commissioner or Commissioner, whichever is later;

(ii) in a case where the relevant assessment is the subject-matter of revision under sub-section (2) of section 24,

after the expiry of six months from the end of the month in which such order of revision is passed;

(iii) in any other case, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later.

Explanation.—In computing the period of limitation for the purposes of this section,—

(i) the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 38; and

(ii) any period during which a proceeding under this section for the levy of penalty is stayed by an order or injunction of any court,

shall be excluded.

(6) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1989 shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.”.

87. For section 17A of the Gift-tax Act [as it stood immediately before its substitution by section 174 of the Direct Tax Laws (Amendment) Act, 1987], the following section shall be substituted, namely:—

4 of 1988.

17A. (1) If a person,—

(a) being legally bound to state the truth of any matter touching the subject of his assessment, refuses to answer any question put to him by a gift-tax authority in the exercise of his powers under this Act; or

(b) refuses to sign any statement made by him in the course of any proceedings under this Act, which a gift-tax authority may legally require him to sign; or

(c) to whom a summons is issued under sub-section (1) of section 36, either to attend to give evidence or produce books of account or other documents at a certain place and time, omits to attend or produce the books of account or documents at the place and time,

he shall pay, by way of penalty, a sum which shall not be less than five hundred rupees but which may extend to ten thousand rupees for each such default or failure:

Provided that no penalty shall be imposable under clause (c) if the person proves that there was reasonable cause for the said failure.

Substitution of new section for section 17A. Penalty for failure to answer questions, sign statements, furnish information, allow inspection, etc.

(2) If a person fails to furnish in due time any statement or information which such person is bound to furnish to the Assessing Officer under section 37, he shall pay, by way of penalty, a sum which shall not be less than one hundred rupees but which may extend to two hundred rupees for every day during which the failure continues:

Provided that no penalty shall be imposable under this sub-section if the person proves that there was reasonable cause for the said failure.

(3) Any penalty imposable under sub-section (1) or sub-section (2) shall be imposed,—

(a) in a case where the contravention, failure or default in respect of which such penalty is imposable occurs in the course of any proceeding before a gift-tax authority not lower in rank than a Deputy Director or a Deputy Commissioner, by such gift-tax authority;

(b) in any other case, by the Deputy Director or the Deputy Commissioner.

(4) No order under this section shall be passed by any gift-tax authority referred to in sub-section (3) unless the person on whom penalty is proposed to be imposed has been heard or has been given a reasonable opportunity of being heard in the matter by such authority.

Explanation.—In this section, “gift-tax authority” includes a Director General, Director, Deputy Director, Assistant Director or Valuation Officer while exercising the powers vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the matters specified in sub-section (1) of section 36.

5 of 1908.

Amend-
ment of
section
22.

88. In section 22 of the Gift-tax Act [as amended by section 176 of the Direct Tax Laws (Amendment) Act, 1987],—

4 of 1988.

(i) in sub-section (1), in clause (d), the words, figures and letters “as it stood immediately before the 1st day of April, 1989 or under section 17 as amended by the Direct Tax Laws (Amendment) Act, 1987” occurring at the end shall be omitted;

4 of 1988.

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

“(c) objecting to any penalty imposed under sub-section (1) of section 17 with the previous approval of the Deputy Commissioner as specified in sub-section (3) of that section;”.

Amend-
ment of
section
25.

89. In section 25 of the Gift-tax Act, in sub-section (1), after the word and figures “section 24”, the words, figures and letter “or an order passed by the Director General or Director under section 17A” shall be inserted.

Amend-
ment of
section
33A.

90. In section 33A of the Gift-tax Act,—

(a) in sub-section (1), in the proviso [as inserted by clause (i) of section 180 of the Direct Tax Laws (Amendment) Act, 1987], in clause (b), for the words “total income”, the words “taxable gifts” shall be substituted;

4 of 1988.

4 of 1988. (b) in sub-section (4B) [as inserted by section 180 of the Direct Tax Laws (Amendment) Act, 1987],—

(i) in clause (a), for the words "Where, in pursuance of any order passed under this Act, the refund of any amount becomes due to the assessee", the words "Where refund of any amount becomes due to the assessee under this Act," shall be substituted;

(ii) in clause (c), after the words "an order under", the words, brackets and figures "sub-section (3) or sub-section (5) of section 15 or" shall be inserted.

4 of 1988. 91. In section 34 of the Gift-tax Act [as amended by section 186 of the Direct Tax Laws (Amendment) Act, 1987], in sub-section (1), in clause (c), the words, figures and letter "or section 22A" shall be omitted.

Amendment of section 34.

92. After section 35D of the Gift-tax Act, the following section shall be inserted, namely:—

Insertion of new section 35E.

"35E. Entries in the records or other documents in the custody of a gift-tax authority shall be admitted in evidence in any proceedings for the prosecution of any person for an offence under this Act, and all such entries may be proved either by the production of the records or other documents in the custody of the gift-tax authority containing such entries, or by the production of a copy of the entries certified by the gift-tax authority having custody of the records or other documents under its signature and stating that it is a true copy of the original entries and that such original entries are contained in the records or other documents in its custody."

Proof of entries in records or documents.

4 of 1988. 93. In section 45 of the Gift-tax Act, for *Explanations* 1 and 2 [as they stood immediately before their substitution by section 184 of the Direct Tax Laws (Amendment) Act, 1987], the following *Explanation* shall be substituted, namely:—

Amendment of section 45.

Explanation 1.—For the purposes of clause (b), the term "amalgamation" shall have the meaning assigned to it in clause (1B) of section 2 of the Income-tax Act.

94. In the Gift-tax Act, the existing Schedule shall be renumbered as Schedule I and after Schedule I as so renumbered, the following Schedule shall be inserted, namely:—

Insertion of new Schedule II.

"SCHEDULE II

[See section 6(1).]

Rules for determining the value of property gifted

The value of any property, other than cash, transferred by way of gift shall, for the purposes of this Act, be determined in accordance with the provisions of Schedule III to the Wealth-tax Act, which shall apply subject to the following modifications, namely:—

Value of gifted property, how to be determined.

In the said Schedule,—

(a) references by whatever form of words to the Wealth-tax Act shall be construed as references to this Act;

(b) in rule 5, the reference to the year ending on the valuation date shall be construed as a reference to the previous year as defined in this Act;

(c) save as provided in clause (b), references to the valuation date shall be construed as references to the date on which the gift was made;

(d) reference to section 7 of the Wealth-tax Act shall be construed as references to section 6 of this Act;

(e) references to section 16A of the Wealth-tax Act shall be construed as references to sub-section (6) of section 15 of this Act."

CHAPTER V

AMENDMENTS TO THE DIRECT TAX LAWS (AMENDMENT) ACT, 1987

Amendment of Act 4 of 1988.

95. In the Direct Tax Laws (Amendment) Act, 1987,—

(a) in section 3,—

(1) clauses (p) and (s) shall be omitted;

(2) in clause (r), after the words "shall be substituted", the words, figures and letters "and shall be deemed to have been substituted with effect from the 1st day of April, 1988" shall be inserted;

(b) in section 6, clauses (a), (k) and (l) shall be omitted;

(c) sections 7 and 8 shall be omitted;

(d) in section 9, clause (a) shall be omitted;

(e) in section 10, for the figures, letters and word "35, 35B, 35C, 35CC, 35CCA and 35CCB", the figures, letters and word "35B, 35C and 35CC" shall be substituted;

(f) in section 13, clause (ii) shall be omitted;

(g) sections 16, 17, 18, 19, 20, 21, 24, 26 and 29 shall be omitted;

(h) in section 25, clauses (a), (b), (d) and (e) shall be omitted;

(i) in section 61,—

(1) clause (a) shall be omitted;

(2) in clause (c), the brackets, figure and letter "(5B)," shall be omitted;

(j) sections 62, 63, 66, 67, 68, 69, 71, 72, 100, 101 and 122 shall be omitted;

(k) in section 64,—

(1) clause (a) shall be omitted;

(2) in clause (b), the words, brackets and figures "sub-sections (2) and (3), and" shall be omitted;

(l) in section 88, clause (b) shall be omitted;

(m) section 106 shall be omitted;

(n) in section 124,—

(1) clauses (3), (6), (8), (9), (10), (11), (13), (14), (16), (19) and (22) shall be omitted;

(2) in clause (5), sub-clause (i) shall be omitted;

(3) in clause (12), for the words "Income-tax Officer", the words "Assessing Officer" shall be substituted;

(4) in clause (24), for the words "Income-tax Officer", the words "Assessing Officer" shall be substituted;

(o) in section 126, clauses (5), (8), (11), (13), (23) and (28) shall be omitted;

(p) sections 142, 143, 144, 147, 174, 175 and 177 shall be omitted;

(q) in section 149, in clause (a), after the words "shall be substituted", the words, figures and letters "and shall be deemed to have been substituted with effect from the 1st day of April, 1988" shall be inserted;

(r) in section 160, clauses (1) and (2) shall be omitted;

(s) in section 179, in clause (a), after the words "shall be substituted", the words, figures and letters "and shall be deemed to have been substituted with effect from the 1st day of April, 1988" shall be inserted;

(t) in section 184, clauses (c) and (d) shall be omitted;

(u) in section 186, clause (2) shall be omitted.

THE APPROPRIATION (VOTE ON ACCOUNT) ACT, 1989

No. 4 OF 1989

[30th March, 1989.]

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 1989-90.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

Short
title.

1. This Act may be called the Appropriation (Vote on Account) Act, 1989.

With-
drawal
of
Rs. 41751,
28,00,000
from and
out of the
Consoli-
dated
Fund of
India for
the finan-
cial year
1989-90.

2. From and out of the Consolidated Fund of India there may be withdrawn sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of forty-one thousand seven hundred and fifty-one crores and twenty-eight lakh rupees towards defraying the several charges which will come in course of payment during the financial year 1989-90.

Appro-
priation.

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

Construc-
tion of
references
to
Ministries
and
Depart-
ments
in the
Schedule.

4. References to Ministries or Departments in the Schedule are to such Ministries or Departments as existing immediately before the 10th February, 1989 and shall on or after that date be construed as references to the appropriate Ministries or Departments as reconstituted from time to time.

THE SCHEDULE
(See sections 2, 3 and 4)

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Agriculture . . . Revenue Capital	70,79,00,000 3,34,00,000	.. 50,83,00,000	70,79,00,000 54,17,00,000
2	Other Services of Department of Agriculture and Cooperation . . . Revenue Capital	56,77,00,000 25,88,00,000	.. 4,20,00,000	56,77,00,000 30,08,00,000
3	Department of Agri- cultural Research and Education . . . Revenue	38,50,00,000	..	38,50,00,000
4	Department of Rural Development . . . Revenue Capital	1072,97,00,000 5,00,000	.. ..	1072,97,00,000 5,00,000
5	Department of Ferti- lizers . . . Revenue Capital	1015,94,00,000 41,75,00,000	1,00,000 ..	1015,95,00,000 41,75,00,000
6	Department of Civil Aviation . . . Revenue Capital	12,09,00,000 3,11,00,000	.. ..	12,09,00,000 3,11,00,000
7	Department of Tou- rism . . . Revenue Capital	8,15,00,000 3,01,00,000	.. ..	8,15,00,000 3,01,00,000
8	Department of Com- merce . . . Revenue Capital	292,88,00,000 28,24,00,000	.. ..	292,88,00,000 28,24,00,000
9	Department of Supply Revenue	3,79,00,000	5,00,000	3,84,00,000
10	Ministry of Communi- cations . . . Revenue	1,08,00,000	..	1,08,00,000
11	Postal Services . . . Revenue Capital	204,79,00,000 8,03,00,000	1,00,000 ..	204,80,00,000 8,03,00,000
12	Telecommunication Services . . . Revenue Capital	529,53,00,000 364,58,00,000	5,00,000 1,00,000	529,58,00,000 364,59,00,000
13	Ministry of Defence . Revenue Capital	121,67,00,000 29,33,00,000	1,00,000 1,53,00,000	121,68,00,000 30,86,00,000
14	Defence Pensions . . . Revenue	224,93,00,000	7,00,000	225,00,00,000
15	Defence Services—Army Revenue	1128,59,00,000	21,00,000	1128,80,00,000
16	Defence Services—Navy Revenue	130,75,00,000	2,00,000	130,77,00,000
17	Defence Services—Air Force . . . Revenue	312,26,00,000	2,00,000	312,28,00,000

1	2	3				
		No. of Vote	Services and purposes	Sums not exceeding		
				Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.		
18	Defence Ordnance Factories Revenue	23,35,00,000	5,00,000	23,40,00,000		
19	Capital Outlay on Defence Services Capital	649,08,00,000	2,15,00,000	651,23,00,000		
20	Department of Coal Revenue	24,75,00,000	..	24,75,00,000		
	Capital	250,83,00,000	..	250,83,00,000		
21	Department of Power Revenue	60,31,00,000	..	60,31,00,000		
	Capital	332,87,00,000	3,61,00,000	336,48,00,000		
22	Department of Non-conventional Energy Sources Revenue	18,74,00,000	..	18,74,00,000		
	Capital	55,00,000	..	55,00,000		
23	Ministry of Environment and Forests Revenue	35,11,00,000	..	35,11,00,000		
	Capital	51,00,000	1,00,00,000	1,51,00,000		
24	Ministry of External Affairs Revenue	82,89,00,000	1,00,000	82,90,00,000		
	Capital	10,73,00,000	..	10,73,00,000		
25	Department of Economic Affairs Revenue	66,66,00,000	1,00,000	66,67,00,000		
	Capital	24,86,00,000	..	24,86,00,000		
26	Currency, Coinage and Stamps Revenue	49,17,00,000	1,00,000	49,18,00,000		
	Capital	30,86,00,000	1,00,000	30,87,00,000		
27	Payments to Financial Institutions Revenue	49,34,00,000	..	49,34,00,000		
	Capital	811,03,00,000	..	811,03,00,000		
28	Pensions Revenue	88,74,00,000	63,00,000	89,37,00,000		
	CHARGED.—Interest Payments Revenue	..	2840,67,00,000	2840,67,00,000		
30	Transfers to State Governments Revenue	625,94,00,000	1800,43,00,000	2426,37,00,000		
	Capital	17,50,00,000	1744,55,00,000	1762,05,00,000		
31	Loans to Government Servants, etc. Capital	30,17,00,000	..	30,17,00,000		
32	CHARGED.—Repayment of Debt Capital	..	22352,26,00,000	22352,26,00,000		
33	Department of Expenditure Revenue	134,30,00,000	..	134,30,00,000		
	Capital	42,00,000	33,33,00,000	33,75,00,000		
34	Audit Revenue	37,48,00,000	73,00,000	38,21,00,000		
35	Department of Revenue Revenue	29,30,00,000	..	29,30,00,000		
	Capital	51,00,000	..	51,00,000		
36	Direct Taxes Revenue	32,16,00,000	1,00,000	32,17,00,000		
	Capital	20,00,00,000	..	20,00,00,000		
37	Indirect Taxes Revenue	51,43,00,000	1,00,000	51,44,00,000		
	Capital	21,23,00,000	..	21,23,00,000		
38	Department of Food Revenue	395,84,00,000	1,00,000	395,85,00,000		
	Capital	29,43,00,000	..	29,43,00,000		
39	Department of Civil Supplies Revenue	4,99,00,000	..	4,99,00,000		
	Capital	64,00,000	68,00,000	1,32,00,000		

1 No. of Vote	2 Services and purposes	3		
		Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
40	Ministry of Food Processing Industries	Revenue 2,67,00,000 Capital 1,68,00,000	.. 1,00,000	2,67,00,000 1,69,00,000
41	Department of Health	Revenue 71,59,00,000 Capital 27,87,00,000	.. 1,00,000	71,59,00,000 27,88,00,000
42	Department of Family Welfare	Revenue 122,81,00,000 Capital 26,00,000	.. ..	122,81,00,000 26,00,000
43	Ministry of Home Affairs	Revenue 31,07,00,000 Capital 1,33,00,000	1,00,000 ..	31,08,00,000 1,33,00,000
44	Cabinet	Revenue 3,50,00,000	..	3,50,00,000
45	Police	Revenue 206,82,00,000 Capital 24,28,00,000	5,00,000 2,00,00,000	206,87,00,000 26,28,00,000
46	Other Expenditure of the Ministry of Home Affairs	Revenue 42,56,00,000 Capital 24,04,00,000	1,00,000 2,07,00,000	42,57,00,000 26,11,00,000
47	Transfers to Union territory Govern- ments	Revenue 10,37,00,000 Capital 5,51,00,000	.. ..	10,37,00,000 5,51,00,000
48	Department of Educa- tion	Revenue 253,68,00,000 Capital 13,00,000	.. 50,00,000	253,68,00,000 63,00,000
49	Department of Youth Affairs and Sports	Revenue 15,92,00,000 Capital 32,00,000	.. ..	15,92,00,000 32,00,000
50	Art and Culture	Revenue 18,79,00,000 Capital 3,42,00,000	.. ..	18,79,00,000 3,42,00,000
51	Department of Women and Child Develop- ment	Revenue 49,51,00,000 Capital 33,00,000	.. ..	49,51,00,000 33,00,000
52	Department of Indus- trial Development	Revenue 57,50,00,000 Capital 45,34,00,000	66,00,000 58,00,000	58,16,00,000 45,92,00,000
53	Department of Com- pany Affairs	Revenue 1,33,00,000 Capital 1,00,000	.. ..	1,33,00,000 1,00,000
54	Department of Chemi- cals and Petro- chemicals	Revenue 2,83,00,000 Capital 14,01,00,000	.. ..	2,83,00,000 14,01,00,000
55	Department of Public Enterprises	Revenue 6,04,00,000 Capital 69,90,00,000	.. ..	6,04,00,000 69,90,00,000
56	Ministry of Informa- tion and Broad- casting	Revenue 12,71,00,000 Capital 45,00,000	1,00,000 ..	12,72,00,000 45,00,000
57	Broadcasting Services	Revenue 85,37,00,000 Capital 50,39,00,000	1,00,000 2,00,000	85,38,00,000 50,41,00,000

1 No. of Vote	2 Services and purposes	3		
		Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
58	Ministry of Labour . Revenue Capital	50,15,00,000 21,00,000	1,00,000 ..	50,16,00,000 21,00,000
59	Ministry of Law and Justice Revenue	30,99,00,000	80,00,000	31,79,00,000
60	Ministry of Parlia- mentary Affairs . Revenue	[17,00,000	..	17,00,000
61	Ministry of Personnel, Public Grievances and Pensions . Revenue Capital	6,87,00,000 54,00,000	1,00,000 78,00,000	6,88,00,000 1,32,00,000
62	Ministry of Petroleum and Natural Gas . Revenue Capital	18,56,00,000 27,53,00,000	.. ..	18,56,00,000 27,53,00,000
63	Planning Revenue Capital	6,80,00,000 2,08,00,000	.. ..	6,80,00,000 2,08,00,000
64	Department of Statistics Revenue	6,22,00,000	..	6,22,00,000
65	Ministry of Programme Implementation . Revenue	14,00,000	..	14,00,000
66	Department of Science and Technology . Revenue Capital	38,30,00,000 5,26,00,000	.. ..	38,30,00,000 5,26,00,000
67	Department of Scienti- fic and Industrial Research Revenue Capital	37,64,00,000 88,00,000	.. ..	37,64,00,000 88,00,000
68	Department of Bio- technology Revenue Capital	8,44,00,000 75,00,000	.. ..	8,44,00,000 75,00,000
69	Department of Steel . Revenue Capital	10,11,00,000 107,79,00,000	.. 3,80,00,000	10,11,00,000 111,59,00,000
70	Department of Mines . Revenue Capital	26,22,00,000 10,54,00,000	1,00,000 ..	26,23,00,000 10,54,00,000
71	Surface Transport . Revenue Capital	4,96,00,000 24,40,00,000	.. 33,00,000	4,96,00,000 24,73,00,000
72	Roads Revenue Capital	53,69,00,000 173,64,00,000	1,00,000 9,67,00,000	53,70,00,000 183,31,00,000
73	Ports, Lighthouses and Shipping Revenue Capital	18,71,00,000 76,55,00,000	.. 1,67,00,000	18,71,00,000 78,22,00,000
74	Ministry of Textiles . Revenue Capital	94,54,00,000 51,88,00,000	.. 1,39,00,000	94,54,00,000 53,27,00,000
75	Urban Development and Housing Revenue Capital	16,25,00,000 19,78,00,000	49,00,000 3,74,00,000	16,74,00,000 22,92,00,000
76	Public Works Revenue Capital	29,61,00,000 21,27,00,000	.. 3,00,000	29,61,00,000 21,30,00,000

1	2	3			
		Sums not exceeding			
No. of Vote	Services and purposes	Voted by Parliament	Charged on the Consolidated Fund	Total	
		Rs.	Rs.	Rs.	
77	Stationery and Printing	Revenue	13,01,00,000	1,00,000	13,02,00,000
		Capital	72,00,000	..	72,00,000
78	Ministry of Water Resources	Revenue	54,51,00,000	1,00,000	54,52,00,000
		Capital	3,44,00,000	5,32,00,000	8,76,00,000
79	Ministry of Welfare	Revenue	50,33,00,000	47,38,00,000	97,71,00,000
		Capital	60,00,000	..	60,00,000
80	Atomic Energy	Revenue	63,11,00,000	1,00,000	63,12,00,000
		Capital	96,34,00,000	..	96,34,00,000
81	Nuclear Power Schemes	Revenue	70,70,00,000	..	70,70,00,000
		Capital	40,00,00,000	..	40,00,00,000
82	Department of Electronics	Revenue	12,76,00,000	..	12,76,00,000
		Capital	5,39,00,000	..	5,39,00,000
83	Department of Ocean Development	Revenue	4,82,00,000	..	4,82,00,000
		Capital	48,00,000	..	48,00,000
84	Department of Space	Revenue	44,18,00,000	1,00,000	44,19,00,000
		Capital	43,93,00,000	1,00,000	43,94,00,000
85	Lok Sabha	Revenue	2,93,00,000	1,00,000	2,94,00,000
86	Rajya Sabha	Revenue	1,16,00,000	1,00,000	1,17,00,000
	CHARGED.— Staff, Household and Allowances of the President	Revenue	..	39,00,000	39,00,000
88	Secretariat of the Vice-President	Revenue	4,00,000	..	4,00,000
	CHARGED.— Union Public Service Commission	Revenue	..	1,90,00,000	1,90,00,000
90	Delhi	Revenue	138,89,00,000	76,00,000	139,65,00,000
		Capital	72,73,00,000	8,44,00,000	81,17,00,000
91	Andaman and Nicobar Islands	Revenue	20,55,00,000	1,00,000	20,56,00,000
		Capital	13,24,00,000	..	13,24,00,000
92	Dadra and Nagar Haveli	Revenue	4,22,00,000	..	4,22,00,000
		Capital	1,08,00,000	..	1,08,00,000
93	Lakshadweep	Revenue	4,84,00,000	..	4,84,00,000
		Capital	2,49,00,000	..	2,49,00,000
94	Chandigarh	Revenue	23,67,00,000	59,00,000	24,26,00,000
		Capital	6,44,00,000	10,00,000	6,54,00,000
95	Daman and Diu	Revenue	2,43,00,000	..	2,43,00,000
		Capital	1,70,00,000	..	1,70,00,000
	TOTAL		12821,06,00,000	28930,22,00,000	41751,28,00,000

THE APPROPRIATION ACT, 1989

No. 5 OF 1989

[30th March, 1989.]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 1988-89.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

Short
title.

1. This Act may be called the Appropriation Act, 1989.

Issue of
Rs. 3491,
13,00,000
out of
the Con-
solidated
Fund of
India for
the year
1988-89.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of three thousand four hundred and ninety-one crores and thirteen lakh rupees towards defraying the several charges which will come in course of payment during the financial year 1988-89, in respect of the services specified in column 2 of the Schedule.

Appro-
priation.

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

THE SCHEDULE
(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Agriculture . . . Revenue	31,90,00,000	..	31,90,00,000
2	Other Services of Department of Agri- culture and Coopera- tion . . . Revenue	71,77,00,000	..	71,77,00,000
	Capital	11,17,00,000	..	11,17,00,000
3	Department of Agri- cultural Research and Education . . . Revenue	5,00,00,000	..	5,00,00,000
5	Department of Fertilizers . . . Revenue	1,00,000	..	1,00,000
	Capital	1,00,000	..	1,00,000
6	Civil Aviation . . . Revenue	1,00,000	..	1,00,000
	Capital	1,50,00,000	..	1,50,00,000
7	Department of Com- merce . . . Revenue	133,50,00,000	..	133,50,00,000
8	Department of Supply Revenue	1,00,00,000	..	1,00,00,000
11	Telecommunication Services . . . Revenue	195,99,00,000	..	195,99,00,000
	Capital	475,98,00,000	..	475,98,00,000
12	Ministry of Defence . Revenue	71,54,00,000	1,00,000	71,55,00,000
13	Defence Pensions . Revenue	496,81,00,000	19,00,000	497,00,00,000
14	Defence Services—Army Revenue	241,10,00,000	..	241,10,00,000
15	Defence Services—Navy Revenue	19,17,00,000	..	19,17,00,000
16	Defence Services— Air Force . . . Revenue	57,87,00,000	3,00,000	57,90,00,000
17	Defence Ordnance Factories . . . Revenue	62,75,00,000	25,00,000	63,00,00,000
19	Department of Coal . Capital	1,00,000	..	1,00,000
20	Department of Power Capital	18,51,00,000	..	18,51,00,000
21	Department of Non- Conventional Energy Sources . . . Revenue	10,00,00,000	..	10,00,00,000
23	Ministry of External Affairs . . . Revenue	27,50,00,000	..	27,50,00,000
24	Department of Econo- mic Affairs . . . Revenue	38,43,00,000	..	38,43,00,000
6	Payments to Financial Institutions . . . Revenue	53,69,00,000	..	53,69,00,000
	Capital	298,63,00,000	..	298,63,00,000
	CHARGED.—Interest Payments . . . Revenue	..	50,00,00,000	50,00,00,000
9	Transfers to State Governments . . . Revenue	156,34,00,000	151,56,00,000	307,90,00,000
	Capital	7,97,00,000	..	7,97,00,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
33	Audit Revenue	20,70,00,000	..	20,70,00,000
34	Department of Revenue Revenue	..	2,00,000	2,00,000
35	Direct Taxes . . . Revenue	20,78,00,000	..	20,78,00,000
36	Indirect Taxes . . . Revenue	..	86,00,000	86,00,000
37	Department of Food Revenue	..	8,00,000	8,00,000
39	Department of Health Revenue Capital	7,51,00,000 9,43,00,000	.. ..	7,51,00,000 9,43,00,000
40	Department of Family Welfare Revenue	50,00,00,000	..	50,00,00,000
42	Cabinet Revenue	3,00,00,000	..	3,00,00,000
43	Police Revenue Capital	52,16,00,000 ..	6,00,000 20,00,000	52,22,00,000 20,00,000
44	Other Expenditure of the Ministry of Home Affairs Capital	1,63,00,000	..	1,63,00,000
45	Transfers to Union Territory Governments Revenue Capital	2,16,00,000 70,00,000	.. ..	2,16,00,000 70,00,000
46	Department of Education Revenue Capital	19,32,00,000 45,00,000	.. ..	19,32,00,000 45,00,000
48	Art and Culture . . Revenue	6,70,00,000	..	6,70,00,000
50	Department of Indus- trial Development . Revenue Capital	93,01,00,000 76,79,00,000	2,00,00,000 ..	95,01,00,000 76,79,00,000
51	Department of Com- pany Affairs . . . Revenue	..	4,00,000	4,00,000
52	Department of Chemicals and Petro-Chemicals . Revenue	1,00,000	..	1,00,000
53	Department of Public Enterprises . . . Revenue Capital	1,00,000 1,00,000	.. ..	1,00,000 1,00,000
55	Broadcasting Services Revenue	12,49,00,000	..	12,49,00,000
57	Law and Justice . Revenue	..	1,36,00,000	1,36,00,000
58	Ministry of Parlia- mentary Affairs . Revenue	4,00,000	..	4,00,000
59	Ministry of Personnel, Public Grievances and Pensions . . Revenue	2,36,00,000	..	2,36,00,000
62	Department of Statistics Revenue	1,50,00,000	..	1,50,00,000
64	Department of Science and Technology . Revenue	1,00,000	..	1,00,000
66	Department of Bio- technology . . . Capital	50,00,000	..	50,00,000
67	Department of Steel . Revenue Capital	7,16,00,000 11,55,00,000	.. 6,50,00,000	7,16,00,000 18,05,00,000
68	Department of Mines Revenue Capital	1,00,000 1,00,000	.. ..	1,00,000 1,00,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
69	Surface Transport . Revenue	2,95,00,000	..	2,95,00,000
	Capital	23,00,000	..	23,00,000
70	Roads . . . Revenue	15,54,00,000	..	15,54,00,000
	Capital	1,00,000	..	1,00,000
71	Ports, Lighthouses and Shipping . . . Revenue	2,00,000	..	2,00,000
	Capital	68,80,00,000	..	68,80,00,000
72	Ministry of Textiles . Revenue	23,81,00,000	..	23,81,00,000
	Capital	62,00,00,000	..	62,00,00,000
73	Ministry of Tourism . Revenue	1,01,00,000	..	1,01,00,000
74	Urban Development and Housing . . . Revenue	..	7,00,000	7,00,000
	Capital	..	1,27,00,000	1,27,00,000
75	Public Works . . . Capital	..	10,00,000	10,00,000
76	Stationery and Printing Capital	5,92,00,000	..	5,92,00,000
77	Ministry of Water Resources . . . Revenue	32,50,00,000	..	32,50,00,000
78	Ministry of Welfare . Revenue	3,50,00,000	..	3,50,00,000
79	Atomic Energy . Revenue	..	3,00,000	3,00,000
81	Department of Electro- nics . . . Revenue	4,45,00,000	..	4,45,00,000
	Capital	22,51,00,000	..	22,51,00,000
82	Department of Ocean Development . . . Capital	1,00,000	..	1,00,000
85	Rajya Sabha . . . Revenue	1,27,00,000	1,00,000	1,28,00,000
	CHARGED.— <i>Staff, House- hold and Allowances of the President</i> . Revenue	..	10,00,000	10,00,000
	CHARGED.— <i>Union Public Service Commission</i> . . . Revenue	..	1,22,00,000	1,22,00,000
89	Delhi . . . Revenue	39,85,00,000	4,92,00,000	44,77,00,000
	Capital	7,00,000	51,62,00,000	51,69,00,000
90	Andaman and Nicobar Islands . . . Revenue	13,53,00,000	..	13,53,00,000
91	Dadra and Nagar Haveli . . . Revenue	6,32,00,000	..	6,32,00,000
92	Lakshadweep . . . Revenue	1,76,00,000	..	1,76,00,000
93	Chandigarh . . . Revenue	23,13,00,000	1,28,00,000	24,41,00,000
	TOTAL . . .	3217,35,00,000	273,78,00,000	3491,13,00,000

THE APPROPRIATION (RAILWAYS) ACT, 1989

No. 6 OF 1989

[30th March, 1989.]

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 1989-90 for the purposes of Railways.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

Short
title.

1. This Act may be called the Appropriation (Railways) Act, 1989.

Issue of Rs.
18904,83,
59,000
out of the
Consoli-
dated
Fund of
India for
the financial
year
1989-90.

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 eighteen thousand nine hundred and four crores, eighty-three lakhs and fifty-nine thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1989-90, in respect of the services relating to Railways specified in column 2 of the Schedule.

Appro-
priation.

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

THE SCHEDULE
(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Railway Board	9,20,14,000	..	9,20,14,000
2	Miscellaneous Expenditure (General)	65,32,07,000	..	65,32,07,000
3	General Superintendence and Services on Railways	431,93,78,000	2,42,000	431,96,20,000
4	Repairs and Maintenance of Permanent Way and Works	902,20,81,000	10,11,000	902,30,92,000
5	Repairs and Maintenance of Motive Power	702,15,47,000	3,96,000	702,19,43,000
6	Repairs and Maintenance of Carriages and Wagons	940,83,94,000	2,55,000	940,86,49,000
7	Repairs and Maintenance of Plant and Equipment	482,14,05,000	2,00,000	482,16,05,000
8	Operating Expenses—Rolling Stock and Equipment	766,38,45,000	59,00,000	766,97,45,000
9	Operating Expenses—Traffic	1147,17,71,000	3,53,000	1147,21,24,000
10	Operating Expenses—Fuel	1483,28,98,000	2,00,000	1483,30,98,000
11	Staff Welfare and Amenities	309,05,93,000	67,000	309,06,60,000
12	Miscellaneous Working Expenses	472,95,76,000	751,76,000	480,47,52,000
13	Provident Fund, Pension and other Retirement Benefits	706,35,32,000	121,94,000	707,57,26,000
14	Appropriation to Funds	2621,00,00,000	..	2621,00,00,000
15	Dividend to General Revenues, Repayment of loans taken from General Revenues and Amorti- zation of Over-Capitalization	856,39,62,000	..	856,39,62,000
16	Assets—Acquisition, Construction and Replacement—			
	Revenue	50,01,74,000	50,000	50,02,24,000
	Other Expenditure			
	Capital	5058,65,55,000	4,00,00,000	5062,65,55,000
	Railway Funds	1886,07,33,000	6,50,600	1886,13,83,000
	TOTAL	18891,16,65,000	13,66,94,000	18904,83,59,000

THE APPROPRIATION (RAILWAYS) No. 2 ACT, 1989

No. 7 of 1989

[30th March, 1989.]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 1988-1989 for the purposes of Railways.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

Short
title.

1. This Act may be called the Appropriation (Railways) No. 2 Act, 1989.

Issue
of
Rs. 176,73,
66,000
out of
the Con-
solidated
Fund of
India
for the
financial
year
1988-89.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of one hundred and seventy-six crores, seventy-three lakhs and sixty-six thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1988-89, in respect of the services relating to Railways specified in column 2 of the Schedule.

Appro-
priation.

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

THE SCHEDULE
(See sections 2 and 3)

1	2	3		
		Sums not exceeding		
No. of Vote	Services and purposes	Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
4	Repairs and Maintenance of Permanent Way and Works . . .	8,52,92,000	76,000	8,53,68,000
7	Repairs and Maintenance of Plant and Equipment . . .	..	97,000	97,000
8	Operating Expenses—Rolling Stock and Equipment . . .	..	98,09,000	98,09,000
9	Operating Expenses—Traffic . . .	19,00,18,000	1,82,000	19,02,00,000
10	Operating Expenses—Fuel . . .	30,82,36,000	1,15,000	30,83,51,000
12	Miscellaneous Working Expenses	5,78,77,000	..	5,78,77,000
13	Provident Fund, Pension and Other Retirement Benefits . . .	80,34,29,000	..	80,34,29,000
16	Assets—Acquisition, Construction and Replacement—			
	Other Expenditure			
	Capital	1,00,000	57,17,000	58,17,000
	Railway Funds	30,64,18,000	..	30,64,18,000
	TOTAL	175,13,70,000	1,59,96,000	176,73,66,000

THE PUNJAB APPROPRIATION ACT, 1989

No. 8 OF 1989

[31st March, 1989.]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Punjab for the services of the financial year 1988-89.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

Short
title.

1. This Act may be called the Punjab Appropriation Act, 1989.

Issue of
Rs. 360,
02,29,000
out of
the Con-
soli-
dated
Fund of
the State
of Punjab
for the
financial
year
1988-89.

2. From and out of the Consolidated Fund of the State of Punjab there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of three hundred and sixty crores, two lakhs and twenty-nine thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1988-89 in respect of the services specified in column 2 of the Schedule.

Appro-
priation.

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

THE SCHEDULE
(See sections 2 and 3)

1 No. of Vote/ Appropriation	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Agriculture and Forests Revenue	8,41,20,000	..	8,41,20,000
2	Animal Husbandry and Fisheries . . . Revenue	2,65,48,000	..	2,65,48,000
	Capital	65,00,000	..	65,00,000
3	Co-operation . . . Revenue	..	86,000	86,000
	Capital	8,83,75,000	..	8,83,75,000
4	Defence Services Welfare . . . Revenue	25,46,000	..	25,46,000
5	Education . . . Revenue	89,66,26,000	2,08,38,000	91,74,64,000
7	Excise and Taxation . Revenue	2,46,89,000	9,000	2,46,98,000
8	Finance . . . Capital	1,87,00,000	..	1,87,00,000
10	General Administration Revenue	3,06,72,000	72,25,000	3,78,97,000
11	Health and Family Welfare . . . Revenue	13,71,38,000	2,00,000	13,73,38,000
12	Home Affairs and Justice . . . Revenue	8,54,50,000	1,67,54,000	50,22,04,000
	Capital	30,00,000	..	30,00,000
13	Industries . . . Revenue	3,79,56,000	..	3,79,56,000
	Capital	8,38,28,000	..	8,38,28,000
14	Information and Public Relations . . . Revenue	82,62,000	..	82,62,000
15	Irrigation and Power Revenue	66,03,54,000	4,00,000	66,07,54,000
16	Labour and Employment . . . Revenue	32,59,000	..	32,59,000
17	Local Government, Housing and Urban Development . . . Revenue	11,98,77,000	..	11,98,77,000
	Capital	10,29,40,000	..	10,29,40,000
18	Personnel and Administrative Reforms . Revenue	1,15,000	12,36,000	13,51,000
19	Planning . . . Revenue	1,15,86,000	..	1,15,86,000
21	Public Works . . . Revenue	31,66,59,000	..	31,66,59,000
	Capital	..	33,27,000	33,27,000
22	Revenue and Rehabilitation . . . Revenue	8,40,97,000	..	8,40,97,000
23	Rural Development and Panchayats . . . Revenue	11,79,54,000	2,63,000	11,82,17,000
	Capital	50,00,000	..	50,00,000
25	Social and Women's Welfare and Welfare of Scheduled Castes and Backward Classes Revenue	1,94,05,000	..	1,94,05,000

1	2	3		
No. of Vote/ Appropriation	services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
26	Technical Education and Industrial Training . Revenue	2,11,21,000	..	2,11,21,000
28	Transport . . . Capital	15,00,00,000	..	15,00,00,000
29	Vigilance . . . Revenue	31,14,000	..	31,14,000
	TOTAL .	354,98,91,000	5,03,38,000	360,02,29,000

THE PUNJAB APPROPRIATION (VOTE ON ACCOUNT)
ACT, 1989

No. 9 OF 1989

[31st March, 1989.]

An Act to provide for the withdrawal of certain sums from and out of the Consolidated Fund of the State of Punjab for the services of a part of the financial year 1989-90.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. This Act may be called the Punjab Appropriation (Vote on Account) Act, 1989.

Short
title.

2. From and out of the Consolidated Fund of the State of Punjab there may be withdrawn sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of two thousand seven hundred and twenty-six crores, forty-two lakhs and seventy-seven thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1989-90.

With-
drawal of
Rs. 2726,
42,77,000
from and
out of
the con-
solidated
Fund of
the
State of
Punjab
for the
financial
year
1989-90

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

Appro-
priation.

THE SCHEDULE

(See sections 2 and 3)

1	2	3		
		Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Agriculture and Forests . . . Revenue Capital	49,54,30,000 12,72,33,000	1,57,000 ..	49,55,87,000 12,72,33,000
2	Animal Husbandry and Fisheries . . . Revenue Capital	16,71,31,000 1,31,25,000	1,40,000 ..	16,72,71,000 1,31,25,000
3	Co-operation . . . Revenue Capital	7,46,06,000 27,29,50,000	15,000 ..	7,46,21,000 27,29,50,000
4	Defence Services Welfare . . . Revenue Capital	1,74,84,000 10,00,000	9,000 ..	1,74,93,000 10,00,000
5	Education . . . Revenue Capital	227,84,06,000 24,43,000	3,30,34,000 ..	231,14,40,000 24,43,000
6	Elections . . . Revenue	56,24,000	8,000	56,32,000
7	Excise and Taxation Revenue	5,94,61,000	32,000	5,94,93,000
8	Finance . . . Revenue Capital	104,70,32,000 3,79,00,000	222,50,50,000 612,21,29,000	327,20,82,000 616,00,29,000
9	Food and Supplies . . . Revenue Capital	1,75,75,000 500,34,47,000	.. 1,80,000	1,75,75,000 500,36,27,000
10	General Administration . . . Revenue	7,67,24,000	34,49,000	8,01,73,000
11	Health and Family Welfare . . . Revenue	72,86,04,000	1,47,000	72,87,51,000
12	Home Affairs and Justice . . . Revenue Capital	104,64,17,000 17,00,00,000	1,07,52,000 ..	105,71,69,000 17,00,00,000
13	Industries . . . Revenue Capital	6,85,18,000 10,58,43,000	42,000 ..	6,85,60,000 10,58,43,000
14	Information and Public Relations Revenue	2,34,00,000	8,000	2,34,08,000
15	Irrigation and Power Revenue Capital	65,11,60,000 339,03,85,000	2,50,000 ..	65,14,10,000 339,03,85,000
16	Labour and Employment . . . Revenue	2,23,63,000	50,000	2,24,13,000

1	2	3		
		Voted by Parliament	Sums not exceeding	
			Charged on the Consolidated Fund	Total
No. of Vote/ Appropriation	Services and purposes			
		Rs.	Rs.	Rs.
17	Local Government, Housing and Urban Development . . . Revenue Capital	14,00,57,000 10,78,25,000	15,000 1,70,000	14,00,72,000 10,79,95,000
18	Personnel and Admi- nistrative Reforms . . . Revenue	47,64,000	16,71,000	64,35,000
19	Planning . . . Revenue	11,92,79,000	1,000	11,92,80,000
20	Programme Imple- mentation . . . Revenue	50,000	..	50,000
21	Public Works . . . Revenue Capital	76,90,34,000 39,73,35,000	16,00,000 ..	77,06,34,000 39,73,35,000
22	Revenue and Rehabi- litation . . . Revenue	22,26,39,000	3,86,000	22,30,25,000
23	Rural Development and Panchayats . . . Revenue Capital	21,37,63,000 35,00,000	2,22,000 ..	21,39,85,000 35,00,000
24	Science, Technology and Environment . . . Revenue Capital	18,00,000 1,30,13,000	.. ..	18,00,000 1,30,13,000
25	Social and Women's Welfare and Welfare of Scheduled Castes and Backward Classes . . . Revenue Capital	26,09,75,000 64,68,000	25,000 ..	26,10,00,000 64,68,000
26	State Legislature . . . Revenue	1,08,16,000	81,000	1,08,97,000
27	Technical Education and Industrial Training . . . Revenue Capital	9,71,16,000 15,85,000	50,000 ..	9,71,66,000 15,85,000
28	Tourism and Cultural Affairs . . . Revenue Capital	98,62,000 83,75,000	93,000 ..	99,55,000 83,75,000
29	Transport . . . Revenue Capital	45,80,06,000 10,20,50,000	25,40,000 ..	46,05,46,000 10,20,50,000
30	Vigilance . . . Revenue	93,97,000	1,000	93,98,000
	TOTAL	1886,19,70,000	840,23,07,000	2726,42,77,000

THE DELHI MUNICIPAL LAWS (AMENDMENT) ACT, 1989

No. 10 OF 1989

[31st March, 1989.]

An Act further to amend the Delhi Municipal Corporation Act 1957 and the Punjab Municipal Act, 1911, as in force in New Delhi.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short
title
and com-
mencement.

1. (1) This Act may be called the Delhi Municipal Laws (Amendment) Act, 1989.

(2) It shall be deemed to have come into force on the 1st day of April, 1988.

CHAPTER II

AMENDMENT TO THE DELHI MUNICIPAL CORPORATION ACT, 1957

Amend-
ment of
Act 66
of 1957.

2. In section 126 of the Delhi Municipal Corporation Act, 1957, after sub-section (2), the following sub-sections shall be inserted, namely:—

“(3) Notwithstanding anything contained in the proviso to sub-section (1) and sub-section (2), before making any amendment to the assessment list for the years commencing on the 1st day of April, 1988 and the 1st day of April, 1989 under sub-section (1), the Commissioner shall give to any person affected by the amendment, notice of not less than one month at any time before the 1st day of April, 1991, that he proposes to make the amendment and consider any objections which may be made by such person.

(4) No amendment under sub-section (1) shall be made in the assessment list in relation to—

(a) any year prior to the year commencing on the 1st day of April, 1988, after the 31st day of March, 1991;

(b) the year commencing on the 1st day of April, 1988, or any other year thereafter, after the expiry of three years from the end of the year in which the notice is given under sub-section (2) or sub-section (3), as the case may be:

Provided that nothing contained in this sub-section shall apply to a case where the Commissioner has to amend the assessment list in consequence of or to give effect to any direction or order of any court.

Explanation.—In computing the period referred to in clause (a) or clause (b), any period or periods during which the proceedings for the assessment were held up on account of any stay or injunction by the order of any court, or the period of any delay attributable to the person to whom the notice has been given under sub-section (2) or sub-section (3), as the case may be, shall be excluded.”

CHAPTER III

AMENDMENT TO THE PUNJAB MUNICIPAL ACT, 1911, AS IN FORCE IN NEW DELHI

3. In the Punjab Municipal Act, 1911, as in force in New Delhi, after section 67, the following section shall be inserted, namely:—

“67A. (1) Notwithstanding anything contained in this Act, the committee may amend the assessment list for the years commencing on the 1st day of April, 1988, the 1st day of April, 1989 and the 1st day of April, 1990 for increasing or reducing, for sufficient reasons, the amount of annual value of any property and of the assessment thereupon, after giving notice, at any time before the 1st day of April, 1991, to any person affected by the amendment, of a time, not less than one month from the date of service, at which the amendment is to be made, and the committee shall consider any objections which may be made by such person.

(2) No amendment under sub-section (1) shall be made in the assessment list in relation to—

(a) the year commencing on the 1st day of April, 1988, after the expiry of one year,

(b) the years commencing on the 1st day of April, 1989 and the 1st day of April, 1990, after the expiry of two years,

from the end of the financial year in which the notice is given under sub-section (1):

Provided that nothing contained in this sub-section shall apply to a case where the committee has to amend the assessment list in consequence of or to give effect to any direction or order of any court.

Explanation.—In computing the period referred to in clause (a) or clause (b), any period or periods during which the proceedings for the assessment were held up on account of any stay or injunction by the order of any court, or the period of any delay attributable to the person to whom the notice has been given under sub-section (1), as the case may be, shall be excluded.”

Amend-
ment of
Punjab
Act III
of 1911.

Time
limit for
issuing
notices
for fur-
ther
amend-
ment of
assess-
ment list
for
financial
years
1988,
1989, etc.

THE INCOME-TAX (AMENDMENT) ACT, 1989

No. 11 OF 1989

[1st April, 1989.]

An Act further to amend the Income-tax Act, 1961.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

Short
title and
com-
mence-
ment.

1. (1) This Act may be called the Income-tax (Amendment) Act, 1989.

(2) It shall be deemed to have come into force on the 24th day of January, 1989.

Amend-
ment of
section 10.

2. In section 10 of the Income-tax Act, 1961 (hereinafter referred to as the principal Act), after clause (15), the following clause shall be inserted, namely:—

43 of 1961.

“(15A) any payment made, by an Indian company engaged in the business of operation of aircraft, to acquire an aircraft on lease from the government of a foreign State or a foreign enterprise under an agreement approved by the Central Government in this behalf.

Explanation.—For the purpose of this clause, “foreign enterprise” means a person who is a non-resident;”.

Amend-
ment of
section
80G.

3. In section 80G of the principal Act,—

(a) in sub-section (1), in clause (i), after the word, brackets, figures and letter “sub-clause (iiia)”, the words, brackets, figures and letters “or in sub-clause (iiiaa)” shall be inserted;

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

“(iiiaa) the Prime Minister’s Armenia Earthquake Relief Fund; or”.

Repeal
and
savings.

4. (1) The Income-tax (Amendment) Ordinance, 1989 is hereby repealed.

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

Ord. 1 o
1989.

THE APPROPRIATION (No. 2) ACT, 1989

No. 12 OF 1989

[6th May, 1989.]

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 1989-90.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. This Act may be called the Appropriation (No. 2) Act, 1989.

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, 1989] to the sum of two lakhs forty thousand four hundred and seventy-two crores and fifty-three lakh rupees towards defraying the several charges which will come in course of payment during the financial year 1989-90 in respect of the services specified in column 2 of the Schedule.

Issue of
Rs. 240472,
53,00,000
out of
the Con-
solidated
Fund of
India
for the
year

4 of 1989.

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.

1989-90.
Appro-
priation.

4. References to Ministries or Departments in the Schedule are to such Ministries or Departments as existing immediately before the 10th day of February, 1989 and shall, on or after that date, be construed as references to the appropriate Ministries or Departments as reconstituted from time to time.

Cons-
truction
of re-
ferences
to Minis-
tries and
Depart-
ments in
the Sche-
dule.

THE SCHEDULE

(See sections 2, 3 and 4)

1	2	3		
No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Agriculture . . . Revenue Capital	417,39,00,000 20,06,00,000	.. 305,00,00,000	417,39,00,000 325,06,00,000
2	Other Services of Department of Agriculture and Co-operation . . . Revenue Capital	340,62,00,000 155,28,00,000	.. 25,17,00,000	340,62,00,000 180,45,00,000
3	Department of Agri- cultural Research and Education . . . Revenue	231,00,00,000	..	231,00,00,000
4	Department of Rural Development . . . Revenue Capital	2220,74,00,000 30,00,000	.. ..	2220,74,00,000 30,00,000
5	Department of Ferti- lizers . . . Revenue Capital	4416,88,00,000 250,50,00,000	1,00,000 ..	4416,89,00,000 250,50,00,000
6	Department of Civil Aviation . . . Revenue Capital	72,54,00,000 18,64,00,000	.. ..	72,54,00,000 18,64,00,000
7	Department of Tourism . Revenue Capital	48,95,00,000 18,05,00,000	.. ..	48,95,00,000 18,05,00,000
8	Department of Com- merce . . . Revenue Capital	1757,30,00,000 169,43,00,000	.. ..	1757,30,00,000 169,43,00,000
9	Department of Supply . Revenue	22,77,00,000	30,00,000	23,07,00,000
10	Ministry of Communi- cations . . . Revenue	6,50,00,000	..	6,50,00,000
11	Postal Services . . . Revenue Capital	1228,78,00,000 48,20,00,000	2,00,000 ..	1228,80,00,000 48,20,00,000
12	Telecommunication Services . . . Revenue Capital	3177,20,00,000 2187,49,00,000	50,00,000 1,00,000	3177,50,00,000 2187,50,00,000
13	Ministry of Defence . Revenue Capital	730,05,00,000 175,99,00,000	1,00,000 9,20,00,000	730,06,00,000 185,19,00,000
14	Defence Pensions . . Revenue	1349,57,00,000	43,00,000	1350,00,00,000
15	Defence Services—Army Revenue	6771,55,00,000	1,28,00,000	6772,83,00,000
16	Defence Services—Navy Revenue	784,50,00,000	15,00,000	784,65,00,000
17	Defence Services—Air Force . . . Revenue	1873,53,00,000	15,00,000	1873,68,00,000
18	Defence Ordnance Factories . . . Revenue	140,09,00,000	35,00,000	140,44,00,000
19	Capital Outlay on Defence Services . . Capital	3894,47,00,000	12,90,00,000	3907,37,00,000

1 No. of Vote	2 Services and purposes	3		
		Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
20	Department of Coal . Revenue	148,50,00,000	..	148,50,00,000
		Capital 1505,00,00,000	..	1505,00,00,000
21	Department of Power . Revenue	361,84,00,000	..	361,84,00,000
		Capital 1913,19,00,000	27,69,00,000	1934,88,00,000
22	Department of Non- Conventional Energy Sources . Revenue	112,43,00,000	..	112,43,00,000
		Capital 3,31,00,000	..	3,31,00,000
23	Ministry of Environ- ment and Forests . Revenue	210,67,00,000	..	210,67,00,000
		Capital 3,08,00,000	6,00,00,000	9,08,00,000
24	Ministry of External Affairs . Revenue	450,58,00,000	2,00,000	450,60,00,000
		Capital 64,40,00,000	..	64,40,00,000
25	Department of Econo- mic Affairs . Revenue	399,36,00,000	5,00,000	399,41,00,000
		Capital 149,13,00,000	..	149,13,00,000
26	Currency, Coinage and Stamps . Revenue	294,99,00,000	1,00,000	295,00,00,000
		Capital 185,15,00,000	2,00,000	185,17,00,000
27	Payments to Financial Institutions . Revenue	293,68,00,000	..	293,68,00,000
		Capital 1616,13,00,000	..	1616,13,00,000
28	Pensions . Revenue	532,44,00,000	3,84,00,000	536,28,00,000
	CHARGED.—Interest Payments . Revenue	..	17000,00,00,000	17000,00,00,000
30	Transfers to State Governments . Revenue	3755,63,00,000	10802,62,00,000	14558,25,00,000
		Capital 105,00,00,000	10467,32,00,000	10572,32,00,000
31	Loans to Government Servants, etc. . Capital	181,00,00,000	..	181,00,00,000
	CHARGED.—Repayment of Debt . Capital	..	1,34113,61,00,000	134113,61,00,000
33	Department of Expen- diture . Revenue	1305,78,00,000	..	1305,78,00,000
		Capital 2,52,00,000	200,00,00,000	202,52,00,000
34	Audit . Revenue	224,86,00,000	4,42,00,000	229,28,00,000
35	Department of Revenue Revenue	66,97,00,000	..	66,97,00,000
		Capital 3,05,00,000	..	3,05,00,000
36	Direct Taxes . Revenue	192,98,00,000	2,00,000	193,00,00,000
		Capital 120,00,00,000	..	120,00,00,000
37	Indirect Taxes . Revenue	308,60,00,000	4,00,000	308,64,00,000
		Capital 127,36,00,000	..	127,36,00,000
38	Department of Food . Revenue	2375,03,00,000	10,00,000	2375,13,00,000
		Capital 176,55,00,000	..	176,55,00,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
39	Department of Civil Supplies Revenue Capital	29,92,00,000	..	29,92,00,000
		3,84,00,000	4,13,00,000	7,97,00,000
40	Ministry of Food Processing Industries Revenue Capital	16,04,00,000	..	16,04,00,000
		10,05,00,000	7,00,000	10,12,00,000
41	Department of Health Revenue Capital	429,54,00,000	..	429,54,00,000
		167,23,00,000	2,00,000	167,25,00,000
42	Department of Family Welfare Revenue Capital	736,86,00,000	..	736,86,00,000
		1,58,00,000	..	1,58,00,000
43	Ministry of Home Affairs Revenue Capital	186,44,00,000	2,00,000	186,46,00,000
		8,00,00,000	..	8,00,00,000
44	Cabinet Revenue	21,00,00,000	..	21,00,00,000
45	Police Revenue Capital	1240,92,00,000	32,00,000	1241,24,00,000
		145,68,00,000	12,05,00,000	157,73,00,000
46	Other Expenditure of the Ministry of Home Affairs Revenue Capital	217,30,00,000	3,00,000	217,33,00,000
		96,28,00,000	8,85,00,000	105,13,00,000
47	Transfers to Union territory Governments Revenue Capital	62,21,00,000	..	62,21,00,000
		33,03,00,000	..	33,03,00,000
48	Department of Edu- cation Revenue Capital	1577,66,00,000	..	1577,66,00,000
		76,00,000	3,00,00,000	3,76,00,000
49	Department of Youth Affairs and Sports Revenue Capital	95,53,00,000	..	95,53,00,000
		1,92,00,000	..	1,92,00,000
50	Art and Culture Revenue Capital	101,00,00,000	..	101,00,00,000
		20,50,00,000	..	20,50,00,000
51	Department of Women and Child Develop- ment Revenue Capital	274,18,00,000	..	274,18,00,000
		2,00,00,000	..	2,00,00,000
52	Department of Indus- trial Development Revenue Capital	345,00,00,000	4,00,00,000	349,00,00,000
		272,01,00,000	3,51,00,000	275,52,00,000
53	Department of Com- pany Affairs Revenue Capital	7,99,00,000	..	7,99,00,000
		1,00,000	..	1,00,000
54	Department of Chemi- cals and Petro- Chemicals Revenue Capital	16,99,00,000	..	16,99,00,000
		84,10,00,000	..	84,10,00,000
55	Department of Public Enterprises Revenue Capital	36,21,00,000	..	36,21,00,000
		419,39,00,000	..	419,39,00,000
56	Ministry of Informa- tion and Broadcasting Revenue Capital	76,27,00,000	2,00,000	76,29,00,000
		2,69,00,000	..	2,69,00,000

1 No. of Vote	2 Services and purposes		3		
			Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.	
57	Broadcasting Services	Revenue	512,23,00,000	1,00,000	512,24,00,000
		Capital	302,38,00,000	10,00,000	302,48,00,000
58	Ministry of Labour	Revenue	300,88,00,000	1,00,000	300,89,00,000
		Capital	1,27,00,000	..	1,27,00,000
59	Ministry of Law and Justice	Revenue	185,93,00,000	4,47,00,000	190,40,00,000
60	Ministry of Parlia- mentary Affairs	Revenue	1,00,00,000	..	1,00,00,000
61	Ministry of Personnel, Public Grievances and Pensions	Revenue	41,19,00,000	1,00,000	41,20,00,000
		Capital	3,25,00,000	4,65,00,000	7,90,00,000
62	Ministry of Petroleum and Natural Gas	Revenue	111,33,00,000	..	111,33,00,000
		Capital	165,20,00,000	..	165,20,00,000
63	Planning	Revenue	40,81,00,000	..	40,81,00,000
		Capital	12,50,00,000	..	12,50,00,000
64	Department of Statistics	Revenue	37,30,00,000	..	37,30,00,000
65	Ministry of Program- me Implementation	Revenue	85,00,000	..	85,00,000
66	Department of Science and Technology	Revenue	195,38,00,000	..	195,38,00,000
		Capital	31,59,00,000	..	31,59,00,000
67	Department of Scienti- fic and Industrial Research	Revenue	225,83,00,000	..	225,83,00,000
		Capital	5,30,00,000	..	5,30,00,000
68	Department of Biotechnology	Revenue	52,15,00,000	..	52,15,00,000
		Capital	4,53,00,000	..	4,53,00,000
69	Department of Steel	Revenue	60,65,00,000	..	60,65,00,000
		Capital	646,78,00,000	22,79,00,000	669,57,00,000
70	Department of Mines	Revenue	130,41,00,000	5,00,000	130,46,00,000
		Capital	63,23,00,000	..	63,23,00,000
71	Surface Transport	Revenue	29,75,00,000	..	29,75,00,000
		Capital	146,40,00,000	2,00,00,000	148,40,00,000
72	Roads	Revenue	322,12,00,000	1,00,000	322,13,00,000
		Capital	594,85,00,000	58,02,00,000	652,87,00,000
73	Ports, Lighthouses and Shipping	Revenue	112,23,00,000	..	112,23,00,000
		Capital	366,29,00,000	10,00,00,000	376,29,00,000
74	Ministry of Textiles	Revenue	567,26,00,000	..	567,26,00,000
		Capital	311,28,00,000	8,31,00,000	319,59,00,000
75	Urban Development and Housing	Revenue	97,52,00,000	2,98,00,000	100,50,00,000
		Capital	118,70,00,000	18,86,00,000	137,56,00,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
76	Public Works . . . Revenue	177,68,00,000	..	177,68,00,000
	Capital	127,61,00,000	20,00,000	127,81,00,000
77	Stationery and Print- ing . . . Revenue	78,08,00,000	2,00,000	78,10,00,000
	Capital	4,35,00,000	..	4,35,00,000
78	Ministry of Water Resources . . . Revenue	285,03,00,000	3,00,000	285,06,00,000
	Capital	20,62,00,000	31,90,00,000	52,52,00,000
79	Ministry of Welfare . Revenue	305,49,00,000	243,26,00,000	548,75,00,000
	Capital	3,61,00,000	..	3,61,00,000
80	Atomic Energy . Revenue	378,67,00,000	2,00,000	378,69,00,000
	Capital	578,04,00,000	..	578,04,00,000
81	Nuclear Power Schemes . . . Revenue	215,12,00,000	..	215,12,00,000
	Capital	240,00,00,000	..	240,00,00,000
82	Department of Electronics . . . Revenue	77,33,00,000	..	77,33,00,000
	Capital	32,34,00,000	..	32,34,00,000
83	Department of Ocean Development . . . Revenue	28,92,00,000	..	28,92,00,000
	Capital	2,85,00,000	..	2,85,00,000
84	Department of Space Revenue	282,48,00,000	1,00,000	282,49,00,000
	Capital	107,69,00,000	2,00,000	107,71,00,000
85	Lok Sabha . . . Revenue	17,59,00,000	9,00,000	17,68,00,000
86	Rajya Sabha . . . Revenue	6,94,00,000	400,000	6,98,00,000
	<i>CHARGED.—Staff Household and Allowances of the President</i> . Revenue	..	2,39,00,000	2,39,00,000
88	Secretariat of the Vice-President . . . Revenue	22,00,000	..	22,00,000
	<i>CHARGED.— Union Public Service Commission</i> . . . Revenue	..	11,45,00,000	11,45,00,000
90	Delhi . . . Revenue	833,33,00,000	4,59,00,000	837,92,00,000
	Capital	436,36,00,000	50,66,00,000	487,02,00,000
91	Andaman and Nicobar Islands . . . Revenue	123,28,00,000	1,00,000	123,29,00,000
	Capital	79,45,00,000	..	79,45,00,000
92	Dadra and Nagar Haveli . . . Revenue	25,34,00,000	..	25,34,00,000
	Capital	6,50,00,000	..	6,50,00,000
93	Lakshadweep . . . Revenue	29,01,00,000	..	29,01,00,000
	Capital	14,96,00,000	..	14,96,00,000
94	Chandigarh . . . Revenue	142,00,00,000	3,55,00,000	145,55,00,000
	Capital	38,61,00,000	60,00,000	39,21,00,000
95	Daman and Diu . . . Revenue	14,57,00,000	..	14,57,00,000
	Capital	10,21,00,000	..	10,21,00,000
	TOTAL . . .	66980,36,00,000	173492,17,00,000	240472,53,00,000

THE FINANCE ACT, 1989

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title and commencement.

CHAPTER II

RATES OF INCOME-TAX

2. Income-tax.

CHAPTER III

DIRECT TAXES

Income-tax

3. Amendment of section 2.
4. Amendment of section 10.
5. Amendment of section 16.
6. Amendment of section 17.
7. Amendment of section 32AB.
8. Amendment of section 36.
9. Amendment of section 43B.
10. Insertion of new section 44BBB.
11. Amendment of section 48.
12. Amendment of section 54E.
13. Amendment of section 57.
14. Amendment of section 80C.
15. Amendment of section 80CC.
16. Insertion of new section 80JJ.
17. Amendment of section 80U.
18. Amendment of section 115B.
19. Amendment of section 115J.
20. Amendment of section 153.
21. Amendment of section 192.
22. Amendment of section 193.
23. Amendment of section 263.
24. Amendment of section 285B.
25. Consequential amendments.
26. Application of the Income-tax Act to the State of Sikkim.

SECTIONS

Wealth-tax

27. Amendment of section 5.
28. Amendment of section 17A.
29. Amendment of section 21AA.
30. Amendment of section 25.

Gift-tax

31. Amendment of section 16A.
32. Amendment of section 24.

Expenditure-tax

33. Amendment of Act 35 of 1987.

CHAPTER IV

INDIRECT TAXES

Customs

34. Amendment of Act 51 of 1975.
35. Auxiliary duties of customs.

Excise

36. Amendment of Act 5 of 1986.
37. Special duties of excise.
38. Amendment of Act 58 of 1957.
39. Amendment of Act 16 of 1955.

CHAPTER V

INLAND AIR TRAVEL TAX

40. Extent and commencement.
41. Definitions.
42. Inland air travel tax.
43. Rounding off of inland air travel tax.
- 43A. Interest for default in payment of inland air travel tax.
44. Power to exempt.
45. Passengers not to be permitted to board aircraft without payment of inland air travel tax.
46. Penalties.
- 46A. Modes of recovery.
47. Protection of action taken in good faith.
48. Power to make rules.
49. Rules and notifications to be laid before Parliament.

CHAPTER VI

MISCELLANEOUS

50. Amendment of Act 74 of 1956.
51. Amendment of Act 21 of 1979.

THE FIRST SCHEDULE.

THE SECOND SCHEDULE.

THE THIRD SCHEDULE.

THE FOURTH SCHEDULE.

THE FIFTH SCHEDULE.

THE SIXTH SCHEDULE.

THE FINANCE ACT, 1989

No. 13 OF 1989

[12th May, 1989.]

An Act to give effect to the financial proposals of the Central Government for the financial year 1989-90.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Finance Act, 1989.

(2) Save as otherwise provided in this Act, sections 2 to 33 shall be deemed to have come into force on the 1st day of April, 1989.

Short
title and
com-
mence-
ment.

CHAPTER II

RATES OF INCOME-TAX

2. (1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1st day of April, 1989, income-tax shall be charged at the rates specified in Part I of the First Schedule and shall be increased,—

Income-
tax.

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

(b) in the cases to which Paragraph E of that Part applies, by a surcharge,

calculated in each case in the manner provided therein.

(2) In the cases to which Sub-Paragraph I or Sub-Paragraph II of Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income exceeding six hundred rupees, in addition to total income, and the total income exceeds,—

(i) in a case to which the said Sub-Paragraph I applies, eighteen thousand rupees, and

(ii) in a case to which the said Sub-Paragraph II applies, twelve thousand rupees,

then,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after,—

(i) in a case to which the said Sub-Paragraph I applies, the first eighteen thousand rupees, and

(ii) in a case to which the said Sub-Paragraph II applies, the first twelve thousand rupees,

of the total income but without being liable to tax]; only for the purpose of charging income-tax in respect of the total income; and

(b) the income-tax chargeable shall be calculated as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased,—

(A) in a case to which the said Sub-Paragraph I applies, by a sum of eighteen thousand rupees; and

(B) in a case to which the said Sub-Paragraph II applies, by a sum of twelve thousand rupees,

and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if the net agricultural income as so increased were the total income;

(iii) the amount of income-tax determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax in respect of the total income:

Provided that the amount of income-tax so arrived at shall, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent. of such income-tax and the sum so arrived at shall be the income-tax in respect of the total income.

(3) In cases to which the provisions of Chapter XII or Chapter XII-A or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or section, as the case may be:

Provided that in respect of any income chargeable to tax under section 115B or section 115BB of the Income-tax Act, the income-tax computed under section 115B or section 115BB shall be increased by a surcharge for purposes of the Union calculated at the rate of five per cent. of such income-tax.

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

(a) in the cases to which the provisions of sub-item (a) of item 1 of that Part apply, by a surcharge for purposes of the Union; and

(b) in the cases to which the provisions of sub-item (a) of item 2 of that Part apply, by a surcharge,

calculated in each case in the manner provided therein.

(5) In cases in which tax has to be deducted under section 194C of the Income-tax Act, the deduction shall be made at the rates specified in that section and shall be increased by a surcharge for purposes of the Union calculated at the rate of eight per cent. of such deduction.

(6) In cases in which tax has to be collected under section 206C of the Income-tax Act, the collection shall be made at the rate specified in that section and shall be increased by a surcharge for purposes of the Union calculated at the rate of eight per cent. of such collection.

(7) Subject to the provisions of sub-section (8), in cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so calculated, charged, deducted or computed at the rate or rates specified in Part III of the First Schedule and shall be increased,—

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

(b) in the cases to which Paragraph E of that Part applies, by a surcharge,

calculated in each case in the manner provided therein:

Provided that in cases to which the provisions of Chapter XII or Chapter XII-A or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be:

Provided further that in respect of any income chargeable to tax under section 115B of the Income-tax Act, the "advance tax" computed under the

first proviso shall be increased by a surcharge for purposes of the Union calculated at the rate of eight per cent. of such "advance tax".

(8) In the cases to which Sub-Paragraph I or Sub-Paragraph II of Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income exceeding six hundred rupees, in addition to total income and the total income exceeds,—

(i) in a case to which the said Sub-Paragraph I applies, eighteen thousand rupees, and

(ii) in a case to which the said Sub-Paragraph II applies, twelve thousand rupees,

then, in calculating income-tax under the first proviso to sub-section (5) of section 132 of the Income-tax Act or in charging income-tax under sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after,—

(i) in a case to which the said Sub-Paragraph I applies, the first eighteen thousand rupees, and

(ii) in a case to which the said Sub-Paragraph II applies, the first twelve thousand rupees,

of the total income but without being liable to tax], only for the purpose of calculating, charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income; and

(b) such income-tax or, as the case may be, "advance tax" shall be so calculated, charged or computed as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased,—

(A) in a case to which the said Sub-Paragraph I applies, by a sum of eighteen thousand rupees; and

(B) in a case to which the said Sub-Paragraph II applies, by a sum of twelve thousand rupees,

and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Sub-Paragraph I or, as the case

may be, the said Sub-Paragraph II as if the net agricultural income as so increased were the total income;

(iii) the amount of income-tax or "advance tax" determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax or, as the case may be, "advance tax" determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income:

Provided that the amount of income-tax or "advance tax" so arrived at shall, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of eight per cent. of such income-tax or, as the case may be, "advance tax" and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income.

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

(a) "company in which the public are substantially interested" means a company within the meaning of clause (18) of section 2 of the Income-tax Act, and includes a subsidiary of such company if the whole of the share capital of such subsidiary company has been held by the parent company or by its nominees throughout the previous year;

(b) "domestic company" means an Indian company, or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 1989, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income in accordance with the provisions of section 194 of the Act;

(c) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance);

(d) "investment company" means a company whose gross total income (as defined in section 80B of the Income-tax Act) consists mainly of income which is chargeable under the heads "Income from house property", "Capital gains" and "Income from other sources" or of income by way of interest on securities;

(e) "net agricultural income", in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule;

(f) "tax-free security" means any security of the Central Government issued or declared to be income-tax free, or any security of a State Government issued income-tax free, the income-tax whereon is payable by the State Government;

(g) "trading company" means a company whose business consists mainly in dealing in goods or merchandise manufactured, produced

or processed by a person other than that company and whose income attributable to such business included in its gross total income (as defined in section 80B of the Income-tax Act) is not less than fifty-one per cent. of the amount of such gross total income;

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

CHAPTER III

DIRECT TAXES

Income-tax

Amend-
ment of
section
3.

3. In section 2 of the Income-tax Act [as amended by section 3 of the Direct Tax Laws (Amendment) Act, 1987], in clause (1A), the following *Explanation* shall be inserted at the end and shall be deemed to have been inserted with effect from the 1st day of April, 1970, namely:—

4 of 1988.

*“Explanation.—*For the removal of doubts, it is hereby declared that revenue derived from land shall not include and shall be deemed never to have included any income arising from the transfer of any land referred to in item (a) or item (b) of sub-clause (iii) of clause (14) of this section;”.

Amend-
ment of
section 10.

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

(a) after clause (14), the following clause shall be inserted, namely:—

‘(14A) any income received by a public financial institution as exchange risk premium from any person borrowing foreign currency from such institution, provided the amount of such premium is credited by such institution to a fund specified under clause (23E).

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

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

1 of 1951

(ii) the expression “exchange risk premium” means a premium paid by a person borrowing foreign currency from a public financial institution to cover the risk which may be borne by such institution on account of fluctuations in exchange rate of foreign currencies borrowed by such institution;’;

(b) in clause (15), in sub-clause (iv), after item (h), the following item shall be inserted with effect from the 1st day of April, 1990, namely:—

“(i) by Government on deposits made by an employee of the Central Government or a State Government, in accordance with such scheme as the Central Government may, by notifica-

tion in the Official Gazette, frame in this behalf, out of the moneys due to him on account of his retirement, whether on superannuation or otherwise;”;

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

“(23E) any income of such Exchange Risk Administration Fund set up by public financial institutions, either jointly or separately, as the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that where any amount standing to the credit of the Fund and not charged to income-tax during any previous year is shared, either wholly or in part, with a public financial institution, the whole of the amount so shared shall be deemed to be the income of the previous year in which such amount is so shared and shall accordingly be chargeable to income-tax.

Explanation.—For the purposes of this clause, the expression “public financial institution” shall have the meaning assigned to it in section 4A of the Companies Act, 1956;”;

1 of 1956.

(d) after clause (26A), the following clause shall be inserted with effect from the 1st day of April, 1990, namely:—

“(26AA) any income of a person by way of winnings from any lottery, the draw of which is held in pursuance of any agreement entered into on or before the 28th day of February, 1989 between the State Government of Sikkim and the organising agents of such lottery, where such person is resident in the State of Sikkim in any previous year.

Explanation.—For the purposes of this clause, a person shall be deemed to be resident in the State of Sikkim if he fulfils the requirements of clause (1) or clause (2) or clause (3) or clause (4) of section 6, as the case may be, subject to the modifications that—

(i) references in those clause to India shall be construed as references to the State of Sikkim; and

(ii) in sub-clause (i) of clause (3), reference to Indian company shall be construed as reference to a company formed and registered under any law for the time being in force in the State of Sikkim and having its registered office in that State in that year.”.

5. In section 16 of the Income-tax Act, with effect from the 1st day of April, 1990,—

(a) in clause (i),—

(i) the proviso shall be omitted;

(ii) for the word and figure “Explanation 1”, the word “Explanation” shall be substituted;

(iii) Explanation 2 shall be omitted;

Amend-
ment of
section
16.

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

“(iii) a deduction of any sum paid by the assessee on account of a tax on employment within the meaning of clause (2) of article 276 of the Constitution, leviable by or under any law.”.

Amend-
ment of
section
17.

6. In section 17 of the Income-tax Act, in clause (2), in sub-clause (iii), the following *Explanation* shall be inserted at the end with effect from the 1st day of April, 1990, namely:—

“*Explanation.*—For the removal of doubts, it is hereby declared that the use of any vehicle provided by a company or an employer for journey by the assessee from his residence to his office or other place of work, or from such office or place to his residence, shall not be regarded as a benefit or amenity granted or provided to him free of cost or at concessional rate for the purposes of this sub-clause.”.

Amend-
ment of
section
32AB.

7. In section 32AB of the Income-tax Act,—

(a) in sub-section (1), in clause (ii), the word “eligible” shall be omitted with effect from the 1st day of April, 1991;

(b) in sub-section (2), clause (i) shall be omitted with effect from the 1st day of April, 1991;

(c) in sub-section (3), with effect from the 1st day of April, 1991,—

(i) for the portion beginning with the words “The profits of eligible business or profession” and ending with the words “eligible business or profession are maintained,” the following shall be substituted, namely:—

“The profits of business or profession of an assessee for the purposes of sub-section (1) shall”;

(ii) in the existing clause (a) as so amended,—

(1) for the words “Sixth Schedule”, the words and figures “Schedule VI” shall be substituted;

(2) the word “and” occurring at the end shall be omitted;

(iii) clause (b) shall be omitted;

(d) in sub-section (4), after clause (d), the following clause shall be inserted with effect from the 1st day of April, 1991, namely:—

“(e) any new machinery or plant to be installed in an industrial undertaking, other than a small-scale industrial undertaking, as defined in section 80HHA, for the purposes of business of construction, manufacture or production of any article or thing specified in the list in the Eleventh Schedule.”;

(e) in sub-section (5A),—

(i) for the words “scheme and”, the words “scheme or” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1987;

(ii) the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1987, namely:—

Explanation.—For the removal of doubts, it is hereby declared that nothing contained in this sub-section shall affect the operation of the provisions of sub-section (5AA) or sub-section (6) in relation to any withdrawals made from the deposit account either before or after the expiry of a period of five years from the date of deposit.”;

(f) after sub-section (5A), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1987, namely:—

“(5AA) Where any amount, standing to the credit of the assessee in the deposit account, is withdrawn during any previous year by the assessee in the circumstance specified in clause (a) or clause (d) of sub-section (5A), the whole of such amount shall be deemed to be the profits and gains of business or profession of that previous year and shall accordingly be chargeable to income-tax as the income of that previous year, as if the business had not closed or, as the case may be, the firm had not been dissolved.”;

(g) in sub-section (5B), the word “eligible” shall be omitted with effect from the 1st day of April, 1991;

(h) in sub-section (6), after the words “closure of the account”, the brackets, words, letters and figure “[in circumstances other than the circumstances specified in clauses (b), (c) and (e) of sub-section (5A).]” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1987.

8. In section 36 of the Income-tax Act, in sub-section (1), after clause (ix) and the provisos thereto, the following clause shall be inserted, namely:—

‘(x) any sum paid by a public financial institution by way of contribution towards any fund specified under clause (23E) of section 10.

Explanation.—For the purposes of this clause, “public financial institution” shall have the meaning assigned to it in section 4A of the Companies Act, 1956.’

1 of 1956.

9. In section 43B of the Income-tax Act [as amended by section 15 of the Direct Tax Laws (Amendment) Act, 1987, and section 12 of the Finance Act, 1988],—

4 of 1988.
26 of 1988.

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

“Provided further that no deduction shall, in respect of any sum referred to in clause (b), be allowed unless such sum has actually been paid in cash or by issue of a cheque or draft or by any other mode on or before the due date as defined in the *Explanation* below clause (va) of sub-section (1) of section 36,

5 Law—19.

Amend-
ment of
section
36.

Amend-
ment of
section
43B.

and where such payment has been made otherwise than in cash, the sum has been realised within fifteen days from the due date.”;

(b) after *Explanation 1*, the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1984, namely:—

Explanation 2.—For the purposes of clause (a), as in force at all material times, “any sum payable” means a sum for which the assessee incurred liability in the previous year even though such sum might not have been payable within that year under the relevant law.’;

(c) *Explanation 2* and *Explanation 3* shall be renumbered as *Explanation 3* and *Explanation 4* respectively.

10. After section 44BBA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1990, namely:—

Insertion of new section 44BBB. Special provision for computing profits and gains of foreign companies engaged in the business of civil construction, etc., in certain turnkey power projects.

‘44BBB. Notwithstanding anything to the contrary contained in sections 28 to 44AA, in the case of an assessee, being a foreign company, engaged in the business of civil construction or the business of erection of plant or machinery or testing or commissioning thereof, in connection with a turnkey power project approved by the Central Government in this behalf and financed under any international aid programme, a sum equal to ten per cent. of the amount paid or payable (whether in or out of India) to the said assessee or to any person on his behalf on account of such civil construction, erection, testing or commissioning shall be deemed to be the profits and gains of such business chargeable to tax under the head “Profits and gains of business or profession”.’.

Amendment of section 48.

11. In section 48 of the Income-tax Act, in sub-section (2), with effect from the 1st day of April, 1990,—

(i) in clause (b),—

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

“(ia) in respect of long-term capital gain so arrived at relating to equity shares of venture capital undertakings,—

(A) in the case of a company, other than venture capital company, thirty per cent. of the amount of such gain in excess of ten thousand rupees;

(B) in the case of venture capital company, sixty per cent. of the amount of such gain in excess of ten thousand rupees;

(C) in any other case, sixty per cent. of the amount of such gain in excess of ten thousand rupees;”;

(b) in sub-clause (ii), in the opening portion, for the words “other capital assets”, the words, brackets, figures and letter “capital assets [other than capital assets referred to in sub-clauses (i) and (ia)]” shall be substituted;

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

Explanation.—For the purposes of this section,—

(a) “venture capital company” means such company as is engaged in providing finance to venture capital undertakings mainly by way of acquiring equity shares of such undertakings or, if the circumstances so require, by way of advancing loans to such undertakings, and is approved by the Central Government in this behalf;

(b) “venture capital undertaking” means such company as the prescribed authority may, having regard to the following factors, approve for the purposes of sub-clause (ia) of clause (b) of sub-section (2), namely:—

(1) the total investment in the company does not exceed ten crore rupees or such other higher amount as may be prescribed;

(2) the company does not have adequate financial resources to undertake projects for which it is otherwise professionally or technically equipped; and

(3) the company seeks to employ any technology which will result in significant improvement over the existing technology in India in any field and the investment in such technology involves high risk.’

12. In section 54E of the Income-tax Act, in sub-section (1), in *Explanation* 1, after clause (d), the following clause shall be inserted with effect from the 1st day of April, 1990; namely:—

Amend-
ment of
section
54E.

“(e) in a case where the original asset is transferred after the 31st day of March, 1989, any of the assets specified in clauses (c) and (d) and such debentures or bonds issued by the National Housing Bank established under section 3 of the National Housing Bank Act, 1987, as the Central Government may, by notification in the Official Gazette, specify in this behalf.”

53 of 1987.

13. In section 57 of the Income-tax Act, after clause (ii), the following clause shall be inserted, with effect from the 1st day of April, 1990, namely:—

Amend-
ment of
section
57.

“(iia) in the case of income in the nature of family pension, a deduction of a sum equal to thirty-three and one-third per cent. of such income or twelve thousand rupees, whichever is less.

Explanation.—For the purposes of this clause, “family pension” means a regular monthly amount payable by the employer to a person belonging to the family of an employee in the event of his death;’

Amend-
ment of
section
80C.

14. In section 80C of the Income-tax Act, in sub-section (2), in clause (h), with effect from the 1st day of April, 1990,—

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

“(ia) as subscription to any such deposit scheme of the National Housing Bank established under section 3 of the National Housing Bank Act, 1987, as the Central Government may, by notification in the Official Gazette, specify in this behalf;”;

53 of 1987.

(b) in sub-clause (ii), in item (c), after sub-item (3), the following sub-item shall be inserted, namely:—

“(3A) the National Housing Bank, or”.

Amend-
ment of
section
80CC.

15. In section 80CC of the Income-tax Act, with effect from the 1st day of April, 1990,—

(i) in sub-section (1), for the words and figures “section 10 if such fund subscribes”, the words and figures “section 10 or units issued under any scheme of the Unit Trust of India established under section 3 of the Unit Trust of India Act, 1963, if the amount of subscription to any units, issued by the Mutual Fund or, as the case may be, the Unit Trust of India under such scheme, is subscribed” shall be substituted;

52 of 1963.

(ii) in sub-section (3), in clause (a),—

(a) in sub-clause (ii), in the proviso, the word “or” shall be inserted at the end;

(b) after sub-clause (ii), as so amended, the following sub-clause shall be inserted, namely:—

“(iia) a hospital; or”.

Inser-
tion of
new
section
80JJ.

16. After section 80J of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1990, namely:—

Deduc-
tion in
respect
of pro-
fits and
gains
from
business
of
poultry
farming.

“80JJ. Where the gross total income of an assessee includes any profits and gains derived from business of poultry farming, there shall be allowed, in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to thirty-three and one-third per cent. thereof.”.

Amend-
ment of
section
80U.

17. In section 80U of the Income-tax Act, with effect from the 1st day of April, 1990,—

(a) in sub-section (1),—

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

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

“(iii) is subject to mental retardation to the extent specified in the rules made in this behalf by the Board, and which has the effect of reducing substantially his capacity to engage in a gainful employment or occupation.”;

(iii) in the proviso,—

(1) in clause (a), the word “and” occurring at the end shall be omitted;

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

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

“(c) in a case referred to in clause (iii), a certificate as to the mental retardation from a psychiatrist working in a Government hospital.”;

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

“(2) The Board shall, in making any rules for specifying any disability or mental retardation for the purposes of clause (ii) or clause (iii), as the case may be, of sub-section (1), have regard to the nature of such disability or mental retardation and the effect which such disability or mental retardation is likely to have on the capacity of a person subject thereto, or suffering therefrom, to engage in a gainful employment or occupation.”.

26 of 1988. 18. In section 115B of the Income-tax Act (as amended by section 31 of the Finance Act, 1988), in sub-section (2), with effect from the 1st day of April, 1990,—

Amend-
ment of
section
115B.

(a) for the words, figures and letters “the previous year relevant to the assessment year commencing on the 1st day of April, 1989”, the words, figures and letters “the previous years relevant to the assessment years commencing on the 1st day of April, 1989 and the 1st day of April, 1990” shall be substituted;

(b) in the proviso, for the words “previous year”, the words “previous years” shall be substituted.

19. In section 115J of the Income-tax Act,—

(i) after sub-section (1) and before the *Explanation*, the following sub-section shall be inserted, namely:—

Amend-
ment of
section
115J.

“(1A) Every assessee, being a company, shall, for the purposes of this section, prepare its profit and loss account for the relevant previous year in accordance with the provisions of Parts II and III of Schedule VI to the Companies Act, 1956.”;

(ii) in the *Explanation*,—

(a) in the opening portion, for the words and figures “prepared in accordance with the provisions of Parts II and III of the Sixth Schedule to the Companies Act, 1956”, the words, brackets, figure and letter “prepared under sub-section (1A)” shall be substituted;

1 of 1956.

1 of 1956.

(b) in clause (i), for the words "profit and loss account; or", the following shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1988, namely:—

"profit and loss account:

Provided that, where this section is applicable to an assessee in any previous year (including the relevant previous year), the amount withdrawn from reserves created or provisions made in a previous year relevant to the assessment year commencing on or after the 1st day of April, 1988 shall not be reduced from the book profit unless the book profit of such year has been increased by those reserves or provisions (out of which the said amount was withdrawn) under this *Explanation*; or".

Amend-
ment of
section
153.

20. In section 153 of the Income-tax Act [as amended by section 59 of the Direct Tax Laws (Amendment) Act, 1987], for sub-section (1), the following sub-section shall be substituted, namely:—

4 of 1988

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

(a) two years from the end of the assessment year in which the income was first assessable; or

(b) one year from the end of the financial year in which a return or a revised return relating to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, is filed under sub-section (4) or sub-section (5) of section 139,

whichever is later."

Amend-
ment of
section 192.

21. In section 192 of the Income-tax Act, with effect from the 1st day of June, 1989,—

(a) in sub-section (2A), for the words "public sector undertaking" the words "company, co-operative society, local authority, University, institution, association or body" shall be substituted;

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

Explanation.—For the purposes of this sub-section, "University" means a University established or incorporated by or under a Central, State or Provincial Act, and includes an institution declared under section 3 of the University Grants Commission Act, 1956 to be a University for the purposes of that Act.

3 of 1988.

Amend-
ment of
section 193.

22. In section 193 of the Income-tax Act, with effect from the 1st day of June, 1989,—

(a) in the opening portion, for the words "at the time of payment", the words "at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier" shall be substituted;

(b) in the proviso, in clause (v), in sub-clause (b), for the words "one thousand rupees", the words "two thousand and five hundred rupees" shall be substituted;

(c) after the proviso, the following *Explanation* shall be inserted, namely:—

Explanation.—For the purposes of this section, where any income by way of interest on securities is credited to any account, whether called "Interest payable account" or "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.

23. In section 263 of the Income-tax Act, in sub-section (1), in the *Explanation*,—

Amend-
ment of
section
263.

(i) in clause (a), after the words "an order passed", the words, figures and letters "on or before or after the 1st day of June, 1988," shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1988;

(ii) in clause (b), for the word "includes", the words "shall include and shall be deemed always to have included" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 1988;

(iii) in clause (c),—

(a) after the words "of any appeal", the words, figures and letters "filed on or before or after the 1st day of June, 1988" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1988;

(b) after the words "shall extend", the words "and shall be deemed always to have extended" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1988.

24. In section 285B of the Income-tax Act, the words "as employee or otherwise" shall be omitted with effect from the 1st day of June, 1989.

Amend-
ment of
section
285B.

25. The following amendments (being amendments of a consequential nature) shall be made in the Income-tax Act, with effect from the 1st day of April, 1990, namely:—

Conse-
quential
amend-
ments.

(a) in section 80A, in sub-section (3), after the figures and letter "80J", the words, figures and letters "or section 80JJ" shall be inserted;

(b) in section 80P, in sub-section (3),—

(i) after the words, figures and letter "or section 80J", the words, figures and letters "or section 80JJ" shall be inserted;

(ii) for the words, figures and letter "and section 80J", the words, figures and letters "section 80J and section 80JJ" shall be substituted.

Application
of the
Income-
tax Act
to the
State of
Sikkim.

26. Notwithstanding anything contained in the notification of the Government of India in the Ministry of Home Affairs, No. S.O. 1028(E), dated the 7th November, 1988, and the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. S.O. 148(E), dated the 23rd February, 1989 in so far as it relates to the commencement of the Income-tax Act, 1961 in the State of Sikkim, the provisions of the Income-tax Act, 1961 shall come into force in the State of Sikkim with effect from the previous year relevant to the assessment year commencing on the 1st day of April, 1990, and any law corresponding to the Income-tax Act, 1961 which, immediately before such commencement, was in force in the State of Sikkim shall be deemed never to have ceased to have effect in relation to the previous year beginning with the 1st day of April, 1988 and ending with the 31st day of March, 1989, and shall continue to be in force for the purposes of the levy, assessment and collection of income-tax or for the purpose of imposing any penalty or for any other purpose whatsoever connected with, or incidental to, any of the purposes aforesaid, under such law.

43 of 1961.

Wealth-tax

Amend-
ment of
section
5.

27. In section 5 of the Wealth-tax Act, 1957 (hereinafter referred to as the Wealth-tax Act),—

27 of 1957.

(a) in sub-section (1),—

(i) after clause (xxvb), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1988, namely:—

“(xxvc) the right or interest of the assessee in any annuity plan of the Life Insurance Corporation referred to in clause (ii) of sub-section (1) of section 80CCA of the Income-tax Act;”;

(ii) after clause (xxviib), the following clauses shall be inserted with effect from the 1st day of April, 1990, namely:—

“(xxviic) any deposits made in accordance with the scheme referred to in item (i) of sub-clause (iv) of clause (15) of section 10 of the Income-tax Act, by any employee of the Central Government or a State Government;

(xxviid) any deposits made with the National Housing Bank established under section 3 of the National Housing Bank Act, 1987;”;

53 of 1987.

(b) in sub-section (1A), after the brackets, figures and letter “(xxviib),”, the brackets, figures and letter “(xxviid),” shall be inserted with effect from the 1st day of April, 1990.

Amend-
ment of
Section
17A.

28. In section 17A of the Wealth-tax Act [as amended by section 140 of the Direct Tax Laws (Amendment) Act, 1987], in sub-section (1), for the proviso, the following proviso shall be substituted, namely:—

4 of 1988.

“Provided that,—

(a) where the net wealth was first assessable in the assessment year commencing on the 1st day of April, 1987, or any earlier assessment year, such assessment may be made on or before the 31st day of March, 1991;

(b) where the net wealth was first assessable in the assessment year commencing on the 1st day of April, 1988, such assessment may be made on or before the 31st day of March, 1992.”

21 of 1860. 29. In section 21AA of the Wealth-tax Act, in sub-section (1), after the words “or co-operative society”, the words and figures “or society registered under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India” shall be inserted.

Amendment of section 21AA.

30. In section 25 of the Wealth-tax Act, in sub-section (2), in the Explanation,—

Amendment of section 25.

(i) in clause (a), after the words “an order passed”, the words, figures and letters “on or before or after the 1st day of June, 1988,” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1988;

(ii) in clause (b), for the word “includes”, the words “shall include and shall be deemed always to have included” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 1988;

(iii) in clause (c),—

(a) after the words “of any appeal”, the words, figures and letters “filed on or before or after the 1st day of June, 1988” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1988;

(b) after the words “shall extend”, the words “and shall be deemed always to have extended” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1988.

Gift-tax

18 of 1958.

31. In section 16A of the Gift-tax Act, 1958 (hereinafter referred to as the Gift-tax Act [as amended by section 172 of the Direct Tax Laws (Amendment) Act, 1987], in sub-section (1),—

Amendment of section 16A.

(a) for the words “one year”, the words “two years” shall be substituted;

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

“Provided that,—

(a) where the gifts were first assessable in the assessment year commencing on the 1st day of April, 1987, or any earlier assessment year, such assessment may be made on or before the 31st day of March, 1991;

(b) where the gifts were first assessable in the assessment year commencing on the 1st day of April, 1988, such assessment may be made on or before the 31st day of March, 1992.”

32. In section 24 of the Gift-tax Act, in sub-section (2), in the Explanation,—

Amendment of section 24.

(i) in clause (a), after the words “an order passed”, the words, figures and letters “on or before or after the 1st day of June, 1988,”

shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1988;

(ii) in clause (b), for the word "includes", the words "shall include and shall be deemed always to have included" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 1988;

(iii) in clause (c),—

(a) after the words "of any appeal", the words, figures and letters "filed on or before or after the 1st day of June, 1988" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1988;

(b) after the words "shall extend", the words "and shall be deemed always to have extended" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1988.

Expenditure-tax

Amend-
ment of
Act 35
of 1987.

33. In section 4 of the Expenditure-tax Act, 1987, for the words "ten per cent.", the words "twenty per cent." shall be substituted with effect from the 1st day of June, 1989.

CHAPTER IV

INDIRECT TAXES

Customs

Amend-
ment of
Act 51
of 1975.

34. The Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act),—

(a) shall be amended in the manner specified in the Second Schedule; and

(b) shall, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, be also amended in the manner specified in the Third Schedule.

Auxiliary
duties of
customs.

35. (1) In the case of goods mentioned in the First Schedule to the Customs Tariff Act, or in that Schedule, as amended from time to time, there shall be levied and collected as an auxiliary duty of customs an amount equal to fifty per cent. of the value of the goods as determined in accordance with the provisions of section 14 of the Customs Act, 1962 (hereinafter referred to as the Customs Act).

52 of 1962,

(2) Sub-section (1) shall cease to have effect after the 31st day of March, 1990, 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 auxiliary duties of customs referred to in sub-section (1) shall be in addition to any duties of customs chargeable on such goods under the Customs Act, or any other law for the time being in force.

(4) The provisions of the Customs Act and the rules and regulations made thereunder, including those relating to refunds and exemptions from duties, shall, as far as may be, apply in relation to the levy and collection of the auxiliary duties of customs leviable under this section

in respect of any goods as they apply in relation to the levy and collection of the duties of customs on such goods under that Act or those rules and regulations, as the case may be.

Excise

36. The Central Excise Tariff Act, 1985 (hereinafter referred to as the Central Excise Tariff Act), shall be amended in the manner specified in the Fourth Schedule.

Amend-
ment of
Act 5
of 1986.

1 of 1944.

37. (1) In the case of goods chargeable with a duty of excise under the Central Excises and Salt Act, 1944 (hereinafter referred to as the Central Excise Act, as amended from time to time, read with any notification for the time being in force issued by the Central Government in relation to the duty so chargeable (not being a notification providing for any exemption for giving credit with respect to, or reduction of duty of excise under the said Act on such goods equal to, any duty of excise under the said Act, or the additional duty under section 3 of the Customs Tariff Act, already paid on the raw material or component parts used in the production or manufacture of such goods), there shall be levied and collected a special duty of excise equal to five per cent. of the amount so chargeable on such goods.

Special
duties of
excise.

10 of 1897.

(2) Sub-section (1) shall cease to have effect after the 31st day of March, 1990, except as respects things done or omitted to be done before such cesser; and section 6 of the General Clauses Act, 1897, shall apply upon such cesser as if the said sub-section had then been repealed by a Central Act.

(3) The special duties of excise referred to in sub-section (1) shall be in addition to any duties of excise chargeable on such goods under the Central Excises Act, or any other law for the time being in force.

(4) The provisions of the Central Excises Act, and the rules made thereunder, including those relating to refunds and exemptions from duties, shall, as far as may be, apply in relation to the levy and collection of the special duties of excise leviable under this section in respect of any goods as they apply in relation to the levy and collection of the duties of excise on such goods under that Act or those rules, as the case may be.

38. The Additional Duties of Excise (Goods of Special Importance) Act, 1957 (hereinafter referred to as the Additional Duties of Excise Act), shall be amended in the manner specified in the Fifth Schedule.

Amend-
ment of
Act 58
of 1957.

39. The Medicinal and Toilet Preparations (Excise Duties) Act, 1955, shall be amended in the manner specified in the Sixth Schedule.

Amend-
ment of
Act 16
of 1955.

CHAPTER V

INLAND AIR TRAVEL TAX

40. (1) This Chapter extends to the whole of India.

Extent
and
com-
mence-
ment.

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

↓ 1.7.1989: Vide Notification No. G. S. R. 601 [E], dated 8.6.1989.

Defini-
tions.

41. In this Chapter, unless the context otherwise requires,—

(a) "aerodrome" means any aerodrome as defined in clause (2) of section 2 of the Aircraft Act, 1934, which is situated in India; 22 of 1934.

(b) "aircraft" means any aircraft as defined in clause (1) of section 2 of the Aircraft Act, 1934, which is used (whether exclusively or not) for the carriage of passengers; 22 of 1934.

(c) "carrier" means the person or authority undertaking the carriage of a passenger on an inland journey and includes any agent, representative or other person acting on behalf of such person or authority;

~~(d) "fare" means the total amount of all charges of whatever~~

↓ [(d) "fare" means the total amount of all charges of whatever nature (including charges, if any, for provision of food or accommodation) payable to the carrier by or on behalf of a passenger in respect of his inland journey.]

~~(a) i.e., if any, payable for the amenities given to the passengers and visitors at any aerodrome;~~

(e) "inland journey", in relation to a passenger, means his journey from any aerodrome on board any aircraft to another aerodrome;

(f) "passenger" means any person boarding, at any aerodrome, an aircraft for performing an inland journey, but does not include,—

(i) a person who performs an inland journey 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; or

(ii) a person employed or engaged in any capacity on board the aircraft on the business thereof.

Inland
air
travel
tax.

42. (1) With effect from the date of commencement of this Chapter, there shall be levied on all passengers embarking on every inland journey, ~~where the fare for such journey is paid in Indian currency,~~ a tax (hereafter in this Chapter referred to as the inland air travel tax) at the rate of ~~ten per cent.~~ of the fare paid by such passengers for every such journey.

↓ [fifteen per cent] ↓
Explanation.—When a passenger performs an inland journey at a concessional rate or without being charged any fare, the fare ordinarily payable for the journey shall, for the purposes of this section, be deemed to have been paid by such passenger.

(2) In accordance with the rules made under this Chapter, the inland air travel tax shall be collected by the officers of customs appointed under the Customs Act, 1962, or the Central Excise Officers appointed under the Central Excises and Salt Act, 1944, or such officers of the Central Government or the State Government or the International Airports Authority of India constituted under the International Airports Authority Act, 1971, or the National Airports Authority constituted under the National Airports Authority Act, 1985, or such carriers, as may be authorised in this behalf by the Central Government by notification in the Official Gazette and paid to the credit of the Central Government, 52 of 1962, 1 of 1944, 43 of 1971, 64 of 1985.

↓ Subs. and omitted by Act 12 of 1990, S. 71 [w. e. f. 1. 7. 1990].

43. In computing the inland air travel tax, wherever necessary, the tax leviable shall be rounded off to the nearest rupee, fifty paise and over being counted as one rupee and less than fifty paise being disregarded.

Round-
ing off
of in-
land air
travel
tax.

44. Notwithstanding anything contained in this Chapter, the Central Government may, by notification in the Official Gazette, and subject to such conditions and limitations as may be specified therein, exempt, wholly or to such extent as may be specified in the notification, any class or classes of passengers or any category or categories of passengers under any such class from the payment of inland air travel tax if that Government is satisfied that it is necessary or expedient so to do, having regard to the place of destination, purposes of the journey or any other special circumstances.

Power to
exempt.

45. No carrier or other person in charge of an aircraft shall allow any passenger to board the aircraft unless such passenger has paid the inland air travel tax.

Passen-
gers not
to be
permit-
ted to
board
aircraft
without
payment
of in-
land air
travel
tax.

46. (1) Every passenger who embarks or attempts to embark on an inland journey without paying the inland air travel tax shall, in addition, to his liability to pay the inland air travel tax, be liable to a penalty not exceeding twice the amount of the inland air travel tax.

Penal-
ties.

(2) Every carrier or other person in charge of an aircraft, who, in contravention of the provisions of section 45, allows any passenger or passengers to board the aircraft, shall be liable to a penalty not exceeding three times the amount or the aggregate amount of the inland air travel tax payable by the passenger or passengers so allowed to board the aircraft.

~~(3) Any penalty under this section may be adjudged, collected and paid to the credit of the Central Government by such authority and in such manner as may be specified in the rules made under this Chapter.~~

47. No suit or other legal proceeding shall lie against the Central Government and no suit, prosecution or other legal proceeding shall lie against any officer of the Central Government or the State Government or the International Airports Authority of India or the National Airports Authority referred to in sub-section (2) of section 42 for anything in good faith done or intended to be done in pursuance of this Chapter or the rules made thereunder.

Protec-
tion of
action
taken
in good
faith.

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

Power to
make
rules.

1. Ans. and Subs. by Act 32 of 1994, s. 98 [w.e.f. 1.9.1994].

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the collection of the inland air travel tax including the charges for collection payable to any State Government or the International Airports Authority of India or the National Airports Authority referred to in sub-section (2) of section 42, or any carrier, the authorities by whom adjudication of penalties or other functions under this Chapter shall be discharged, the manner in which the inland air travel tax, penalties or other sums due under this Chapter shall be payable, the manner in which the inland air travel tax, penalties or other sums shall be collected and paid to the credit of the Central Government and the procedure for claiming refund of any amount paid under this Chapter;

(b) the powers of officers authorised under sub-section (2) of section 42 to enter, inspect and search any aircraft for the purpose of carrying on any duty imposed on such officer by or under this Chapter;

Provided that the provisions of the Code of Criminal Procedure, 1973, relating to searches, shall, so far as they are applicable, apply in relation to searches under rules made under this clause;

2 of 1974.

(c) the procedure for adjudication of penalties;

(d) appeals against orders made under this Chapter, the manner in which and the time within which such appeals may be preferred and the fees payable therefor;

(e) the returns and other particulars and information which may be required to be furnished for the purposes of this Chapter, the persons or authorities by or to whom or which, and the intervals at which such returns, particulars and information shall be furnished;

(f) any other matter which is to be, or may be, provided for by rules under this Chapter.

Rules
and
notifica-
tions to
be laid
before
Parlia-
ment.

49. Every rule made under this Chapter and every notification issued under section 44 shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule should not be made or the notification should not be issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

CHAPTER VI

MISCELLANEOUS

50. In section 14 of the Central Sales Tax Act, 1956,—

(a) in items (via) and (vii), after the figures "58.05," the figures "58.06," shall be inserted;

(b) in item (ix), for the word and figures "and 2404.50", the figures and word ", 2404.50 and 2404.60" shall be substituted.

Amend-
ment
of Act 74
of 1956.

51. In sub-section (1) of section 35 of the Finance Act, 1979, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint,—

(a) in clause (i), for the words "one hundred rupees", the words "three hundred rupees" shall be substituted;

(b) in clause (ii), for the words "fifty rupees", the words "one hundred and fifty rupees" shall be substituted.

Amend-
ment of
Act 21
of 1979.

THE FIRST SCHEDULE

(See section 2)

PART I

INCOME-TAX

Paragraph A

Sub-Paragraph I

In the case of every individual or Hindu undivided family or 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 (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which Sub-Paragraph II of this Paragraph or any other Paragraph of this Part applies,—

Rates of income-tax

- (1) where the total income does not exceed Rs. 18,000 Nil;
- (2) where the total income exceeds 25 per cent. of the amount by which Rs. 18,000 but does not exceed the total income exceeds Rs. 18,000; Rs. 25,000
- (3) where the total income exceeds Rs. 25,000 but does not exceed Rs. 50,000 Rs. 1,750 plus 30 per cent. of the amount by which the total income exceeds Rs. 25,000;
- (4) where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000 Rs. 9,250 plus 40 per cent. of the amount by which the total income exceeds Rs. 50,000;
- (5) where the total income exceeds Rs. 1,00,000 Rs. 29,250 plus 50 per cent. of the amount by which the total income exceeds Rs. 1,00,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent. of such income-tax :

Provided that no such surcharge shall be payable by a non-resident.

Sub-Paragraph II

In the case of every Hindu undivided family which at any time during the previous year has at least one member whose total income of

the previous year relevant to the assessment year commencing on the 1st day of April, 1989 exceeds Rs. 18,000,—

Rates of income-tax

- (1) where the total income does not exceed Rs. 12,000 *Nil*;
- (2) where the total income exceeds Rs. 12,000 but does not exceed Rs. 20,000 25 per cent. of the amount by which the total income exceeds Rs. 12,000;
- (3) where the total income exceeds Rs. 20,000 but does not exceed Rs. 40,000 Rs. 2,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 20,000;
- (4) where the total income exceeds Rs. 40,000 but does not exceed Rs. 60,000 Rs. 8,000 *plus* 40 per cent. of the amount by which the total income exceeds Rs. 40,000;
- (5) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,00,000 Rs. 16,000 *plus* 50 per cent. of the amount by which the total income exceeds Rs. 60,000;
- (6) where the total income exceeds Rs. 1,00,000 Rs. 36,000 *plus* 55 per cent. of the amount by which the total income exceeds Rs. 1,00,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-paragraph shall, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent. of such income-tax:

Provided that no such surcharge shall be payable by a non-resident.

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

- (1) where the total income does not exceed Rs. 10,000 15 per cent. of the total income;
- (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 Rs. 1,500 *plus* 25 per cent. of the amount by which the total income exceeds Rs. 10,000;
- (3) where the total income exceeds Rs. 20,000 Rs. 4,000 *plus* 40 per cent. of the amount by which the total income exceeds Rs. 20,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent. of such income-tax.

Paragraph C

Sub-Paragraph I

In the case of every registered firm, not being a case to which Sub-Paragraph II of this Paragraph applies,—

Rates of income-tax

- (1) where the total income does not exceed Rs. 10,000 *Nil*;
- (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 25,000 5 per cent. of the amount by which the total income exceeds Rs. 10,000;
- (3) where the total income exceeds Rs. 25,000 but does not exceed Rs. 50,000 Rs. 750 *plus* 7 per cent. of the amount by which the total income exceeds Rs. 25,000;
- (4) where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000 Rs. 2,500 *plus* 15 per cent. of the amount by which the total income exceeds Rs. 50,000;
- (5) where the total income exceeds Rs. 1,00,000 Rs. 10,000 *plus* 24 per cent. of the amount by which the total income exceeds Rs. 1,00,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent. of such income-tax.

Sub-Paragraph II

In the case of every registered firm whose total income includes income derived from a profession carried on by it and the income so included is not less than fifty-one per cent. of such total income,—

Rates of income-tax

- (1) where the total income does not exceed Rs. 10,000 *Nil*;
- (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 25,000 4 per cent. of the amount by which the total income exceeds Rs. 10,000;
- (3) where the total income exceeds Rs. 25,000 but does not exceed Rs. 50,000 Rs. 600 *plus* 7 per cent. of the amount by which the total income exceeds Rs. 25,000;
- (4) where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000 Rs. 2,350 *plus* 13 per cent. of the amount by which the total income exceeds Rs. 50,000;
- (5) where the total income exceeds Rs. 1,00,000 Rs. 8,850 *plus* 22 per cent. of the amount by which the total income exceeds Rs. 1,00,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent. of such income-tax.

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

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income 50 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified shall, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent. of such income-tax.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company,—

(1) where the company is a company in which the public are substantially interested 50 per cent. of the total income;

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

(i) in the case of a trading company or an investment company 60 per cent. of the total income;

(ii) in any other case 55 per cent. of the total income.

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

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

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976, or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in 50 per cent.;
either case, been approved by the
Central Government

(ii) on the balance, if any, 65 per cent.
of the total income

Surcharge on income-tax

The amount of income-tax computed in accordance with the provisions of item I of this Paragraph shall, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge calculated at the rate of five per cent. of such income-tax.

PART II

RATES FOR DEDUCTION OF TAX AT SOURCE IN CERTAIN CASES

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to deduction at the following rates:—

	Rate of income-tax
1. In the case of a person other than a company—	
(a) where the person is resident in India—	
(i) on income by way of interest other than "Interest on securities"	10 per cent.;
(ii) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(iii) on income by way of winnings from horse races	40 per cent.;
(iv) on income by way of insurance commission	10 per cent.;
(v) on income by way of interest payable on—	10 per cent.;
(A) any security, other than a tax-free security, of the Central or a State Government;	
(B) any debentures or other securities for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act;	
(C) any debentures issued by a company where such debentures are listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 and any rules made thereunder;	
(vi) on any other income (excluding interest payable on a tax-free security)	20 per cent.;

(b) where the person is not resident in India—

(i) in the case of a non-resident Indian—

(A) on investment income and long-term capital gains 20 per cent.;

(B) on income by way of interest payable on a tax-free security 15 per cent.;

(C) on income by way of winnings from lotteries and crossword puzzles 40 per cent.;

(D) on income by way of winnings from horse races 40 per cent.;

(E) on the whole of other income income-tax at 30 per cent. of the amount of income

or

income-tax in respect of the income at the rates prescribed in Sub-Paragraph I of Paragraph A of Part III of this Schedule, if such income had been the total income,

whichever is higher;

(ii) in the case of any other person—

(A) on income by way of interest payable on a tax free security 15 per cent.;

(B) on income by way of winnings from lotteries and crossword puzzles 40 per cent.;

(C) on income by way of winnings from horse races 40 per cent.;

(D) on the whole of the other income Income-tax at 30 per cent. of the amount of income

or

Income-tax in respect of the income at the rates prescribed in Sub-Paragraph I of Paragraph A of Part III of this Schedule, if such income had been the total income,

whichever is higher;

2. In the case of a company—

(a) where the company is a domestic company—

(i) on income by way of interest other than "Interest on securities" 20 per cent.;

(ii) on income by way of winnings from lotteries and crossword puzzles 40 per cent.;

(iii) on income by way of winnings from horse races 40 per cent.;

(iv) on any other income (excluding interest payable on tax-free security)	21.5 per cent.;
(b) where the company is not a domestic company—	
(i) on income by way of dividends payable by any domestic company	25 per cent.;
(ii) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(iii) on income by way of winnings from horse races	40 per cent.;
(iv) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	25 per cent.;
(v) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1976, where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern	30 per cent.;
(vi) on income by way of royalty [not being royalty of the nature referred to in sub-item (b) (v)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and which has been approved by the Central Government,—	
(A) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976	50 per cent.;
(B) where the agreement is made after the 31st day of March, 1976	30 per cent.;
(vii) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and which has been approved by the Central Government—	
(A) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976	50 per cent.;
(B) where the agreement is made after the 31st day of March, 1976	30 per cent.;
(viii) on income by way of interest payable on a tax-free security	44 per cent.;
(ix) on any other income	65 per cent.

Explanation.—For the purposes of this Part, “investment income”, “long-term capital gains” and “non-resident Indian” shall have the meanings assigned to them in Chapter XII-A of the Income-tax Act.

Surcharge on income-tax

The amount of income-tax deducted in accordance with the provisions of—

(a) sub-item (a) of item 1 of this Part shall be increased by a surcharge for purposes of the Union, and

(b) sub-item (a) of item 2 of this Part shall be increased by a surcharge,

calculated at the rate of eight per cent. of such income-tax.

PART III

RATES FOR CALCULATING OR CHARGING INCOME-TAX IN CERTAIN CASES,
DEDUCTING INCOME-TAX FROM INCOME CHARGEABLE UNDER THE HEAD “SALARIES”
AND COMPUTING “ADVANCE TAX”

In cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head “Salaries” or in which the “advance tax” payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, “advance tax” [not being “advance tax” in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act at the rates as specified in that Chapter or section or surcharge on such “advance tax” in respect of any income chargeable to tax under section 115B], shall be calculated, charged, deducted or computed at the following rate or rates:—

Paragraph A

Sub-Paragraph I

In the case of every individual or Hindu undivided family or 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 (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which Sub-Paragraph II of this Paragraph or any other Paragraph of this Part applies,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 18,000 | <i>Nil;</i> |
| (2) where the total income exceeds Rs. 18,000 but does not exceed Rs. 25,000 | 20 per cent. of the amount by which the total income exceeds Rs. 18,000; |

- | | |
|--|---|
| (3) where the total income exceeds Rs. 25,000 but does not exceed Rs. 50,000 | Rs. 1,400 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 25,000; |
| (4) where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000 | Rs. 8,900 <i>plus</i> 40 per cent. of the amount by which the total income exceeds Rs. 50,000; |
| (5) where the total income exceeds Rs. 1,00,000 | Rs. 28,900 <i>plus</i> 50 per cent. of the amount by which the total income exceeds Rs. 1,00,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of eight per cent. of such income-tax:

Provided that no such surcharge shall be payable by a non-resident.

Sub-Paragraph II

In the case of every Hindu undivided family which at any time during the previous year has at least one member whose total income of the previous year relevant to the assessment year commencing on the 1st day of April, 1990 exceeds Rs. 18,000,—

Rates of income-tax

- | | |
|--|---|
| (1) where the total income does not exceed Rs. 12,000 | <i>Nil</i> ; |
| (2) where the total income exceeds Rs. 12,000 but does not exceed Rs. 20,000 | 25 per cent. of the amount by which the total income exceeds Rs. 12,000; |
| (3) where the total income exceeds Rs. 20,000 but does not exceed Rs. 40,000 | Rs. 2,000 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 20,000; |
| (4) where the total income exceeds Rs. 40,000 but does not exceed Rs. 60,000 | Rs. 8,000 <i>plus</i> 40 per cent. of the amount by which the total income exceeds Rs. 40,000; |
| (5) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,00,000 | Rs. 16,000 <i>plus</i> 50 per cent. of the amount by which the total income exceeds Rs. 60,000; |
| (6) where the total income exceeds Rs. 1,00,000 | Rs. 36,000 <i>plus</i> 55 per cent. of the amount by which the total income exceeds Rs. 1,00,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of eight per cent. of such income-tax:

Provided that no such surcharge shall be payable by a non-resident.

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

- (1) where the total income does not exceed Rs. 10,000 15 per cent. of the total income;
- (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 Rs. 1,500 *plus* 25 per cent. of the amount by which the total income exceeds Rs. 10,000;
- (3) where the total income exceeds Rs. 20,000 Rs. 4,000 *plus* 40 per cent. of the amount by which the total income exceeds Rs. 20,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of eight per cent. of such income-tax.

Paragraph C

Sub-Paragraph I

In the case of every registered firm, not being a case to which Sub-Paragraph II, of this Paragraph applies,—

Rates of income-tax

- (1) where the total income does not exceed Rs. 10,000 *Nil*;
- (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 25,000 5 per cent. of the amount by which the total income exceeds Rs. 10,000;
- (3) where the total income exceeds Rs. 25,000 but does not exceed Rs. 50,000 Rs. 750 *plus* 7 per cent. of the amount by which the total income exceeds Rs. 25,000;
- (4) where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000 Rs. 2,500 *plus* 15 per cent. of the amount by which the total income exceeds Rs. 50,000;
- (5) where the total income exceeds Rs. 1,00,000 Rs. 10,000 *plus* 24 per cent. of the amount by which the total income exceeds Rs. 1,00,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of eight per cent. of such income-tax.

Sub-Paragraph II

In the case of every registered firm whose total income includes income derived from a profession carried on by it and the income so included is not less than fifty-one per cent. of such total income,—

Rates of income-tax

- | | |
|--|---|
| (1) where the total income does not exceed Rs. 10,000 | Nil; |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 25,000 | 4 per cent. of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 25,000 but does not exceed Rs. 50,000 | Rs. 600 plus 7 per cent. of the amount by which the total income exceeds Rs. 25,000; |
| (4) where the total income exceeds Rs. 50,000 but does not exceed Rs. 1,00,000 | Rs. 2,350 plus 13 per cent. of the amount by which the total income exceeds Rs. 50,000; |
| (5) where the total income exceeds Rs. 1,00,000 | Rs. 8,850 plus 22 per cent. of the amount by which the total income exceeds Rs. 1,00,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Sub-Paragraph shall, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of eight per cent. of such income-tax.

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

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income 50 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified shall, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge for purposes of the Union calculated at the rate of eight per cent. of such income-tax.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company,—

- | | |
|---|-----------------------------------|
| (1) where the company is a company in which the public are substantially interested | 50 per cent. of the total income; |
|---|-----------------------------------|

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

(i) in the case of a trading company or an investment company 60 per cent. of the total income;

(ii) in any other case 55 per cent. of the total income.

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

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

[(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976, or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government 50 per cent.;

(ii) on the balance, if any, of the total income 65 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the provisions of item 1 of this Paragraph shall, in the case of every person having a total income exceeding fifty thousand rupees, be increased by a surcharge calculated at the rate of eight per cent. of such income-tax.

PART IV

[See section 2(9) (e)]

RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME

Rule 1.—Agricultural income of the nature referred to in sub-clause (a) of clause (1A) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly:

Provided that sub-section (2) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (3) and (4) of section 40A.

Rule 2.—Agricultural income of the nature referred to in sub-clause (b) or sub-clause (c) of clause (1A) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c)] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provisions of sections 30, 31, 32, 36, 37, 38, 40, 40A [other than sub-sections (3) and (4) thereof], 41, 43, 43A, 43B and 43C of the Income-tax Act shall, so far as may be, apply accordingly.

Rule 3.—Agricultural income of the nature referred to in sub-clause (c) of clause (1A) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c) shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly.

Rule 4.—Notwithstanding anything contained in any other provisions of these rules, in a case where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent. of such income shall be regarded as the agricultural income of the assessee.

Rule 5.—Where the assessee is a partner of a registered firm or an unregistered firm assessed as a registered firm under clause (b) of section 183 of the Income-tax Act, which in the previous year has any agricultural income, or is a partner of an unregistered firm which has not been assessed as a registered firm under clause (b) of the said section 183 and which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an unregistered firm but has any agricultural income, then, the agricultural income or loss of the firm shall be computed in accordance with these rules and his share in the agricultural income or loss of the firm shall be computed in the manner laid down in sub-section (1), sub-section (2) and sub-section (3) of section 67 of the Income-tax Act and the share so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 6.—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income, then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 7.—Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income:

Provided that where the assessee is a partner of an unregistered firm which has not been assessed as a registered firm under clause (b) of section 183 of the Income-tax Act or is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the firm, association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

Rule 8.—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

Rule 9.—(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1989, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1981 or the 1st day of April, 1982 or the 1st day of April, 1983 or the 1st day of April, 1984 or the 1st day of April, 1985 or the 1st day of April, 1986 or the 1st day of April, 1987 or the 1st day of April, 1988, is a loss, then, for the purposes of sub-section (2) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1981 to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1982 or the 1st day of April, 1983 or the 1st day of April, 1984 or the 1st day of April, 1985 or the 1st day of April, 1986 or the 1st day of April, 1987 or the 1st day of April, 1988,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1982, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1983 or the 1st day of April, 1984 or the 1st day of April, 1985 or the 1st day of April, 1986 or the 1st day of April, 1987 or the 1st day of April, 1988,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1983, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1984 or the 1st day of April, 1985 or the 1st day of April, 1986 or the 1st day of April, 1987 or the 1st day of April, 1988,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1984, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1985 or the 1st day of April, 1986 or the 1st day of April, 1987 or the 1st day of April, 1988,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1985, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1986 or the 1st day of April, 1987 or the 1st day of April, 1988,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1986, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1987 or the 1st day of April, 1988,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1987, to the extent, if any, such loss has not been set off against the agricultural

income for the previous year relevant to the assessment year commencing on the 1st day of April, 1988, and

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1988,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1989.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1990 or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than that previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1982 or the 1st day of April, 1983 or the 1st day of April, 1984 or the 1st day of April, 1985 or the 1st day of April, 1986 or the 1st day of April, 1987 or the 1st day of April, 1988 or the 1st day of April, 1989, is a loss, then, for the purposes of sub-section (8) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1982, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1983 or the 1st day of April, 1984 or the 1st day of April, 1985 or the 1st day of April, 1986 or the 1st day of April, 1987 or the 1st day of April, 1988 or the 1st day of April, 1989,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1983, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1984 or the 1st day of April, 1985 or the 1st day of April, 1986 or the 1st day of April, 1987 or the 1st day of April, 1988 or the 1st day of April, 1989,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1984, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1985 or the 1st day of April, 1986 or the 1st day of April, 1987 or the 1st day of April, 1988 or the 1st day of April, 1989,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1985, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1986 or the 1st day of April, 1987 or the 1st day of April, 1988 or the 1st day of April, 1989,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1986, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1987 or the 1st day of April, 1988 or the 1st day of April, 1989,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1987, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1988 or the 1st day of April, 1989,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1988, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1989, and

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1989,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1990.

(3) Where a change has occurred in the constitution of a firm, nothing in sub-rule (1) or sub-rule (2) shall entitle the firm to set off so much of the loss proportionate to the share of a retired or deceased partner computed in the manner laid down in sub-section (1), sub-section (2) and sub-section (3) of section 67 of the Income-tax Act as exceeds his share of profits, if any, of the previous year in the firm, or entitle any partner to the benefit of any portion of the said loss (computed in the manner aforesaid) which is not apportionable to him.

(4) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (1) or sub-rule (2) shall entitle any person, other than the person incurring the loss, to have it set off under sub-rule (1) or, as the case may be, sub-rule (2).

(5) Notwithstanding anything contained in this rule, no loss which has not been determined by the Assessing Officer under the provisions of these rules or the rules contained in Part IV of the First Schedule to the Finance Act, 1981, or of the First Schedule to the Finance Act, 1982, or of the First Schedule to the Finance Act, 1983, or of the First Schedule to the Finance Act, 1984, or of the First Schedule to the Finance Act, 1985, or of the First Schedule to the Finance Act, 1986, or of the First Schedule to the Finance Act, 1987, or of the First Schedule to the Finance Act, 1988, shall be set off under sub-rule (1) or, as the case may be, sub-rule (2).

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Rule 10.— Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be *nil*.

Rule 11.—The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

Rule 12.—For the purposes of computing the net agricultural income of the assessee, the Assessing Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

THE SECOND SCHEDULE

[See section 34(a)]

In the First Schedule to the Customs Tariff Act,—

(1) in "General rules for the interpretation of this Schedule", in clause (a) of rule 5, for the words "The rule", the words "This rule" shall be substituted;

(2) in Chapter 4,—

(i) in heading No. 04.03, in column (3), for the words "FRUIT OR COCOA", the words "FRUIT NUTS OR COCOA" shall be substituted;

(ii) in heading No. 04.08, in column (3), for the words "IN SHELL AND", the words "IN SHELL, AND" shall be substituted;

(3) in Chapter 6, in sub-heading No. 0602.20, for the entry in column (3), the entry "-Trees, shrubs and bushes, grafted or not, of kinds which bear edible fruit or nuts" shall be substituted;

(4) in Chapter 9,—

(i) in sub-heading Nos. 0906.10 and 0906.20, for the entries in columns (4) and (5), the entries "150% plus Rs. 20 per Kg." and "142.5% plus Rs. 20 per Kg." shall, respectively, be substituted;

(ii) in sub-heading No. 0907.00, for the entries in columns (4) and (5), the entries "Rs. 120 per Kg." and "Rs. 120 per Kg. less 7.5%" shall, respectively, be substituted;

(iii) in sub-heading No. 0908.10, for the entries in columns (4) and (5), the entries "150%" and "142.5%" shall, respectively, be substituted;

(iv) in sub-heading No. 0908.20, for the entry in column (4), the entry "150%" shall be substituted;

(v) in heading No. 09.09, in column (3), for the words "CARAWAY OF JUNIPER", the words "OR CARAWAY; JUNIPER BERRIES" shall be substituted;

(vi) in sub-heading No. 0909.50, in column (3), for the words "fennel or juniper", the words "fennel; juniper berries" shall be substituted;

(5) in Chapter 10, in NOTE 1, in clause (b), the word "converted" shall be omitted;

(6) in Chapter 16, in sub-heading No. 1604.14, in column (3), the word "Atlantic" shall be omitted;

(7) in Chapter 17, in the SUB-HEADING NOTE, for the word "polarimetric", the word "polarimeter" shall be substituted;

(8) in Chapter 22, in sub-heading Nos. 2207.10, 2208.10, 2208.20, 2208.30, 2208.40, 2208.50 and 2208.90, for the entry in column (4), the entry "Rs. 200 per litre or 355%, whichever is higher" shall be substituted;

(9) in Chapter 25, in heading No. 25.23, in column (3), the brackets and words ('ciment fondu'), at the two places where they occur, shall be omitted;

(10) in Chapter 34, in NOTE 5, in clause (d), after the word "dispersed", the word "in" shall be inserted;

(11) in Chapter 59,—

(i) in NOTE 6, for clause (a), the following clause shall be substituted, namely:—

"(a) Transmission or conveyor belting, of textile material, of a thickness of less than 3 mm; or";

(ii) in sub-heading No. 5911.10, for the entry in column (3), the following entry shall be substituted, namely:—

"- Textile fabrics, felt and felt-lined woven fabrics, coated, covered or laminated with rubber, leather or other material, of a kind used for card clothing, and similar fabrics of a kind used for other technical purposes";

(12) in Chapter 61,—

(i) in NOTE 8, for the word "concerning", the word "covering" shall be substituted;

(ii) in heading No. 61.04, in column (3), after the word "JACKETS," the word "BLAZERS," shall be inserted;

(iii) in the portion occurring after sub-heading No. 6104.29, in column (3), for the word "-Jackets:", the words "-Jackets and blazers:" shall be substituted;

(13) in chapter 62,—

(i) in heading No. 62.04, in column (3), after the word "JACKETS," the word "BLAZERS," shall be inserted;

(ii) in the portion occurring after sub-heading No. 6204.29, in column (3), for the word "-Jackets:", the words "-Jackets and blazers:" shall be substituted;

(14) in Chapter 63, in heading No. 63.06, for the entry in column (3), the entry "TARPAULINS, AWNINGS AND SUN BLINDS; TENTS; SAILS FOR BOATS, SAIL BOATS OR LAND CRAFT; CAMPING GOODS" shall be substituted;

(15) in Chapter 72, in SUBHEADING NOTE 1, in clause (a), for the words "Pig iron containing, by weight, separately or together:", the words "Pig iron containing by weight one or more of the following elements in the specified proportions." shall be substituted;

(16) in Chapter 73, in sub-heading No. 7314.42, in column (3), for the words "--Plastic coated", the words "--Coated with plastics" shall be substituted;

(17) in Chapter 74, in sub-heading No. 7404.00, for the entry in column (4), the entry "100% plus Rs. 5,000 per tonne" shall be substituted;

(18) in Chapter 82,—

(i) in heading No. 82.01, in column (3), for the word "SECATEURS", the words "SECATEURS AND PRUNERS" shall be substituted;

(ii) in sub-heading No. 8201.50, for the entry in column (3), the entry "-Secateurs and similar one-handed pruners and shears (including poultry shears)" shall be substituted;

(19) in Chapter 84,—

(i) in heading No. 84.16, in column (3), for the words "MECHANICAL GRATES", the words "INCLUDING THEIR MECHANICAL GRATES" shall be substituted;

(ii) in sub-heading No. 8418.50, for the entry in column (3), the entry "-Other refrigerating or freezing chests, cabinets, display counters, show-cases and similar refrigerating or freezing furniture" shall be substituted;

(iii) in sub-heading Nos. 8482.10, 8482.20, 8482.30, 8482.40, 8482.50 and 8482.80, for the entry in column (4), the entry "150% plus Rs. 300 per bearing" shall be substituted;

(iv) in sub-heading Nos. 8482.91 and 8482.99, for the entry in column (4), the entry "150% plus Rs. 300 per piece" shall be substituted;

(v) in sub-heading No. 8485.10, in column (3), for the word "Ships", the words "Ships' or boats'" shall be substituted;

(20) in Chapter 90, in sub-heading No. 9011.20, for the entry in column (3), the entry "-Other microscopes, for photomicrography, cinephotomicrography or microprojection" shall be substituted;

(21) in Chapter 94, in NOTE 1, in clause (e), for the word "refrigerators", the words "refrigerating or freezing equipment" shall be substituted;

(22) in Chapter 99, in sub-heading No. 9901.00, in column (3), Item No. (46) and the entry relating thereto shall be omitted.

THE THIRD SCHEDULE

[See section 34(b)]

In the First Schedule to the Customs Tariff Act, in Chapter 98,—

- (1) NOTES 7 and 8 shall be omitted;
- (2) heading No. 98.06 and the entries relating thereto shall be omitted.

THE FOURTH SCHEDULE

(See section 36)

PART I

In the Schedule to the Central Excise Tariff Act,—

(1) in Chapter 15, in sub-heading Nos. 1504.00 and 1508.90, for the entry in column (4), the entry "Rs. 3,000 per tonne" shall be substituted;

(2) in Chapter 17,—

(a) in sub-heading No. 1701.31, for the entry in column (4), the entry "Rs. 25 per quintal" shall be substituted;

(b) in sub-heading No. 1701.39, for the entry in column (4), the entry "Rs. 45 per quintal" shall be substituted;

(3) in Chapter 22, heading No. 22.04 and the entries relating thereto shall be omitted;

(4) in Chapter 24, in sub-heading No. 2404.13, for the entry in column (4), the entry "225%" shall be substituted;

(5) in Chapter 25,—

(a) in sub-heading No. 2502.20, for the entry in column (4), the entry "Rs. 250 per tonne" shall be substituted;

(b) in sub-heading No. 2504.21, for the entry in column (4), the entry "Rs. 15 per square metre" shall be substituted;

(c) in sub-heading No. 2504.31, for the entry in column (4), the entry "Rs. 15 per square metre" shall be substituted;

(6) in Chapter 27, in sub-heading No. 2705.00, for the entry in column (4), the entry "Nil" shall be substituted;

(7) in Chapter 28,—

(a) in sub-heading No. 2801.10, for the entry in column (4), the entry "Rs. 100 per tonne" shall be substituted;

(b) in sub-heading No. 2804.11, for the entry in column (4), the entry "Re. 1 per cubic metre of the gas at normal pressure at 15°C" shall be substituted;

(c) in sub-heading No. 2804.12, for the entry in column (4), the entry "50 paise per cubic metre of the gas at normal pressure at 15°C" shall be substituted;

(d) in sub-heading No. 2804.13, for the entry in column (4), the entry "Re. 1 per cubic metre of the gas at normal pressure at 15°C" shall be substituted;

(e) in sub-heading No. 2811.10, for the entry in column (4), the entry "Rs. 1.25 per kilogram" shall be substituted;

(f) in sub-heading No. 2814.00, for the entry in column (4), the entry "Rs. 1,100 per tonne" shall be substituted;

(8) in Chapter 29,—

(a) in sub-heading No. 2901.10, for the entry in column (4), the entry "Rs. 13 per cubic metre of the gas at normal pressure at 15°C" shall be substituted;

(b) in sub-heading Nos. 2935.00 and 2939.10, for the entry in column (4), the entry "15%" shall be substituted;

(9) in Chapter 30, in sub-heading No. 3003.30, for the entry in column (4), the entry "15%" shall be substituted;

(10) in Chapter 39, in sub-heading Nos. 3904.10, 3904.21, 3904.22, 3904.30, 3904.40, 3904.50, 3904.61, 3904.69 and 3904.90, for the entry in column (4), the entry "60% plus Rs. 25 per kilogram" shall be substituted;

(11) in Chapter 40,—

(a) in NOTES 1 and 2, for the word "hardened", the word "hard" shall be substituted;

(b) in heading No. 40.04, for the word "HARDENED", the word "HARD" shall be substituted;

(c) in sub-heading No. 4006.10, for the entry in column (4), the entry "Rs. 12.60 per kilogram" shall be substituted;

(d) in heading No. 40.08, for the word "HARDENED", the word "HARD" shall be substituted;

(e) in sub-heading No. 4008.21, for the entry in column (4), the entry "Rs. 12.60 per kilogram" shall be substituted;

(f) in heading No. 40.09, for the word "HARDENED", the word "HARD" shall be substituted;

(g) sub-heading No. 4011.10 and the entries relating thereto shall be omitted;

(h) sub-heading No. 4011.20 shall be renumbered as sub-heading No. 4011.10;

(i) sub-heading No. 4011.30 shall be renumbered as sub-heading No. 4011.20, and in sub-heading No. 4011.20, as so renumbered, for the entry in column (4), the entry "Rs. 30 per tyre" shall be substituted;

(j) sub-heading Nos. 4011.41, 4011.49, 4011.50, 4011.60, 4011.70 and 4011.80 shall be renumbered as sub-heading Nos. 4011.31, 4011.39, 4011.40, 4011.50, 4011.60 and 4011.70, respectively;

(k) in sub-heading No. 4012.19, for the entry in column (4), the entry "Rs. 21 per flap" shall be substituted;

(l) in heading Nos. 40.14, 40.15, 40.16 and 40.17, for the word "HARDENED", wherever it occurs, the word "HARD" shall be substituted;

(12) in Chapter 48,—

(a) in sub-heading No. 4802.10, for the entry in column (4), the entry "20%" shall be substituted;

- (b) in sub-heading No. 4802.20, for the entry in column (4), the entry "10% plus Rs. per tonne" shall be substituted;
- (c) in sub-heading No. 4802.91, for the entry in column (4), the entry "10% plus Rs. 1,900 per tonne" shall be substituted;
- (d) in sub-heading No. 4802.99, for the entry in column (4), the entry "10% plus Rs. 1,470 per tonne" shall be substituted;
- (e) in sub-heading No. 4803.00, for the entry in column (4), the entry "10% plus Rs. 1,625 per tonne" shall be substituted;
- (f) in sub-heading No. 4804.11, for the entry in column (4), the entry "20%" shall be substituted;
- (g) in sub-heading No. 4804.19, for the entry in column (4), the entry "10% plus Rs. 1,900 per tonne" shall be substituted;
- (h) in sub-heading No. 4804.21, for the entry in column (4), the entry "20%" shall be substituted;
- (i) in sub-heading No. 4804.29, for the entry in column (4), the entry "10% plus Rs. 1,900 per tonne" shall be substituted;
- (j) in sub-heading No. 4804.30, for the entry in column (4), the entry "10% plus Rs. 1,900 per tonne" shall be substituted;
- (k) in sub-heading No. 4805.19, for the entry in column (4), the entry "10% plus Rs. 605 per tonne" shall be substituted;
- (l) in sub-heading No. 4805.30, for the entry in column (4), the entry "10% plus Rs. 2,260 per tonne" shall be substituted;
- (m) in sub-heading No. 4805.90, for the entry in column (4), the entry "10% plus Rs. 1,680 per tonne" shall be substituted;
- (n) in sub-heading No. 4806.10, for the entry in column (4), the entry "10% plus Rs. 2,425 per tonne" shall be substituted;
- (o) in sub-heading No. 4806.20, for the entry in column (4), the entry "10% plus Rs. 2,425 per tonne" shall be substituted;
- (p) in sub-heading No. 4806.90, for the entry in column (4), the entry "10% plus Rs. 2,100 per tonne" shall be substituted;
- (q) in sub-heading No. 4807.10, for the entry in column (4), the entry "10% plus Rs. 1,680 per tonne" shall be substituted;
- (r) in sub-heading No. 4807.92, for the entry in column (4), the entry "10% plus Rs. 605 per tonne" shall be substituted;
- (s) in sub-heading No. 4807.99, for the entry in column (4), the entry "10% plus Rs. 1,680 per tonne" shall be substituted;
- (t) in sub-heading No. 4808.10, for the entry in column (4), the entry "10% plus Rs. 1,680 per tonne" shall be substituted;
- (u) in sub-heading No. 4808.90, for the entry in column (4), the entry "10% plus Rs. 1,680 per tonne" shall be substituted;
- (v) in sub-heading No. 4810.10, for the entry in column (4), the entry "10% plus Rs. 1,900 per tonne" shall be substituted;
- (w) in sub-heading No. 4810.20, for the entry in column (4), the entry "10% plus Rs. 2,425 per tonne" shall be substituted;

(x) in sub-heading No. 4810.90, for the entry in column (4), the entry "10% plus Rs. 2,100 per tonne" shall be substituted;

(y) in sub-heading No. 4811.10, for the entry in column (4), the entry "10% plus Rs. 1,680 per tonne" shall be substituted;

(z) in sub-heading No. 4811.20, for the entry in column (4), the entry "10% plus Rs. 1,680 per tonne" shall be substituted;

(za) in sub-heading No. 4811.30, for the entry in column (4), the entry "35% plus Rs. 1,680 per tonne" shall be substituted;

(zb) in sub-heading No. 4811.40, for the entry in column (4), the entry "10% plus Rs. 2,425 per tonne" shall be substituted;

(zc) in sub-heading No. 4811.90, for the entry in column (4), the entry "35% plus Rs. 2,100 per tonne" shall be substituted;

(zd) in sub-heading No. 4813.00, for the entry in column (4), the entry "10% plus Rs. 2,425 per tonne" shall be substituted;

(ze) in sub-heading No. 4814.00, for the entry in column (4), the entry "10% plus Rs. 2,850 per tonne" shall be substituted;

(zf) in sub-heading No. 4823.12, for the entry in column (4), the entry "10% plus Rs. 1,680 per tonne" shall be substituted;

(zg) in sub-heading No. 4823.14, for the entry in column (4), the entry "10% plus Rs. 1,260 per tonne" shall be substituted;

(zh) in sub-heading No. 4823.19, for the entry in column (4), the entry "10% plus Rs. 1,680 per tonne" shall be substituted;

(zi) in sub-heading No. 4823.90, for the entry in column (4), the entry "35%" shall be substituted;

(13) in Section XI, in NOTE 2, in clause (C), after the words and figures "Central Excise Rules, 1944," the words, figures and letter "or section 5A of the Central Excises and Salt Act, 1944" shall be inserted;

(14) in Chapter 50, in sub-heading No. 5001.20, for the entry in column (4), the entry "Rs. 18.90 per kilogram" shall be substituted;

(15) in Chapter 51, in sub-heading No. 5103.29, for the entry in column (4), the entry "Rs. 18.90 per kilogram" shall be substituted;

(16) in Chapter 53,—

(a) in sub-heading No. 5301.31, for the entry in column (4), the entry "5.78 paise per count per kilogram" shall be substituted;

(b) in sub-heading No. 5301.32, for the entry in column (4), the entry "Rs. 18.90 per kilogram" shall be substituted;

(c) in sub-heading No. 5303.31, for the entry in column (4), the entry "Rs. 1.05 per kilogram" shall be substituted;

(d) in sub-heading No. 5303.32, for the entry in column (4), the entry "Rs. 4.20 per kilogram" shall be substituted;

(e) in sub-heading No. 5303.39, for the entry in column (4), the entry "Rs. 10.50 per kilogram" shall be substituted;

(f) in sub-heading No. 5307.12, for the entry in column (4), the entry "5% plus Rs. 2.10 per square metre" shall be substituted;

(17) in Chapter 54,—

(a) in sub-heading No. 5401.10, for the entry in column (4), the entry "Rs. 9.45 per kilogram or 50% whichever is less" shall be substituted;

(b) in sub-heading No. 5401.20, for the entry in column (4), the entry "Rs. 1.05 per kilogram" shall be substituted;

(c) in sub-heading No. 5401.90, for the entry in column (4), the entry "Rs. 9.45 per kilogram or 50% whichever is less" shall be substituted;

(d) in sub-heading No. 5402.11, for the entry in column (4), the entry "Rs. 64.68 per kilogram" shall be substituted;

(e) in sub-heading No. 5402.12, for the entry in column (4), the entry "Rs. 7.51 per kilogram" shall be substituted;

(f) in sub-heading No. 5402.20, for the entry in column (4), the entry "Rs. 77.39 per kilogram" shall be substituted;

(g) in sub-heading No. 5402.91, for the entry in column (4), the entry "Rs. 64.68 per kilogram" shall be substituted;

(h) in sub-heading No. 5402.92, for the entry in column (4), the entry "Rs. 56.60 per kilogram" shall be substituted;

(i) in sub-heading No. 5402.93, for the entry in column (4), the entry "Rs. 40.43 per kilogram" shall be substituted;

(j) in sub-heading No. 5402.94, for the entry in column (4), the entry "Rs. 32.34 per kilogram" shall be substituted;

(k) in sub-heading No. 5402.95, for the entry in column (4), the entry "Rs. 5.78 per kilogram" shall be substituted;

(l) in sub-heading No. 5403.11, for the entry in column (4), the entry "Rs. 64.68 per kilogram" shall be substituted;

(m) in sub-heading No. 5403.12, for the entry in column (4), the entry "Rs. 7.51 per kilogram" shall be substituted;

(n) in sub-heading No. 5403.20, for the entry in column (4), the entry "Rs. 77.39 per kilogram" shall be substituted;

(o) in sub-heading No. 5403.90, for the entry in column (4), the entry "Rs. 103.95 per kilogram" shall be substituted;

(p) in sub-heading No. 5404.11, for the entry in column (4), the entry "Rs. 14.42 per kilogram" shall be substituted;

(q) in sub-heading No. 5404.12, for the entry in column (4), the entry "Rs. 10.82 per kilogram" shall be substituted;

(r) in sub-heading No. 5404.13, for the entry in column (4), the entry "Rs. 8.04 per kilogram" shall be substituted;

(s) in sub-heading No. 5404.14, for the entry in column (4), the entry "Rs. 5.54 per kilogram" shall be substituted;

(t) in sub-heading No. 5404.15, for the entry in column (4), the entry "Rs. 5.18 per kilogram" shall be substituted;

(u) in sub-heading No. 5404.16, for the entry in column (4), the entry "Rs. 4.25 per kilogram" shall be substituted;

(v) in sub-heading No. 5404.17, for the entry in column (4), the entry "Rs. 2.96 per kilogram" shall be substituted;

(w) in sub-heading No. 5404.91, for the entry in column (4), the entry "Rs. 22.18 per kilogram" shall be substituted;

(x) in sub-heading No. 5404.92, for the entry in column (4), the entry "Rs. 14.46 per kilogram" shall be substituted;

(y) in sub-heading No. 5404.93, for the entry in column (4), the entry "Rs. 10.35 per kilogram" shall be substituted;

(z) in sub-heading No. 5404.94, for the entry in column (4), the entry "Rs. 8.59 per kilogram" shall be substituted;

(za) in sub-heading No. 5404.95, for the entry in column (4), the entry "Rs. 7.30 per kilogram" shall be substituted;

(zb) in sub-heading No. 5404.96, for the entry in column (4), the entry "Rs. 4.95 per kilogram" shall be substituted;

(zc) in sub-heading No. 5404.97, for the entry in column (4), the entry "Rs. 3.23 per kilogram" shall be substituted;

(zd) in sub-heading No. 5405.00, for the entry in column (4), the entry "Rs. 19.77 per kilogram" shall be substituted;

(ze) in sub-heading No. 5406.19, for the entry in column (4), the entry "Rs. 103.95 per kilogram" shall be substituted;

(zf) in sub-heading No. 5406.90, for the entry in column (4), the entry "Rs. 103.95 per kilogram" shall be substituted;

(zg) in sub-heading No. 5407.00, for the entry in column (4), the entry "Rs. 19.77 per kilogram" shall be substituted;

(18) in Chapter 55,—

(a) in sub-heading No. 5501.10, for the entry in column (4), the entry "Rs. 34.65 per kilogram" shall be substituted;

(b) in sub-heading No. 5501.20, for the entry in column (4), the entry "Rs. 23.10 per kilogram" shall be substituted;

(c) in sub-heading No. 5501.30, for the entry in column (4), the entry "Rs. 9.24 per kilogram" shall be substituted;

(d) in sub-heading No. 5501.90, for the entry in column (4), the entry "Rs. 34.65 per kilogram" shall be substituted;

(e) in sub-heading No. 5502.00, for the entry in column (4), the entry "Rs. 10.50 per kilogram" shall be substituted;

(f) in sub-heading Nos. 5503.12 and 5503.19, for the entry in column (4), the entry "Rs. 9.45 per kilogram or 50% whichever is less" shall be substituted;

(g) in sub-heading No. 5503.20, for the entry in column (4), the entry "Rs. 1.05 per kilogram" shall be substituted;

(h) in sub-heading Nos. 5504.21 and 5504.22, for the entry in column (4), the entry "Rs. 10.50 per kilogram" shall be substituted;

(i) in sub-heading No. 5504.29, for the entry in column (4), the entry "Rs. 27.72 per kilogram" shall be substituted;

(j) in sub-heading No. 5504.39, for the entry in column (4), the entry "Rs. 18.90 per kilogram" shall be substituted;

(k) in sub-heading No. 5504.90, for the entry in column (4), the entry "Rs. 27.72 per kilogram" shall be substituted;

(l) in sub-heading No. 5505.41, for the entry in column (4), the entry "1.85 paise per count per kilogram" shall be substituted;

(m) in sub-heading No. 5505.42, for the entry in column (4), the entry "46.20 paise plus 4.62 paise per count per kilogram exceeding 25" shall be substituted;

(n) in sub-heading No. 5505.43, for the entry in column (4), the entry "92.40 paise plus 7.39 paise per count per kilogram exceeding 35" shall be substituted;

(o) in sub-heading No. 5506.29, for the entry in column (4), the entry "Rs. 10.40 per kilogram" shall be substituted;

(19) in Chapter 56, in sub-heading No. 5605.10, for the entry in column (4), the entry "Rs. 111.55 per kilogram" shall be substituted;

(20) in Chapter 58, for NOTE 7, the following NOTE shall be substituted, namely:—

"7. In relation to products of sub-heading Nos. 5802.12 and 5802.14, bleaching, dyeing, printing or any other process or any two or more of these processes shall amount to 'manufacture'.";

(21) in Chapter 59, in NOTE 2, after clause (b), the following clause shall be inserted, namely:—

"(c) Textile fabrics, partially or discretely coated with plastic by dot printing process (heading No. 59.03).";

(22) in Chapter 72,—

(a) in sub-heading Nos. 7201.00, 7203.00 and 7204.10, for the entry in column (4), the entry "Rs. 300 per tonne" shall be substituted;

(b) in sub-heading No. 7204.90, for the entry in column (4), the entry "Rs. 800 per tonne" shall be substituted;

(c) in sub-heading No. 7205.10, for the entry in column (4), the entry "Rs. 300 per tonne" shall be substituted;

(d) in sub-heading No. 7205.90, for the entry in column (4), the entry "Rs. 800 per tonne" shall be substituted;

(e) in sub-heading No. 7206.10, for the entry in column (4), the entry "Rs. 300 per tonne" shall be substituted;

(f) in sub-heading Nos. 7206.90 and 7207.10, for the entry in column (4), the entry "Rs. 800 per tonne" shall be substituted;

(g) in sub-heading No. 7207.90, for the entry in column (4), the entry "Rs. 1,200 per tonne" shall be substituted;

(h) in sub-heading No. 7208.11, for the entry in column (4), the entry "Rs. 800 per tonne" shall be substituted;

(i) in sub-heading No. 7208.19, for the entry in column (4), the entry "Rs. 1,200 per tonne" shall be substituted;

(j) in sub-heading No. 7208.21, for the entry in column (4), the entry "Rs. 800 per tonne" shall be substituted;

(k) in sub-heading No. 7208.29, for the entry in column (4), the entry "Rs. 1,200 per tonne" shall be substituted;

(l) in sub-heading No. 7208.31, for the entry in column (4), the entry "Rs. 800 per tonne" shall be substituted;

(m) in sub-heading Nos. 7208.39 and 7208.40, for the entry in column (4), the entry "Rs. 1,200 per tonne" shall be substituted;

(n) in sub-heading No. 7208.91, for the entry in column (4), the entry "Rs. 800 per tonne" shall be substituted;

(o) in sub-heading Nos. 7208.99 and 7209.10, for the entry in column (4), the entry "Rs. 1,200 per tonne" shall be substituted;

(p) in sub-heading Nos. 7209.20, 7209.30 and 7209.90, for the entry in column (4), the entry "Rs. 1,500 per tonne" shall be substituted;

(q) in sub-heading Nos. 7210.11, 7210.19 and 7210.20, for the entry in column (4), the entry "Rs. 1,800 per tonne" shall be substituted;

(r) in sub-heading No. 7210.30, for the entry in column (4), the entry "Rs. 2,500 per tonne" shall be substituted;

(s) in sub-heading No. 7211.11, for the entry in column (4), the entry "Rs. 800 per tonne" shall be substituted;

(t) in sub-heading No. 7211.19, for the entry in column (4), the entry "Rs. 1,200 per tonne" shall be substituted;

(u) in sub-heading No. 7211.21, for the entry in column (4), the entry "Rs. 800 per tonne" shall be substituted;

(v) in sub-heading Nos. 7211.29 and 7211.30, for the entry in column (4), the entry "Rs. 1,200 per tonne" shall be substituted;

(w) in sub-heading No. 7211.41, for the entry in column (4), the entry "Rs. 1,500 per tonne" shall be substituted;

(x) in sub-heading No. 7211.42, for the entry in column (4), the entry "Rs. 800 per tonne" shall be substituted;

(y) in sub-heading No. 7211.49, for the entry in column (4), the entry "Rs. 1,200 per tonne" shall be substituted;

(z) in sub-heading No. 7211.51, for the entry in column (4), the entry "Rs. 1,500 per tonne" shall be substituted;

(za) in sub-heading No. 7211.52, for the entry in column (4), the entry "Rs. 800 per tonne" shall be substituted;

(zb) in sub-heading Nos. 7211.59 and 7211.60, for the entry in column (4), the entry "Rs. 1,200 per tonne" shall be substituted;

(zc) in sub-heading No. 7211.91, for the entry in column (4), the entry "Rs. 1,500 per tonne" shall be substituted;

(zd) in sub-heading No. 7211.92, for the entry in column (4), the entry "Rs. 800 per tonne" shall be substituted;

(ze) in sub-heading No. 7211.99, for the entry in column (4), the entry "Rs. 1,200 per tonne" shall be substituted;

(zf) in sub-heading Nos. 7212.11, 7212.19 and 7212.20, for the entry in column (4), the entry "Rs. 1,800 per tonne" shall be substituted;

(zg) in sub-heading No. 7212.30, for the entry in column (4), the entry "Rs. 2,500 per tonne" shall be substituted;

(zh) in sub-heading Nos. 7213.10 and 7213.90, for the entry in column (4), the entry "Rs. 800 per tonne" shall be substituted;

(zi) in sub-heading No. 7214.10, for the entry in column (4), the entry "Rs. 1,200 per tonne" shall be substituted;

(zj) in sub-heading Nos. 7214.20 and 7214.90, for the entry in column (4), the entry "Rs. 800 per tonne" shall be substituted;

(zk) in sub-heading Nos. 7215.30 and 7215.40, for the entry in column (4), the entry "Rs. 1,800 per tonne" shall be substituted;

(zl) in sub-heading Nos. 7215.90 and 7216.10, for the entry in column (4), the entry "Rs. 800 per tonne" shall be substituted;

(zm) in sub-heading Nos. 7216.30 and 7216.40, for the entry in column (4), the entry "Rs. 1,800 per tonne" shall be substituted;

(zn) in sub-heading No. 7216.60, for the entry in column (4), the entry "Rs. 1,200 per tonne" shall be substituted;

(zo) in sub-heading Nos. 7216.90 and 7217.90, for the entry in column (4), the entry "Rs. 800 per tonne" shall be substituted;

(zp) in sub-heading Nos. 7218.00, 7219.10, 7219.20, 7219.90, 7220.10, 7220.20, 7220.90, 7221.00, 7222.10, 7222.20, 7222.30, 7222.40 and 7223.00, for the entry in column (4), the entry "Rs. 2,500 per tonne" shall be substituted;

(zq) in sub-heading No. 7228.89, for the entry in column (4) the entry "Rs. 1,200 per tonne" shall be substituted;

(zr) in sub-heading No. 7228.89, for the entry in column (4), the entry "Rs. 800 per tonne" shall be substituted;

(23) in Chapter 73,—

(a) in sub-heading Nos. 7301.10, 7301.20, 7302.10 and 7302.20, for the entry in column (4), the entry "Rs. 800 per tonne" shall be substituted;

(b) in sub-heading Nos. 7303.00 and 7304.10, for the entry in column (4), the entry "Rs. 300 per tonne" shall be substituted;

(c) in sub-heading No. 7304.90, for the entry in column (4), the entry "Rs. 2,500 per tonne" shall be substituted;

(d) in sub-heading No. 7305.10, for the entry in column (4), the entry "Rs. 300 per tonne" shall be substituted;

(e) in sub-heading No. 7305.90, for the entry in column (4), the entry "Rs. 2,500 per tonne" shall be substituted;

(f) in sub-heading No. 7306.10, for the entry in column (4), the entry "Rs. 300 per tonne" shall be substituted;

(g) in sub-heading No. 7306.90, for the entry in column (4), the entry "Rs. 2,500 per tonne" shall be substituted;

(h) in sub-heading No. 7325.10, for the entry in column (4), the entry "Rs. 300 per tonne" shall be substituted;

(i) in sub-heading No. 7325.30, for the entry in column (4), the entry "Rs. 2,500 per tonne" shall be substituted;

(j) in sub-heading No. 7325.90, for the entry in column (4), the entry "Rs. 1,200 per tonne" shall be substituted;

(24) in Chapter 74, in sub-heading Nos. 7403.11, 7403.12, 7403.13, 7403.19, 7403.21, 7403.22, 7403.23, 7403.29, 7407.11, 7407.12, 7407.29, 7408.11, 7408.21, 7409.10, 7409.20, 7409.30, 7409.40, 7409.90, 7410.11, 7410.12, 7410.21 and 7410.22, for the entry in column (4), the entry "Rs. 10,000 per tonne" shall be substituted;

(25) in Chapter 76,—

(a) in sub-heading Nos. 7609.00, 7610.10, 7610.90, 7611.00, 7612.11, 7612.12, 7612.13, 7612.19, 7612.91, 7612.92, 7612.93, 7612.99, 7613.10, 7613.20, 7613.30, 7613.90, 7614.10, 7614.90, 7615.10, 7615.20 and 761.10, for the entry in column (4), the entry "30 per cent." shall be substituted;

(b) in sub-heading No. 7616.90, for the entry in column (4), the entry "35 per cent." shall be substituted;

(26) in Chapter 78,—

(a) in sub-heading Nos. 7801.10, 7801.90 and 7802.00, for the entry in column (4), the entry "Rs. 1,500 per tonne" shall be substituted;

(b) in sub-heading Nos. 7803.10 and 7803.29, for the entry in column (4), the entry "Rs. 2,000 per tonne" shall be substituted;

(c) in sub-heading No. 7803.30, for the entry in column (4), the entry "Rs. 1,500 per tonne" shall be substituted;

(d) in sub-heading No. 7804.10, for the entry in column (4), the entry "Rs. 2,000 per tonne" shall be substituted;

(27) in Chapter 79,—

(a) in sub-heading Nos. 7901.10, 7901.20, 7902.00 and 7904.10, for the entry in column (4), the entry "Rs. 5,000 per tonne" shall be substituted;

(b) in sub-heading No. 7904.29, for the entry in column (4), the entry "Rs. 6,000 per tonne" shall be substituted;

(c) in sub-heading No. 7904.30, for the entry in column (4), the entry "Rs. 5,000 per tonne" shall be substituted;

(d) in sub-heading No. 7905.10, for the entry in column (4), the entry "Rs. 7,500 per tonne" shall be substituted;

(e) in sub-heading No. 7905.90, for the entry in column (4), the entry "Rs. 6,000 per tonne" shall be substituted;

(28) in Chapter 84, in heading No. 84.15, for the entry in column (4), the entry "110% plus Rs. 15,750 per machine" shall be substituted;

(29) in Chapter 85,—

(a) in sub-heading No. 8523.13, for the entry in column (4), the entry "25% plus Rs. 10 per sq. metre" shall be substituted;

(b) in sub-heading No. 8523.14, for the entry in column (4), the entry "25% plus Rs. 40 per cassette" shall be substituted;

(c) in sub-heading No. 8524.23, for the entry in column (4), the entry "30% plus Rs. 10 per sq. metre" shall be substituted;

(d) in sub-heading No. 8524.24, for the entry in column (4), the entry "30% plus Rs. 40 per cassette" shall be substituted;

(e) in sub-heading No. 8528.00, for the entry in column (4), the entry "50%" shall be substituted;

(f) in sub-heading No. 8540.11, for the entry in column (4), the entry "Rs. 1,000 per tube" shall be substituted;

(g) in sub-heading No. 8540.12, for the entry in column (4), the entry "Rs. 300 per tube" shall be substituted;

(h) in sub-heading No. 8546.00, for the entry in column (4), the entry "35%" shall be substituted;

(30) in Section XVII, in NOTE 2, in clause (a), for the figures "40.17", the figures "40.16" shall be substituted;

(31) in Chapter 86, in heading Nos. 86.05, 86.06 and 86.07, for the entry in column (4), the entry "20%" shall be substituted;

(32) in Chapter 87, in heading No. 87.11, for the entry in column (4), the entry "30%" shall be substituted;

(33) in Chapter 89, in sub-heading No. 8908.00, for the entry in column (4), the entry "Rs. 800 per Light Displacement Tonnage" shall be substituted.

PART II

Heading No.	Sub-heading No.	Description of goods	Rate of duty
(1)	(2)	(3)	(4)

In the Schedule to the Central Excise Tariff Act,—

(1) in Chapter 24, after sub-heading No. 2404.50, the following sub-heading shall be inserted, namely:—

“2404.60	-Preparations containing snuff of tobacco in any proportion	12%”
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(2) in Chapter 27,—

(a) for sub-heading Nos. 2713.21 and 2713.22, the following sub-heading shall be substituted, namely:—

“2713.20	-Petroleum bitumen	Rs. 160 per tonne”;
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(b) for sub-heading Nos. 2714.11 and 2714.12, the following sub-heading shall be substituted, namely:—

“2714.10	-Bitumen and asphalt, straight grade	Rs. 160 per tonne”:
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(c) for sub-heading Nos. 2715.11 and 2715.12, the following sub-heading shall be substituted, namely:—

“2715.10	-Cut-back bitumen or asphalt	Rs. 160 per tonne”;
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(3) in Chapter 58, for heading No. 58.06, the following heading shall be substituted, namely:—

“58.06

OTHER SPECIAL WOVEN FABRICS; NARROW WOVEN FABRICS, NOT ELSEWHERE SPECIFIED OR INCLUDED

5806.10	-Narrow woven fabrics of silk, wool, cotton or man-made textile materials	12%
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5806.90	-Other	12%”.
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THE FIFTH SCHEDULE

(See section 38)

PART I

In the First Schedule to the Additional Duties of Excise Act,—

(1) in sub-heading No. 1701.31, for the entry in column (4), the entry "Rs. 25 per quintal" shall be substituted;

(2) in sub-heading No. 1701.39, for the entry in column (4), the entry "Rs. 45 per quintal" shall be substituted;

(3) in sub-heading Nos. 5801.30, 5802.14 and 5804.12, for the entry in column (4), the entry "10% plus Rs. 2.10 per square metre" shall be substituted;

(4) in sub-heading Nos. 5901.20 and 5905.20, for the entry in column (4), the entry "10% plus Rs. 2.10 per square metre" shall be substituted;

(5) in sub-heading Nos. 5902.10 and 5902.20, for the entry in column (4), the entry "Rs. 4.20 per kilogram" shall be substituted;

(6) in sub-heading No. 5902.30, for the entry in column (4), the entry "Rs. 2.10 per kilogram" shall be substituted;

(7) in sub-heading No. 6001.12, for the entry in column (4), the entry "10% plus Rs. 2.10 per square metre" shall be substituted.

PART II

Heading No.	Sub-heading No.	Description of goods	Rate of duty
(1)	(2)	(3)	(4)

In the First Schedule to the Additional Duties of Excise Act,—

(1) after sub-heading No. 2404.50, the following sub-heading shall be inserted, namely:—

"2404.60 -Preparations containing snuff of tobacco in any proportion Nil";

(2) after heading No. 58.05, the following heading shall be inserted, namely:—

"58.06 5806.10 -Narrow woven fabrics of silk, wool, cotton or man-made textile materials Nil".

THE SIXTH SCHEDULE

(See section 39)

16 of 1955. In the Schedule to the Medicinal and Toilet Preparations (Excise Duties) Act, 1955,—

(1) in item No. 1,—

(a) against sub-item (i) (a), in the entry in the third column, for the words “rupees six and sixty paise”, the words “rupees ten” shall be substituted;

(b) against sub-item (i) (b), in the entry in the third column, for the words “Rupees six and sixty paise”, the words “Rupees ten” shall be substituted;

(c) against sub-item (ii) (a), in the entry in the third column, for the words “rupees thirteen and twenty paise”, the words “rupees twenty” shall be substituted;

(d) against sub-item (ii) (b), in the entry in the third column, for the words “rupees fifty-two and eighty paise”, the words “rupees eighty” shall be substituted;

(2) in item No. 2,—

(a) against sub-item (ii), in the entry in the third column, for the words “Rupee one and seventy-five paise”, the words “Rupees two and fifty paise” shall be substituted;

(b) against sub-item (iii), in the entry in the third column, for the words “Rupees fifty-two and eighty paise”, the words “Rupees eighty” shall be substituted;

(3) in item No. 3, in the entry in the third column, for the words “Rupees thirteen and twenty paise”, the words “Rupees twenty” shall be substituted;

(4) in item No. 4, in the entry in the third column, for the words “rupees thirteen and twenty paise”, the words “rupees twenty” shall be substituted.

THE APPROPRIATION (RAILWAYS) No. 3 ACT, 1989

No. 14 of 1989

[16th May, 1989.]

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, 1987 in excess of the amounts granted for those services and for that year.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

Short
title.

1. This Act may be called the Appropriation (Railways) No. 3 Act, 1989.

Issue of
Rs. 149,
15, 53, 856
out of the
Consoli-
dated
Fund of
India
to meet
certain
expendi-
ture for
the
financial
year
ended
on the 31st
day of
March,
1987.

2. From and out of the Consolidated Fund of India, the sums specified in column 3 of the Schedule amounting in the aggregate to the sum of one hundred and forty-nine crores, fifteen lakhs, fifty-three thousand, eight hundred and fifty-six rupees shall be deemed to have been authorised to be paid and applied to meet the amounts spent for defraying the charges in respect of the services relating to Railways specified in column 2 of the Schedule during the financial year ended on the 31st day of March, 1987, in excess of the amounts granted for those services and for that year.

Appro-
priation.

3. The sums deemed to have been authorised to be paid and applied from and out of the Consolidated Fund of India under this Act shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial year ended on the 31st day of March, 1987.

THE SCHEDULE
(See sections 2 and 3)

1	2	3		
No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
5	Repairs and Maintenance of Motive Power	6,07,57,302	..	6,07,57,302
8	Operating Expenses—Rolling Stock and Equipment . . . . .	..	16,817	16,817
13	Provident Fund, Pension and other Retirement Benefits	53,67,41,390	..	53,67,41,390
14	Appropriation to Funds	31,91,17,640	..	31,91,17,640
16	Assets—Acquisition, Construction and Replacement— <u>Other Expenditure</u>			
	Capital	57,49,20,707	..	57,49,20,707
	TOTAL	149,15,37,039	16,817	149,15,53,856

THE CHANDIGARH DISTURBED AREAS (AMENDMENT)
ACT, 1989

No. 15 OF 1989

[18th May, 1989.]

An Act to amend the Chandigarh Disturbed Areas Act, 1983.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

Short
title and
com-
mence-
ment.

1. (1) This Act may be called the Chandigarh Disturbed Areas (Amendment) Act, 1989.

(2) It shall come into force at once.

Amend-
ment of
section 6.

2. In section 6 of the Chandigarh Disturbed Areas Act, 1983, for the words "the Administrator", the words "the Central Government" shall be substituted.

33 of 1983.

THE TERRORIST AND DISRUPTIVE ACTIVITIES
(PREVENTION) AMENDMENT ACT, 1989

No. 16 OF 1989

[18th May, 1989.]

An Act to amend the Terrorist and Disruptive Activities
(Prevention) Act, 1987.

BE it enacted by Parliament in the Fortieth Year of the Republic of
India as follows:—

1. This Act may be called the Terrorist and Disruptive Activities
(Prevention) Amendment Act, 1989.

Short
title.

2. In the Terrorist and Disruptive Activities (Prevention) Act, 1987,
in sub-section (4) of section 1, for the words "two years", the words
"four years" shall be substituted.

Amend-
ment of
section 1
of Act 28
of 1987.

THE UNION DUTIES OF EXCISE (DISTRIBUTION)
AMENDMENT ACT, 1989

No. 17 of 1989

[18th May, 1989.]

An Act further to amend the Union Duties of Excise (Distribution)
Act, 1979.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

Short
title and
commen-
cement.

1. (1) This Act may be called the Union Duties of Excise (Distribution) Amendment Act, 1989.

(2) It shall be deemed to have come into force on the 1st day of April, 1989.

Amend-
ment of
long title
of Act 24
of 1979.

2. In the Union Duties of Excise (Distribution) Act, 1979 (hereinafter referred to as the principal Act), in the long title, for the words, figures and letters "report dated the 30th day of April, 1984", the words, figures and letters "first report dated the 29th day of July, 1988" shall be substituted.

Substitu-
tion of
new sec-
tions for
sections
2 and 3.

3. For sections 2 and 3 of the principal Act, the following sections shall be substituted, namely:—

Defini-
tion.

"2. In this Act, the expression "distributable Union duties of excise" means forty-five per cent. of the net proceeds of Union duties of excise, levied and collected under the Central Excises and Salt Act, 1944 and any other law for the levy and collection of such duty, unless the law earmarks the proceeds of the duty for any special purpose.

1 of 1944.

Explanation.—The expression "net proceeds" has the same meaning as in clause (1) of article 279 of the Constitution,

3. During the financial year commencing on the 1st day of April, 1989, there shall be paid, out of the Consolidated Fund of India, to the States sums equivalent to the distributable Union duties of excise levied and collected in that year, and—

Payment to States of sums equivalent to a part of the net proceeds of Union duties of excise and distribution of the sums among them.

(a) eight-ninths of the sums so payable during the financial year shall be distributed to each of the States specified in column (1) of Table I below in such percentage as is set out against it in column (2) thereof; and

(b) one-ninth of the sums so payable during the financial year shall be distributed to each of the States specified in column (1) of Table II below in such percentage as is set out against it in column (2) thereof.

TABLE I

State	Percentage
(1)	(2)
Andhra Pradesh	7.858
Arunachal Pradesh	0.070
Assam	2.707
Bihar	13.573
Goa	0.074
Gujarat	3.109
Haryana	1.077
Himachal Pradesh	0.549
Jammu and Kashmir	0.713
Karnataka	5.092
Kerala	3.707
Madhya Pradesh	8.726
Maharashtra	5.635
Manipur	0.197
Meghalaya	0.199
Mizoram	0.065
Nagaland	0.070
Orissa	4.454
Punjab	1.310
Rajasthan	5.097
Sikkim	0.032
Tamil Nadu	7.785
Tripura	0.295
Uttar Pradesh	19.877
West Bengal	7.729

TABLE II

State	Percentage
(1)	(2)
Arunachal Pradesh	7.158
Assam	14.233
Goa	1.695
Himachal Pradesh	10.031
Jammu and Kashmir	19.499
Manipur	6.787
Meghalaya	4.837
Mizoram	8.199
Nagaland	8.108
Orissa	5.806
Rajasthan	3.946
Sikkim	1.408
Tripura	8.293.

THE ADDITIONAL DUTIES OF EXCISE (GOODS OF SPECIAL IMPORTANCE) AMENDMENT ACT, 1989

No. 18 OF 1989

[18th May, 1989.]

An Act further to amend the Additional Duties of Excise (Goods of Special Importance) Act, 1957.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Additional Duties of Excise (Goods of Special Importance) Amendment Act, 1989.

Short title and commencement.

(2) It shall be deemed to have come into force on the 1st day of April, 1989.

2. In the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (hereinafter referred to as the principal Act), in the long title, for the words, figures and letters "report dated the 30th day of April, 1984", the words, figures and letters "first report dated the 29th July, 1988" shall be substituted.

Amendment of long title of Act 58 of 1957.

3. In the principal Act, for the Second Schedule, the following Schedule shall be substituted, namely:—

Substitution of new Schedule for the Second Schedule.

"THE SECOND SCHEDULE

(See section 4)

Distribution of additional duties

During the financial year commencing on the 1st day of April, 1989, there shall be paid to each of the States specified in column (1) of the Table below such percentage of the net proceeds of additional duties levied and collected during the financial year in respect of the goods described in column (3) of the First Schedule, after deducting therefrom a sum equal to 2.023 per cent. of the said proceeds as being attributable to Union territories, as is set out against it in column (2) of the said Table:

Provided that if during the financial year there is levied and collected in any State a tax on the sale or purchase of the goods described in column (3) of the First Schedule, or one or more of them by or under any law, of that State, no sums shall be payable to that State under this paragraph in respect of the financial year, unless the Central Government by special order otherwise directs.

TABLE

State	Percentage
(1)	(2)
Andhra Pradesh	7.933
Arunachal Pradesh	0.100
Assam	2.711
Bihar	8.519
Goa	0.230
Gujarat	6.094
Haryana	2.358
Himachal Pradesh	0.652
Jammu and Kashmir	0.916
Karnataka	5.581
Kerala	3.834
Madhya Pradesh	7.070
Maharashtra	11.763
Manipur	0.192
Meghalaya	0.179
Mizoram	0.061
Nagaland	0.127
Orissa	3.680
Punjab	3.478
Rajasthan	4.636
Sikkim	0.048
Tamil Nadu	7.120
Tripura	0.279
Uttar Pradesh	14.109
West Bengal	8.330.

THE APPROPRIATION (No. 3) ACT, 1989

No. 19 OF 1989

[18th May, 1989.]

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, 1987, in excess of the amounts granted for those services and for that year.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. This Act may be called the Appropriation (No. 3) Act, 1989.

2. From and out of the Consolidated Fund of India, the sums specified in column 3 of the Schedule, amounting in the aggregate to the sum of two hundred and forty-two crores, twenty-three lakhs, twenty-six thousand, eight hundred and eighty-six 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, 1987, in excess of the amounts granted for those services and for that year.

3. The sums deemed to have been authorised to be paid and applied from and out of the Consolidated Fund of India under this Act shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial year ended on the 31st day of March, 1987.

Short
title.

Issue of
Rs. 242,
23,26,886
out of the
Consoli-
dated
Fund of
India to
meet
certain
excess
expendi-
ture for
the year
ended on
the 31st
March,
1987.

Appro-
priation.

THE SCHEDULE
(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3		
		Voted portion	Excess Charged portion	Total
		Rs.	Rs.	Rs.
11	Foreign Trade and Export Production Capital	19,43,16,651	..	19,43,16,651
18	Defence Pensions Revenue	1,35,94,989	..	1,35,94,989
19	Defence Services—Army Revenue	100,35,85,223	2,16,954	100,38,02,177
20	Defence Services—Navy Revenue	37,74,07,521	..	37,74,07,521
21	Defence Services—Air Force Revenue	44,69,04,894	..	44,69,04,894
22	Capital Outlay on Defence Services Capital	14,66,51,282	..	14,66,51,282
24	Department of Power Capital	..	200	200
35	Audit Revenue	..	2,21,582	2,21,582
43	Department of Civil Supplies Capital	..	1,250	1,250
54	Andaman and Nicobar Islands Revenue	10,33,13,925	..	10,33,13,925
56	Lakshadweep Revenue	6,26,116	..	6,26,116
56A	Chandigarh Revenue Capital	.. 2,80,186	51,500 ..	51,500 2,80,186
74	Department of Tourism Capital	2,15,984	..	2,15,984
81	Survey of India Revenue	..	510	510
83	Department of Scientific and Industrial Research Capital	2,10,00,000	..	2,10,00,000
93	Public Works Revenue	10,92,69,099	1,08,503	10,93,77,602
97	Ministry of Water Resources Revenue	45,60,517	..	45,60,517
	TOTAL	242,17,26,387	6,00,499	242,23,26,886

THE CENTRAL INDUSTRIAL SECURITY FORCE
(AMENDMENT) ACT, 1989

No. 20 of 1989

[18th May, 1989.]

An Act further to amend the Central Industrial Security Force
Act, 1968.

BE it enacted by Parliament in the Fortieth Year of the Republic of
India as follows:—

1. This Act may be called the Central Industrial Security Force
(Amendment) Act, 1989.

Short
title.

2. In the Central Industrial Security Force Act, 1968 (hereinafter
referred to as the principal Act), in the long title, after the words
“other industrial undertakings”, the words “and the employees of all such
industrial undertakings” shall be inserted.

Amend-
ment of
long
title.

3. In section 8 of the principal Act, in clause (i), for the word
“suspend”, the word “remove” shall be substituted.

Amend-
ment of
section
8.

4. In section 10 of the principal Act, for clause (d), the following
clauses shall be substituted, namely:—

Amend-
ment of
section
10.

“(d) to protect and safeguard the employees of the industrial
undertakings and installations referred to in clauses (b) and (c);

(e) to do any other act conducive to the better protection
and security of the industrial undertakings and installations re-
ferred to in clauses (b) and (c) and the employees referred to
in clause (d).”.

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

Amend-
ment of
section
11.

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

“(i) any person who voluntarily causes hurt to, or attempts
voluntarily to cause hurt to, or wrongfully restrains or attempts
wrongfully to restrain or assaults, threatens to assault, or uses,
or threatens or attempts to use, criminal force to any employee,
referred to in clause (d) of section 10, or to him or any other
member of the Force, in discharge of his duty as such employee
or in execution of his duty as such member, as the case may
be, or with intent to prevent or to deter him from discharging
his duty as such member, or in consequence of anything done
or attempted to be done by him in the lawful discharge of his
duty as such member;”;

(b) in clause (iii), the word “imminent” shall be omitted.

THE REPRESENTATION OF THE PEOPLE (AMENDMENT)
ACT, 1989

No. 21 OF 1989

[22nd May, 1989.]

An Act further to amend the Representation of the People
Act, 1950.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

Short
title.

1. This Act may be called the Representation of the People (Amendment) Act, 1989.

Amend-
ment of
section 9.

2. In section 9 of the Representation of the People Act, 1950 (hereinafter referred to as the principal Act), after clause (a), the following clause shall be inserted, namely:—

43 of 1950.

“(aa) make such amendments in the Delimitation of Parliamentary and Assembly Constituencies Order, 1976 as appear to it to be necessary or expedient for consolidating with that Order any notification or order relating to delimitation of parliamentary or assembly constituencies (including reservation of seats for the Scheduled Castes or the Scheduled Tribes in such constituencies) issued under any Central Act;”.

Amend-
ment of
section
14.

3. In section 14 of the principal Act, to clause (b), the following proviso shall be added and shall be deemed to have been so added with effect from the 28th day of March, 1989, namely:—

‘Provided that “qualifying date”, in relation to the preparation or revision of every electoral roll under this Part in the year 1989, shall be the 1st day of April, 1989.’

Amend-
ment of
section 19.

4. In section 19 of the principal Act, in clause (a), for the words “twenty-one years”, the words “eighteen years” shall be substituted and shall be deemed to have been so substituted with effect from the 28th day of March, 1989.

Amend-
ment of
Fourth
Schedule.

5. In the Fourth Schedule to the principal Act, under the heading “Maharashtra”, the entry “3. Town Committees.” shall be omitted.

6. All things done and all steps taken, before the commencement of this section, in relation to the preparation or revision of electoral rolls under Part III of the principal Act in the year 1989 shall, in so far as they are in conformity with the provisions of the principal Act, as amended by sections 3 and 4 of this Act, be deemed to have been done or taken under the principal Act as amended by those sections as if the principal Act as so amended was in force at the time such things were done or such steps were taken.

Validation.

THE PUNJAB PRE-EMPTION (CHANDIGARH AND DELHI
REPEAL) ACT, 1989

No. 22 OF 1989

[22nd May, 1989.]

An Act to repeal the Punjab Pre-emption Act, 1913, as in force in
the Union territories of Chandigarh and Delhi.

BE it enacted by Parliament in the Fortieth Year of the Republic of
India as follows:—

Short
title.

1. This Act may be called the Punjab Pre-emption (Chandigarh and
Delhi Repeal) Act, 1989.

Repeal of
Punjab
Act 1 of
1913 as
in force
in the
Union
terri-
tories of
Chandi-
garh and
Delhi.

2. The Punjab Pre-emption Act, 1913, as in force in the Union terri-
tories of Chandigarh and Delhi, is hereby repealed.

Bar to
pass
decree
in suits
for
pre-
emption.

3. No court in the Union territories of Chandigarh and Delhi shall,
after the commencement of this Act, pass a decree in any suit for pre-
emption.

THE ASSAM UNIVERSITY ACT, 1989

ARRANGEMENT OF SECTIONS

SECTIONS

1. Short title and commencement.
2. Definitions.
3. The University.
4. Objects.
5. Powers of the University.
6. Jurisdiction.
7. University open to all classes, castes and creed.
8. The Visitor.
9. The Chief Rector.
10. Officers of the University.
11. The Chancellor.
12. The Vice-Chancellor.
13. The Pro-Vice-Chancellor.
14. Deans of Schools.
15. The Registrar.
16. The Finance Officer.
17. Other Officers.
18. Authorities of the University.
19. The Court.
20. The Executive Council.
21. The Academic Council.
22. The Planning Board.
23. The Boards of Schools.
24. The Finance Committee.
25. Other authorities of the University.
26. Power to make Statutes.
27. Statutes how to be made.
28. Power to make Ordinances.
29. Regulations.

SECTIONS

30. Annual report.
31. Annual accounts.
32. Conditions of service of employees.
33. Procedure of appeal and arbitration in disciplinary cases against students.
34. Right to appeal.
35. Provident and pension funds.
36. Disputes as to constitution of University authorities and bodies.
37. Constitution of Committees.
38. Filling of casual vacancies.
39. Proceedings of University authorities or bodies not invalidated by vacancies.
40. Protection of action taken in good faith.
41. Mode of proof of University record.
42. Power to remove difficulties.
43. Transitional provisions.
44. Completion of courses of studies in Colleges or Institutions affiliated to the University.
45. Statutes, Ordinances and Regulations to be published in the Official Gazette and to be laid before Parliament.

THE SCHEDULE.

THE ASSAM UNIVERSITY ACT, 1989

No. 23 OF 1989

[23rd May, 1989.]

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

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Assam University Act, 1989.

(2) It shall come into force on such ¹date as the Central Government may, by notification in the Official Gazette, appoint.

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

(a) "Academic Council" means the Academic Council of the University;

(b) "academic staff" means such categories of staff as are designated as academic staff by the Ordinances;

(c) "Board of Studies" means the Board of Studies of the University;

(d) "Chancellor", "Vice-Chancellor" and "Pro-Vice-Chancellor" mean, respectively, the Chancellor, Vice-Chancellor and Pro-Vice-Chancellor of the University;

(e) "College" means a College maintained by, or admitted to the privileges of, the University;

(f) "Court" means the Court of the University;

(g) "Department" means a Department of Studies; and includes a Centre of Studies;

(h) "distance education system" means the system of imparting education through any means of communication, such as broadcasting, telecasting, correspondence courses, seminars, contact programmes or the combination of any two or more such means;

(i) "employee" means any person appointed by the University, and includes teachers and other staff of the University;

(j) "Executive Council" means the Executive Council of the University;

Short
title and
commence-
ment.

Defini-
tions.

(k) "Hall" means a unit of residence or of corporate life for the students of the University, or of a College or an Institution, maintained by the University;

(l) "Institution" means an academic institution, not being a College, maintained by, or admitted to the privileges of, the University;

(m) "Planning Board" means the Planning Board of the University;

(n) "Principal" means the Head of a College or an Institution maintained by the University and includes, where there is no Principal, the person for the time being duly appointed to act as Principal, and in the absence of the Principal or the acting Principal, a Vice-Principal duly appointed as such;

(o) "recognised Institution" means an institution of higher learning recognised by the University;

(p) "recognised teachers" means such persons as may be recognised by the University for the purpose of imparting instructions in a College or an Institution admitted to the privileges of the University;

(q) "Regulations" means the Regulations made by any authority of the University under this Act for the time being in force;

(r) "School" means a School of Studies of the University;

(s) "Statutes" and "Ordinances" mean, respectively, the Statutes and the Ordinances of the University for the time being in force;

(t) "teachers of the University" means Professors, Readers, Lecturers and such other persons as may be appointed for imparting instruction or conducting research in the University or in any College or Institution maintained by the University and are designated as teachers by the Ordinances;

(u) "University" means the Assam University established under this Act.

The Uni-
versity.

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

(2) The headquarters of the University shall be at Silchar and it may also establish campuses at such other places within its jurisdiction as it may deem fit.

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

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

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

Objects.

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

Powers
of the
Univer-
sity.

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

(ii) to grant, subject to such conditions as the University may determine, diplomas or certificates to, and confer degrees or other academic distinctions on the basis of examinations, evaluation or any other method of testing, on persons, and to withdraw any such diplomas, certificates, degrees or other academic distinctions for good and sufficient cause;

(iii) to organise and to undertake extra-mural studies, training and extension services;

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

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

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

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

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

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

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

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

(xii) to establish such campuses, special centres, specialised laboratories or other units for research and instruction as are, in the opinion of the University, necessary for the furtherance of its objects;

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

(xiv) to establish and maintain Colleges, Institutions and Halls;

(xv) to make provision for research and advisory services and for that purpose to enter into such arrangements with other institutions, industrial or other organisations, as the University may deem necessary;

(xvi) to organise and conduct refresher courses, workshops, seminars and other programmes for teachers, evaluators and other academic staff;

(xvii) to admit to its privileges colleges and institutions not maintained by the University; to withdraw all or any of those privileges in accordance with such conditions as may be prescribed by the Statutes; to recognise, guide, supervise, and control Halls not maintained by the University and other accommodation for students, and to withdraw any such recognition;

(xviii) to appoint on contract or otherwise visiting Professors, Emeritus Professors, Consultants, Scholars and such other persons who may contribute to the advancement of the objects of the University;

(xix) to confer autonomous status on a College or an Institution or a Department, as the case may be, in accordance with the Statutes;

(xx) to determine standards of admission to the University, which may include examination, evaluation or any other method of testing;

(xxi) to demand and receive payment of fees and other charges;

(xxii) to supervise the residences of the students of the University and to make arrangements for promoting their health and general welfare;

(xxiii) to lay down conditions of service of all categories of employees, including their code of conduct;

(xxiv) to regulate and enforce discipline among the students and the employees, and to take such disciplinary measures in this regard as may be deemed by the University to be necessary;

(xxv) to make arrangements for promoting the health and general welfare of the employees;

(xxvi) to receive benefactions, donations and gifts and to acquire, hold, manage and dispose of any property, movable or immovable, including trust and endowment properties for the purposes of the University;

(xxvii) to borrow, with the approval of the Central Government, on the security of the property of the University, money for the purposes of the University;

(xxviii) to do all such other acts and things as may be necessary, incidental or conducive to the attainment of all or any of its objects.

~~6. (1) The jurisdiction of the University shall extend to the whole~~

Jurisdiction.

(1) The jurisdiction of the University shall extend to the Cachar, Karimganj, North Cachar Hills, Karbi Anglong and Hailakandi Districts of the State of Assam.]

~~words "Karbi Anglong and Hailakandi" shall be substituted and shall~~

~~(3) The University may grant affiliation to any other College in the State provided the University concerned in whose jurisdiction the College is located has no objection.~~

2 x x x

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

University open to all classes, castes and creed.

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

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

The Visitor.

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

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

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

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

Subs. by Act 25 of 1995, S.2 [w.e.f. 15.1.1994]
Omitted by S-2

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

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

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

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

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

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

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

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

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

Provided that before making any such order, he shall call upon the Registrar to show cause why such an order should not be made, and, if any cause is shown within a reasonable time, he shall consider the same.

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

9. The Governor of the State of Assam shall be the Chief Rector of the University. The Chief Rector.

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

- (1) the Chancellor;
- (2) the Vice-Chancellor;
- (3) the Pro-Vice-Chancellor;
- (4) the Deans of Schools;
- (5) the Registrar;
- (6) the Finance Officer; and

Officers
of the
Univer-
sity.

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

11. (1) The Chancellor shall be appointed by the Visitor in such manner as may be prescribed by the Statutes. The Chan-
cellor.

(2) The Chancellor shall, by virtue of his office, be the Head of the University.

(3) The Chancellor shall, if present, preside at the convocations of the University held for conferring degrees.

12. (1) The Vice-Chancellor shall be appointed by the Visitor in such manner as may be prescribed by the Statutes. The Vice-
Chan-
cellor.

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

(3) The Vice-Chancellor may, if he is of opinion that immediate action is necessary on any matter, exercise any power conferred on any authority of the University by or under this Act and shall report to such authority the action taken by him on such matter:

Provided that if the authority concerned is of opinion that such action ought not to have been taken, it may refer the matter to the Visitor whose decision thereon shall be final:

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

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

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

The Pro-Vice-Chancellor.

13. 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.

Deans of Schools.

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

The Registrar.

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

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

The Finance Officer.

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

Other officers.

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

Authorities of the University.

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

- (1) the Court;
- (2) the Executive Council;
- (3) the Academic Council;
- (4) the Planning Board;
- (5) the Boards of Schools;
- (6) the Finance Committee; and
- (7) such other authorities as may be declared by the Statutes to be the authorities of the University.

The Court.

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

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

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

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

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

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

The Executive Council.

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

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

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

The
Academic
Council.

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

22. (1) The Planning Board shall be the principal planning body of the University.

The
Planning
Board.

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

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

The
Boards of
Schools.

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

The Fin-
ance
Commit-
tee.

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

Other
authori-
ties
of the
Univer-
sity.

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

Power
to make
Statutes.

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

(b) the election and continuance in office of the members of the said authorities and bodies, the filling up of vacancies of members, and all other matters relating to those authorities and other bodies for which it may be necessary or desirable to provide;

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

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

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

(f) the conditions of service of employees including provision for pension, insurance and provident fund, the manner of termination of service and disciplinary action;

(g) the principles governing the seniority of service of the employees of the University;

(h) the procedure for arbitration in cases of dispute between employees or students and the University;

(i) the procedure for appeal to the Executive Council by any employee or student against the action of any officer or authority of the University;

(j) the conferment of autonomous status on a College or an Institution or a Department;

(k) the establishment and abolition of Schools, Departments, Centres, Halls, Colleges and Institutions;

(l) the conferment of honorary degrees;

(m) the withdrawal of degrees, diplomas, certificates and other academic distinctions;

(n) the conditions under which Colleges and Institutions may be admitted to the privileges of the University and the withdrawal of such privileges;

(o) the institution of fellowships, scholarships, studentships, medals and prizes;

(p) the delegation of powers vested in the authorities or officers of the University;

(q) the maintenance of discipline among the employees and students;

(r) all other matters which by this Act are to be or may be provided for by the Statutes.

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

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

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

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

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

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

Provided that the Visitor may, on the expiry of the said period of three years, make, within one year from the date of such expiry, such

Statutes
how to
be made.

detailed Statutes as he may consider necessary and such detailed Statutes shall be laid before both Houses of Parliament.

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

28. (1) Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

Power
to make
Ordi-
nances.

(a) the admission of students to the University and their enrolment as such;

(b) the courses of study to be laid down for all degrees, diplomas and certificates of the University;

(c) the medium of instruction and examination;

(d) the award of degrees, diplomas, certificates and other academic distinctions, the qualifications for the same and the means to be taken relating to the granting and obtaining of the same;

(e) the fees to be charged for courses of study in the University and for admission to the examinations, degrees and diplomas of the University;

(f) the conditions for award of fellowships, scholarships, studentships, medals and prizes;

(g) the conduct of examinations, including the term of office and manner of appointment and the duties of examining bodies, examiners and moderators;

(h) the conditions of residence of the students of the University;

(i) the special arrangements, if any, which may be made for the residence, discipline and teaching of women students and the prescribing of special courses of studies for them;

(j) the appointment and emoluments of employees other than those for whom provision has been made in the Statutes;

(k) the establishment of Centres of Studies, Boards of Studies, Special Centres, Specialised Laboratories and other Committees;

(l) the manner of co-operation and collaboration with other Universities and authorities including learned bodies or associations;

(m) the creation, composition and functions of any other body which is considered necessary for improving the academic life of the University;

(n) such other terms and conditions of service of teachers and other academic staff as are not prescribed by the Statutes;

(o) the management of Colleges and Institutions established by the University;

(p) the supervision and management of Colleges and Institutions admitted to the privileges of the University;

(q) the setting up of a machinery for redressal of grievances of employees; and

(r) all other matters which by this Act or the Statutes may be provided for by the Ordinances.

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

Regulations.

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

Annual report.

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

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

(3) A copy of the annual report, as prepared under sub-section (1), shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both Houses of Parliament.

Annual accounts.

31. (1) The annual accounts and balance-sheet of the University shall be prepared under the directions of the Executive Council and shall, once at least every year and at intervals of not more than fifteen months, be audited by the Comptroller and Auditor-General of India or by such persons as he may authorise in this behalf.

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

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

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

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

Conditions of service of employees.

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

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

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

(4) Every request made by the employee under sub-section (2), shall be deemed to be a submission to arbitration upon the terms of this section within the meaning of the Arbitration Act, 1940.

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

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

Proce-
dure of
appeal
and arbi-
tration
in disci-
plinary
cases
against
students.

(2) Any dispute arising out of any disciplinary action taken by the University against a student shall, at the request of such student, be referred to a Tribunal of Arbitration and the provisions of sub-sections (2), (3), (4) and (5) of section 32 shall, as far as may be, apply to a reference made under this sub-section.

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

Right to
appeal.

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

Provi-
dent and
pension
funds.

(2) Where such provident fund or pension fund has been so constituted, the Central Government may declare that the provision of the Provident Funds Act, 1925, shall apply to such fund, as if it were a Government provident fund.

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

Disputes
as to
constitu-
tion of
Univer-
sity
authori-
ties and
bodies.

37. Where any authority of the University is given power by this Act or the Statutes to appoint Committees, such Committees shall, save as otherwise provided, consist of the members of the authority concerned and of such other person, if any, as the authority in each case may think fit.

Constitu-
tion of
Commit-
tees.

2 of 1940.

19 of 1925.

Filling of casual vacancies.

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

Proceedings of University authorities or bodies not invalidated by vacancies.

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

Protection of action taken in good faith.

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

Mode of proof of University record.

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, resolution or documents or the existence of entry in the register and shall be admitted as evidence of the matters and transactions therein where the original thereof would, if produced, have been admissible in evidence, notwithstanding anything contained in the Indian Evidence Act, 1872 or in any other law for the time being in force.

1 of 1872.

Power to remove difficulties.

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

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

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

Transitional provisions.

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

(a) the first Chancellor and the first Vice-Chancellor shall be appointed by the Visitor and each of the said officers shall hold office for a term of five years;

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

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

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

(e) the first Academic Council shall be constituted on the expiry of a period of six months from the commencement of this Act and during the said period of six months, the powers of the Academic Council shall be performed by the Planning Board constituted under section 22;

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

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

44. Notwithstanding anything contained in this Act, or in the Statutes or the Ordinances, any student of a College or an Institution, who, immediately before the admission of such College or Institution to the privileges of the University, was studying for a degree, diploma or certificate of Gauhati University or Dibrugarh University, shall be permitted by the University, to complete his course for that degree, diploma or certificate, as the case may be, and the Assam University and such College or Institution shall provide for the instructions and examination of such student in accordance with the syllabus of studies of Gauhati University or Dibrugarh University, as the case may be.

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

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

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

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

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

THE SCHEDULE

(See section 27)

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 from amongst persons of eminence in the academic or public life of the country:

Provided that if the Visitor does not approve of any 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 not be eligible for reappointment:

Provided that notwithstanding the expiry of his term of office, the Chancellor shall continue to hold office until his successor enters upon his office.

The Vice-Chancellor

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

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

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

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

(4) The Vice-Chancellor shall hold office for a term of five years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier, and he shall not be eligible for re-appointment:

Provided that notwithstanding the expiry of the said period of five years, he shall continue in office until his successor is appointed and enters upon his office:

Provided further that the Visitor may direct any Vice-Chancellor after his term has expired, to continue in office for such period, not exceeding a total period of one year, as may be specified by him.

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

(i) The Vice-Chancellor shall be paid a monthly salary and allowances other than the house rent allowance, at the rates fixed

by the Central Government from time to time and he shall be entitled, without payment of rent, to use a furnished residence throughout his term of office and no charge shall fall on the Vice-Chancellor in respect of the maintenance of such residence.

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

Provided that where an employee of the University or a College or an Institution maintained by or affiliated to it, or of any other University or any Institution maintained by or affiliated to such other University, is appointed as the Vice-Chancellor, he may be allowed to continue to contribute to any provident fund of which he is a member and the University shall contribute to the account of such person in that provident fund at the same rate at which the person had been contributing immediately before his appointment as the Vice-Chancellor:

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

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

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

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

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

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

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

Powers and duties of the Vice-Chancellor

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

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

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

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

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

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

Pro-Vice-Chancellor

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

Provided that where the recommendation of the Vice-Chancellor is not accepted by the Executive Council, the matter shall be referred to the Visitor who may either appoint the person recommended by the Vice-Chancellor or ask the Vice-Chancellor to recommend another person to the Executive Council;

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

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

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

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

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

Provided also that when the office of the Vice-Chancellor becomes vacant and there is no Pro-Vice-Chancellor to perform the functions of the Vice-Chancellor, the Executive Council may appoint a Pro-Vice-Chancellor and the Pro-Vice-Chancellor so appointed shall cease to hold office as such as soon as a Vice-Chancellor is appointed and enters upon his office,

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

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

Registrar

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

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

(3) The emoluments and other terms and conditions of service of the Registrar shall be such as may be prescribed by the Ordinances:

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

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

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

(5) (a) The Registrar shall have power to take disciplinary action against such of the employees, excluding teachers and academic staff, as may be specified in the order of the Executive Council and to suspend them pending inquiry, to administer warnings to them or to impose on them the penalty of censure or the withholding of increment:

Provided that no such penalty shall be imposed unless the person concerned has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(b) An appeal shall lie to the Vice-Chancellor against any order of the Registrar imposing any of the penalties specified in sub-clause (a).

(c) In a case where the inquiry discloses that a punishment beyond the power 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.

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

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

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

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

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

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

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

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

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

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

The Finance Officer

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

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

(3) The emoluments and other terms and conditions of service of the Finance Officer shall be such as may be prescribed by the Ordinances:

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

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

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

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

(6) The Finance Officer shall—

(a) exercise general supervision over the funds of the University and shall advise it as regards its financial policy; and

(b) perform such other financial functions as may be assigned to him by the Executive Council or as may be prescribed by the Statutes or the Ordinances.

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

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

(b) ensure that the limits fixed by the Executive Council for recurring and non-recurring expenditure for a year are not exceeded and that all moneys are expended on the purpose for which they are granted or allotted;

(c) be responsible for the preparation of annual accounts and the budget of the University and for their presentation to the Executive Council;

(d) keep a constant watch on the state of the cash and bank balances and on the state of investments;

(e) watch the progress of the collection of revenue and advise on the methods of collection employed;

(f) ensure that the registers of buildings, land, furniture and equipment are maintained up-to-date and that stock-checking is conducted, of equipment and other consumable materials in all offices, Special Centres, Specialised Laboratories, Colleges and Institutions maintained by the University;

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

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

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

Deans of Schools of Studies

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

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

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

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

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

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

Heads of Departments

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

(2) In the case of Departments where there is only one Professor, the Executive Council shall have the option to appoint, on the recommendation of the Vice-Chancellor, either the Professor or a Reader as the Head of the Department:

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

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

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

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

Proctors

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

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

Librarian

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

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

Meetings of the Court

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

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

(3) A copy of the statement of receipts and expenditure, the balance-sheet and the financial estimates referred to in clause (2), shall be sent to every Member of the Court at least seven days before the date of the annual meeting.

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

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

Quorum for meetings of the Executive Council

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

Powers and functions of the Executive Council

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

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

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

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

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

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

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

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

(vi) to manage and regulate the finances, accounts, investments, property, business and all other administrative affairs of the University, and for that purpose to appoint such agents as it may think fit;

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

(viii) to invest any money belonging to the University, including any unapplied income, in such stocks, funds, share or securities, from time to time, as it may think fit or in the purchase of immovable property in India, with the like powers of varying such investment from time to time;

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

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

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

(xii) to entertain, adjudicate upon, and, if thought fit, to redress any grievances of the employees and students of the University who may, for any reason, feel aggrieved;

(xiii) to appoint examiners and moderators and, if necessary, to remove them, and to fix their fees, emoluments and travelling and other allowances, after consulting the Academic Council;

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

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

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

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

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

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

Quorum for meetings of the Academic Council

14. Nine Members of the Academic Council shall form a quorum for a meeting of the Academic Council.

Powers of the Academic Council

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

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

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

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

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

The Planning Board

16. (1) The Planning Board shall be the principal planning body of the University and shall be responsible for—

(a) reviewing the educational programmes offered by the University;

(b) organising the structure of education in the University so as to provide opportunities to students to offer different combinations of subjects appropriate for the development of personality and skills for useful work in society;

(c) creating an atmosphere and environment conducive to value-oriented education; and

(d) developing new teaching-learning processes which will combine the lectures, tutorials, seminars, demonstrations, self-studies and collective practical projects.

(2) The Planning Board shall have the power to advise on the development of the University and review the progress implementation of programmes so as to ascertain whether they are on the lines recommended by it and shall also have the power to advise the Executive Council and the Academic Council on any matter in connection therewith.

(3) The Academic Council and the Executive Council shall be bound to consider the recommendations of the Planning Board and shall implement such of the recommendations as are accepted by it.

(4) Such of those recommendations of the Planning Board as have not been accepted by the Executive Council or the Academic Council under clause (3) shall be submitted by the Vice-Chancellor along with the recommendations of the Executive Council or the Academic Council, to the Visitor for advice and the advice of the Visitor shall be implemented by the Executive Council or the Academic Council, as the case may be.

(5) The Planning Board may constitute such committees as may be necessary for planning and monitoring the programmes of the University.

Schools of Studies and Departments

17. (1) The University shall have such Schools of Studies as may be specified by the Ordinances.

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

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

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

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

(b) No Department shall be established or abolished except by the Statutes:

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

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

(i) Teachers of the Department;

(ii) Persons conducting research in the Department;

(iii) Dean of the School;

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

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

Boards of Studies

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

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

(3) The functions of a Board of Studies shall be to approve subjects for research for various degrees and other requirements of research degrees and to recommend to the concerned School Board in the manner prescribed by the Ordinances—

- (a) courses of studies and appointment of examiners for courses, but excluding research degrees;
- (b) appointment of supervisors of research; and
- (c) measures for the improvement of the standard of teaching and research:

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

Finance Committee

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

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

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

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

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

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

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

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

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

Selection Committees

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

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

TABLE

1	2
Professor	<p>(i) The Head of the Department concerned if he is a Professor.</p> <p>(ii) One Professor to be nominated by the Vice-Chancellor.</p> <p>(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.</p>
Reader/Lecturer	<p>(i) The Head of the Department concerned.</p> <p>(ii) One Professor to be nominated by the Vice-Chancellor.</p> <p>(iii) Two persons not in the Service of the University, nominated by the Executive Council, out of a panel of names recommended by the Academic Council for their special knowledge of, or interest in, the subject with which the Reader or a Lecturer will be concerned.</p>
Registrar, Finance Officer	<p>(i) Two members of the Executive Council nominated by it; and</p> <p>(ii) One person not in the service of the University nominated by the Executive Council.</p>
Librarian	<p>(i) Two persons not in the service of the University, who have special knowledge of the subject of the Library Science/Library Administration to be nominated by the Executive Council.</p> <p>(ii) One person not in the service of the University, nominated by the Executive Council.</p>
Principal of College or Institution maintained by the University	Three persons not in the service of the University of whom two shall be nominated by the Executive Council and one by the Academic Council for their special knowledge of, or interest in, a subject in which instruction is being provided by the College or Institution.

- NOTE: 1. Where the appointment is being made for an inter-disciplinary project, the head of the project shall be deemed to be the Head of the Department concerned.
2. The Professor to be nominated shall be Professor concerned with the speciality for which the selection is being made and that the Vice-Chancellor shall consult the Head of the Department and the Dean of School before nominating the Professor.

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

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

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

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

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

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

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

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

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

(i) If the temporary vacancy is for a duration longer than one academic session, it shall be filled on the advice of the Selection Committee in accordance with the procedure indicated in the foregoing clauses:

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

(ii) If the temporary vacancy is for a period less than a year, an appointment to such vacancy shall be made on the recommendation of a local Selection Committee consisting of the Dean of the School concerned, the Head of the Department and a nominee of the Vice-Chancellor:

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

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

(iii) No teacher appointed temporarily shall, if he is not recommended by a regular Selection Committee for appointment under the

Statutes, be continued in service on such temporary employment, unless he is subsequently selected by a local Selection Committee of a regular Selection Committee, for a temporary or permanent appointment, as the case may be.

Special mode of appointment

21. (1) Notwithstanding anything contained in Statute 20, the Executive Council may invite a person of high academic distinction and professional attainments to accept a post of Professor or Reader or any others academic post in the University, as the case may be, on such terms and conditions as it deems fit, and on the person agreeing to do so appoint him to the post.

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

Appointment for a fixed tenure

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

Recognised teachers

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

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

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

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

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

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

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

Committees

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

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

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

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

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

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

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

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

Seniority list

27. (1) Whenever, in accordance with the Statutes, any person is to hold an office or be a member of an authority of the University by rotation according to seniority, such seniority shall be determined according to the length of continuous service of such person in his grade, and, in accordance with such other principles as the Executive Council may, from time to time, prescribe.

(2) It shall be the duty of the Registrar to prepare and maintain, in respect of each class of persons to whom the provisions of these Statutes apply, a complete and up-to-date seniority list in accordance with the provisions of clause (1).

(3) If two or more persons have equal length of continuous service in a particular grade or the relative seniority of any person or persons is otherwise in doubt, the Registrar may, on his own motion and shall, at the request of any such person, submit the matter to the Executive Council whose decision thereon shall be final.

Removal of employees of the University

28. (1) Where there is an allegation of misconduct against a teacher, a member of the academic staff or other employee of the University, the Vice-Chancellor, in the case of the teacher or member of the academic staff, and the authority competent to appoint (hereinafter referred to as the appointing authority) in the case of other employee, may, by order in writing place such teacher, member of the academic staff or other employee, as the case may be, under suspension and shall forthwith report to the Executive Council the circumstances in which the order was made:

Provided that the Executive Council may, if it is of the opinion, that the circumstances of the case do not warrant the suspension of the teacher or a member of the academic staff, revoke such order.

(2) Notwithstanding anything contained in the terms of the contract of appointment or of any other terms and conditions of service of the employees, the Executive Council in respect of teachers and other academic staff, and the appointing authority, in respect of other employees, shall have the power to remove a teacher or a member of the academic staff, or as the case may be, other employee on grounds of misconduct.

(3) Save as aforesaid, the Executive Council, or as the case may be, the appointing authority, shall not be entitled to remove any teacher, member of the academic staff or other employee except for a good cause and after giving three months' notice or on payment of three months' salary in lieu thereof.

(4) No teacher, member of the academic staff or other employee shall be removed under clause (2) or clause (3) unless he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(5) The removal of a teacher, member of the academic staff or other employee shall take effect from the date on which the order of removal is made:

Provided that where the teacher, member of the academic staff or other employee is under suspension at the time of his removal, such removal shall take effect from the date on which he was placed under suspension.

(6) Notwithstanding anything contained in the foregoing provisions of this Statute, a teacher, member of the academic staff or other employee may resign,—

(a) if he is a permanent employee, only after giving three months' notice in writing to the Executive Council or the appointing authority, as the case may be, or by paying three months' salary in lieu thereof;

(b) if he is not a permanent employee, only after giving one month's notice in writing to the Executive Council or, as the case may be, the appointing authority or by paying one month's salary in lieu thereof:

Provided that such resignation shall take effect only on the date on which the resignation is accepted by the Executive Council or the appointing authority, as the case may be.

Honorary degrees

29. (1) The Executive Council may, on the recommendation of the Academic Council and by a resolution passed by a majority of not less than two-thirds of the members present and voting, make proposals to the Visitor for the conferment of honorary degrees:

Provided that in case of emergency, the Executive Council may, on its own motion, make such proposals.

(2) The Executive Council may, by a resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw, with the previous sanction of the Visitor, any honorary degree conferred by the University.

Withdrawal of degrees, etc.

30. The Executive Council may, by a special resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw any degree or academic distinction conferred on, or any certificate or diploma granted to, any person by the University for good and sufficient cause:

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

Maintenance of discipline among students of the University

31. (1) All powers relating to discipline and disciplinary action in relation to students of the University shall vest in the Vice-Chancellor.

(2) The Vice-Chancellor may delegate all or any of his powers as he deems proper to a Proctor and to such other officers as he may specify in this behalf.

(3) Without prejudice to the generality of his powers relating to the maintenance of discipline and taking such action, as may seem to him appropriate for the maintenance of discipline, the Vice-Chancellor may, in exercise of his powers, by order, direct that any student or students be expelled, or rusticated, for a specified period, or be not admitted to a course or courses of study in a College, Institution or Department of the University for a stated period, or be punished with fine for an amount to be specified in the order, or be debarred from taking an examination or examinations conducted by the University, College, Institution or Department or a School for one or more years, or that the results of the student or students concerned in the examination or examinations in which he or they have appeared be cancelled.

(4) The Principals of Colleges, Institutions, Deans of Schools of Studies and Heads of teaching Departments in the University shall have the authority to exercise all such disciplinary powers over the students in their respective Colleges, Institutions, Schools and teaching Departments in the University as may be necessary for the proper conduct of such Colleges, Institutions, Schools and teaching in the Departments.

(5) Without prejudice to the powers of the Vice-Chancellor, the Principals and other persons specified in clause (4), detailed rules of discipline and proper conduct shall be made by the University. The Principals of Colleges, Institutions, Deans of Schools of Studies and Heads of teaching Departments in the University may also make the supplementary rules as they deem necessary for the aforesaid purposes.

(6) At the time of admission, every student shall be required to sign a declaration to the effect that he submits himself to the disciplinary jurisdiction of the Vice-Chancellor and other authorities of the University.

Maintenance of discipline among Students of Colleges, etc.

32. All powers relating to discipline and disciplinary action in relation to Students of a College or an Institution, not maintained by the University, shall vest in the Principal of the College or Institution, as the case may be, in accordance with the procedure prescribed by the Ordinances.

Admission of Colleges, etc., to the privileges of the University

33. (1) Colleges and other Institutions situated within the jurisdiction of the University may be admitted to such privileges of the University as the Executive Council may decide on the following conditions, namely:—

(i) Every such College or Institution shall have a regularly constituted Governing Body, consisting of not more than fifteen persons approved by the Executive Council and including among others, two teachers of the University to be nominated by the Executive Council and three representatives of the teaching staff of whom the Principal of the College or Institution shall be one. The procedure for appointment of members of the Governing Body and other matters affecting the management of a College or an Institution shall be prescribed by the Ordinances:

Provided that the said condition shall not apply in the case of Colleges and Institutions maintained by Government which shall, however, have an Advisory Committee consisting of not more than fifteen persons which shall consist of among others, three teachers including the Principal of the College or Institution, and two teachers of the University nominated by the Executive Council.

(ii) Every such College or Institution shall satisfy the Executive Council on the following matters, namely:—

(a) the suitability and adequacy of its accommodation and equipment for teaching;

(b) the qualifications and adequacy of its teaching staff and the conditions of their service;

(c) the arrangements for the residence, welfare, discipline and supervision of students;

(d) the adequacy of financial provision made for the continued maintenance of the College or Institution; and

(e) such other matters as are essential for the maintenance of the standards of University education.

(iii) No College or Institution shall be admitted to any privileges of the University except on the recommendation of the Academic Council made after considering the report of a Committee of Inspection appointed for the purpose by the Academic Council.

(iv) Colleges and Institutions desirous of admission to any privileges of the University shall be required to intimate their intention to do so in writing so as to reach the Registrar not later than the 15th August, preceding the year from which permission applied for is to have effect.

(v) A College or an Institution shall not, without the previous permission of the Executive Council and the Academic Council, suspend instruction in any subject or course of study which it is authorised to teach and teaches.

(2) Appointment to the teaching staff and Principals of Colleges or Institutions admitted to the privileges of the University shall be made in the manner prescribed by the Ordinances:

Provided that nothing in this clause shall apply to Colleges and Institutions maintained by Government.

(3) The service conditions of the administrative and other non-academic staff of every College or Institution referred to in clause (2) shall be such as may be laid down in the Ordinances:

Provided that nothing in this clause shall apply to Colleges and Institutions maintained by Government.

(4) Every College or Institution admitted to the privilege of the University shall be inspected at least once in every two academic years by a Committee appointed by the Academic Council, and the report of the Committee shall be submitted to the Academic Council, which shall forward the same to the Executive Council with such recommendations as it may deem fit to make.

(5) The Executive Council, after considering the report and the recommendations, if any, of the Academic Council, shall forward a copy of the report of the Governing Body of the College or Institution with such remarks, if any, as it may deem fit for suitable action.

(6) The Executive Council may, after consulting the Academic Council, withdraw any privileges granted to a College or an Institution, at any time it considers that the College or Institution does not satisfy any of the conditions on the fulfilment of which the College or Institution was admitted to such privileges:

Provided that before any privileges are so withdrawn, the Governing Body of the College or Institution concerned shall be given an opportunity to represent to the Executive Council why such action should not be taken.

(7) Subject to the conditions set forth in clause (1), the Ordinances may prescribe—

(i) such other conditions as may be considered necessary;

(ii) the procedure for the admission of Colleges and Institutions to the privileges of the University and for the withdrawal of those privileges.

Convocations

34. 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

35. Where no provision is made for a President or Chairman to preside over a meeting of any authority of the University or any committee

of such authority or when the President or Chairman so provided for is absent, the members present shall elect one from among themselves to preside at such meeting.

Resignation

36. Any member, other than an *ex officio* member of the Court, the Executive Council, the Academic Council or any other authority of the University or any committee of such authority may resign by letter addressed to the Registrar and the resignation shall take effect as soon as such letter is received by the Registrar.

Disqualifications

37. (1) A person shall be disqualified for being chosen as, and for being, a member of any of the authorities of the University,—

(i) if he is of unsound mind;

(ii) if he is an undischarged insolvent;

(iii) if he has been convicted by a court of law of an offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months.

(2) If any question arises as to whether a person is or had been subjected to any of the disqualifications mentioned in clause (1), the question shall be referred to the Visitor and his decision shall be final and no suit or other proceeding shall lie in any civil court against such decision.

Residence condition for membership and office

38. Notwithstanding anything contained in the Statutes, a 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

39. Notwithstanding anything contained in the Statutes, a person who holds any post in the University or is a member of any authority or body of the University in his capacity as a member of a particular authority or body or as the holder of a particular appointment shall hold such office or membership only for so long as he continues to be a member of that particular authority or body or the holder of that particular appointment, as the case may be.

Alumni Association

40. (1) There shall be an Alumni Association for the University.

(2) The subscription for membership of the Alumni Association shall be prescribed by the Ordinances.

(3) No member of the Alumni Association shall be entitled to vote or stand for election unless he has been a member of the Association for at least one year prior to the date of the election and is a degree holder of the University of at least five years standing:

Provided that the condition relating to the completion of one year's membership shall not apply in the case of the first election.

Students' Council

41. (1) There shall be constituted in the University, a Students' Council for every academic year, consisting of:

(i) the Dean of Students' Welfare who shall be the Chairman of the Students' Council;

(ii) all students who have won prizes in the previous academic year in the fields of studies, fine arts, sports and extension work;

(iii) twenty students to be nominated by the Academic Council on the basis of merit in studies, sports, activities and all-round development of personality:

Provided that any student of the University shall have the right to bring up any matter concerning the University before the Students' Council if so permitted by the Chairman, and he shall have the right to participate in the discussions at any meeting when the matter is taken up for consideration.

(2) The functions of the Students' Council shall be to make suggestions to the appropriate authorities of the University in regard to the programmes of studies, students' welfare and other matters of importance in regard to the working of the University in general and such suggestions shall be made on the basis of consensus of opinion.

(3) The Students' Council shall meet at least once in an academic year preferably in the beginning of that year.

Ordinances how made

42. (1) The first Ordinances made under sub-section (2) of section 28 may be amended, repealed or added to at any time by the Executive Council in the manner specified below.

(2) No Ordinance in respect of the matters enumerated in section 28, other than those enumerated in clause (n) of sub-section (1) thereof, shall be made by the Executive Council unless a draft of such Ordinance has been proposed by the Academic Council.

(3) The Executive Council shall not have power to amend any draft of any Ordinance proposed by the Academic Council under clause (2), but may reject the proposal or return the draft to the Academic Council for re-consideration, either in whole or in part, together with any amendment which the Executive Council may suggest.

(4) Where the Executive Council has rejected or returned the draft of an Ordinance proposed by the Academic Council, the Academic Council may consider the question afresh and in case the original draft is reaffirmed by the majority of not less than two-thirds of the members present and voting and more than half the total number of members of the Academic Council, the draft may be sent back to the Executive Council which shall either adopt it or refer it to the Visitor whose decision shall be final.

(5) Every Ordinance made by the Executive Council shall come into effect immediately.

(6) Every Ordinance made by the Executive Council shall be submitted to the Visitor within two weeks from the date of its adoption. The Visitor shall have the power to direct the University within four weeks of the receipt of the Ordinance to suspend the operation of any such

Ordinance and he shall, as soon as possible, inform the Executive Council about his objection to the proposed Ordinance. The Visitor may, after receiving the comments of the University, either withdraw the order suspending the Ordinance or disallow the Ordinance, and his decision shall be final.

Regulations

43. (1) The authorities of the University may make Regulations consistent with the Act, the Statutes and the Ordinances for the following matters, namely:—

(i) laying down the procedure to be observed at their meetings and the number of members required to form a quorum;

(ii) providing for all matters which are required by the Act, the Statutes or the Ordinances to be prescribed by Regulations;

(iii) providing for all other matters solely concerning such authorities or committees appointed by them and not provided for by the Act, the Statutes or the Ordinances.

(2) Every authority of the University shall make Regulations providing for the giving of notice to the members of such authority of the dates of meeting and of the business to be considered at meetings and for the keeping of a record of the proceedings of meetings.

(3) The Executive Council may direct the amendment in such manner as it may specify, of any Regulation made under the Statutes or the annulment of any such Regulation.

Delegation of powers

44. Subject to the provisions of the Act and the Statutes, any officer or authority of the University may delegate his or its powers to any other officer or authority or person under his or its respective control and subject to the condition that overall responsibility for the exercise of the powers so delegated shall continue to vest in the officer or authority delegating such powers.

THE RAILWAYS ACT, 1989

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title and commencement.
2. Definitions.

CHAPTER II

RAILWAY ADMINISTRATIONS

3. Zonal Railways.
4. Appointment of General Manager.

CHAPTER III

COMMISSIONERS OF RAILWAY SAFETY

5. Appointment of Chief Commissioner of Railway Safety and Commissioners of Railway Safety.
6. Duties of Commissioner.
7. Powers of Commissioner.
8. Commissioner to be public servant.
9. Facilities to be afforded to Commissioners.
10. Annual report of Commissioners.

CHAPTER IV

CONSTRUCTION AND MAINTENANCE OF WORKS

11. Power of railway administrations to execute all necessary works.
12. Power to alter the position of pipe, electric supply line, drain or sewer, etc.
13. Protection for Government property.
14. Temporary entry upon land to remove obstruction, to repair or to prevent accident.
15. Payment of amount for damage or loss.
16. Accommodation works.
17. Power of owner, occupier, State Government or local authority to cause additional accommodation works to be made.

SECTIONS

18. Fences, gates and bars.
19. Overbridges and underbridges.
20. Power of Central Government to give directions for safety.

CHAPTER V

OPENING OF RAILWAYS

21. Sanction of the Central Government to the opening of railway.
22. Formalities to be complied with before giving sanction to the opening of a railway.
23. Sections 21 and 22 to apply to the opening of certain works.
24. Temporary suspension of traffic.
25. Power to close railway opened for the public carriage of passengers.
26. Re-opening of closed railway.
27. Use of rolling stock.
28. Delegation of powers.
29. Power to make rules in respect of matters in this Chapter.

CHAPTER VI

FIXATION OF RATES

30. Power to fix rates.
31. Power to classify commodities or alter rates.
32. Power of railway administration to charge certain rates.

CHAPTER VII

RAILWAY RATES TRIBUNAL

33. Constitution of the Railway Rates Tribunal.
34. Staff of the Tribunal.
35. Sittings of the Tribunal.
36. Complaints against a railway administration.
37. Matters not within the jurisdiction of the Tribunal.
38. Powers of the Tribunal.
39. Reference to the Tribunal.
40. Assistance by the Central Government.
41. Burden of proof, etc.
42. Decision, etc., of the Tribunal.
43. Bar of jurisdiction of courts.
44. Reliefs which the Tribunal may grant.

SECTIONS

45. Revision of decisions given by the Tribunal.
46. Execution of decisions or orders of the Tribunal.
47. Report to the Central Government.
48. Power of the Tribunal to make regulations.

CHAPTER VIII

CARRIAGE OF PASSENGERS

49. Exhibition of certain timings and tables of fares at stations.
50. Supply of tickets on payment of fare.
51. Provision for case in which ticket is issued for class or train not having accommodation for additional passengers.
52. Cancellation of ticket and refund.
53. Prohibition against transfer of certain tickets.
54. Exhibition and surrender of passes and tickets.
55. Prohibition against travelling without pass or ticket.
56. Power to refuse to carry persons suffering from infectious or contagious diseases.
57. Maximum number of passengers for each compartment.
58. Earmarking of compartment, etc., for ladies.
59. Communications between passengers and railway servant in charge of train.
60. Power to make rules in respect of matters in this Chapter.

CHAPTER IX

CARRIAGE OF GOODS

61. Maintenance of rate-books, etc., for carriage of goods.
62. Conditions for receiving, etc., of goods.
63. Provisions of risk rates.
64. Forwarding note.
65. Railway receipt.
66. Power to require statement relating to the description of goods.
67. Carriage of dangerous or offensive goods.
68. Carriage of animals suffering from infectious or contagious diseases.
69. Deviation of route.
70. Prohibition of undue preference.
71. Power to give direction in regard to carriage of certain goods.
72. Maximum carrying capacity for wagons and trucks.

SECTIONS

73. Punitive charge for overloading a wagon.
74. Passing of property in the goods covered by railway receipt.
75. Section 74 not to affect right of stoppage in transit or claims for freight.
76. Surrender of railway receipt.
77. Power of railway administration to deliver goods or sale proceeds thereof in certain cases.
78. Power to measure, weigh, etc.
79. Weighment of consignment on request of the consignee or endorsee.
80. Liability of railway administration for wrong delivery.
81. Open delivery of consignments.
82. Partial delivery of consignments.
83. Lien for freight or any other sum due.
84. Unclaimed consignment.
85. Disposal of perishable consignments in certain circumstances.
86. Sales under sections 83 to 85 not to affect the right to suit.
87. Power to make rules in respect of matters in this Chapter.

CHAPTER X

SPECIAL PROVISIONS AS TO GOODS BOOKED TO NOTIFIED STATIONS

88. Definitions.
89. Power to declare notified stations.
90. Disposal of unremoved goods at notified stations.
91. Price to be paid to person entitled after deducting dues.
92. Power to make rules in respect of matters in this Chapter.

CHAPTER XI

REPRESENTATIVES OF RAILWAY ADMINISTRATIONS AS CARRIERS

93. General responsibility of a railway administration as carrier of goods.
94. Goods to be loaded or delivered at a siding not belonging to a railway administration.
95. Delay or detention in transit.
96. Traffic passing over railways in India and railways in foreign countries.
97. Goods carried at owner's risk rate.
98. Goods in defective condition or defectively packed.
99. Responsibility of a railway administration after termination of transit.

SECTIONS

100. Responsibility as carrier of luggage.
101. Responsibility as a carrier of animals.
102. Exoneration from liability in certain cases.
103. Extent of monetary liability in respect of any consignment.
104. Extent of liability in respect of goods carried in open wagon.
105. Right of railway administration to check contents of certain consignment or luggage.
106. Notice of claim for compensation and refund of overcharge.
107. Applications for compensation for loss, etc., of goods.
108. Person entitled to claim compensation.
109. Railway administration against which application for compensation for personal injury is to be filed.
110. Burden of proof.
111. Extent of liability of railway administration in respect of accidents at sea.
112. Power to make rules in respect of matters in this Chapter.

CHAPTER XII

ACCIDENTS

113. Notice of railway accident.
114. Inquiry by Commissioner.
115. Inquiry by railway administration.
116. Powers of Commissioner in relation to inquiries.
117. Statement made before Commissioner.
118. Procedure, etc.
119. No inquiry, investigation, etc., to be made if the Commission of Inquiry is appointed.
120. Inquiry into accident not covered by section 113.
121. Returns.
122. Power to make rules in respect of matters in this Chapter.

CHAPTER XIII

LIABILITY OF RAILWAY ADMINISTRATION FOR DEATH AND INJURY TO
PASSENGERS DUE TO ACCIDENTS

123. Definitions.
124. Extent of liability.
125. Application for compensation.
126. Interim relief by railway administration.

SECTIONS

127. Determination of compensation in respect of any injury or loss of goods.
128. Saving as to certain rights.
129. Power to make rules in respect of matters in this Chapter.

CHAPTER XIV

REGULATION OF HOURS OF WORK AND PERIOD OF REST

130. Definitions.
131. Chapter not to apply to certain railway servants.
132. Limitation of hours of work.
133. Grant of periodical rest.
134. Railway servant to remain on duty.
135. Supervisors of railway labour.
136. Power to make rules in respect of matters in this Chapter.

CHAPTER XV

PENALTIES AND OFFENCES

137. Fraudulently travelling or attempting to travel without proper pass or ticket.
138. Levy of excess charge and fare for travelling without proper pass or ticket or beyond authorised distance.
139. Power to remove persons.
140. Security for good behaviour in certain cases.
141. Needlessly interfering with means of communication in a train.
142. Penalty for transfer of tickets.
143. Penalty for unauthorised carrying on of business of procuring and supplying of railway tickets.
144. Prohibition on hawking, etc., and begging.
145. Drunkenness or nuisance.
146. Obstructing railway servant in his duties.
147. Trespass and refusal to desist from trespass.
148. Penalty for making a false statement in an application for compensation.
149. Making a false claim for compensation.
150. Maliciously wrecking or attempting to wreck a train.
151. Damage to or destruction of certain railway properties.
152. Maliciously hurting or attempting to hurt persons travelling by railway.

SECTIONS

153. Endangering safety of persons travelling by railway by wilful act or omission.
154. Endangering safety of persons travelling by railway by rash or negligent act or omission.
155. Entering into a compartment reserved or resisting entry into a compartment not reserved.
156. Travelling on roof, step or engine of a train.
157. Altering or defacing pass or ticket.
158. Penalty for contravention of any of the provisions of Chapter XIV.
159. Disobedience of drivers or conductors of vehicles to directions of railway servant, etc.
160. Opening or breaking a level crossing gate.
161. Negligently crossing unmanned level crossing.
162. Entering carriage or other place reserved for females.
163. Giving false account of goods.
164. Unlawfully bringing dangerous goods on a railway.
165. Unlawfully bringing offensive goods on a railway.
166. Defacing public notices.
167. Smoking.
168. Provision with respect to commission of offence by the children of acts endangering safety of person travelling on railway.
169. Levy of penalty on non-Government railway.
170. Recovery of penalty.
171. Section 169 or 170 not to preclude Central Government from taking any other action.
172. Penalty for intoxication.
173. Abandoning train, etc., without authority.
174. Obstructing running of train, etc.
175. Endangering the safety of persons.
176. Obstructing level crossing.
177. False returns.
178. Making a false report by a railway servant.
179. Arrest for offences under certain sections.
180. Arrest of persons likely to abscond, etc.
181. Magistrate having jurisdiction under the Act.
182. Place of trial.

CHAPTER XVI

MISCELLANEOUS

SECTIONS

183. Power to provide other transport services.
184. Taxation on railways by local authorities.
185. Taxation on railways for advertisement.
186. Protection of action taken in good faith.
187. Restriction on execution against railway property.
188. Railway servants to be public servants for the purposes of Chapter IX and section 409 of the Indian Penal Code.
189. Railway servants not to engage in trade.
190. Procedure for delivery to railway administration of property detained by a railway servant.
191. Proof of entries in records and documents.
192. Service of notice, etc., on railway administration.
193. Service of notice, etc., by railway administration.
194. Presumption where notice is served by post.
195. Representation of railway administration.
196. Power to exempt railway from Act.
197. Matters supplemental to the definitions of "railway" and "railway servant".
198. General power to make rules.
199. Rules to be laid before Parliament.
200. Repeal and saving.

THE RAILWAYS ACT, 1989

No. 24 OF 1989

[3rd June, 1989.]

An Act to consolidate and amend the law relating to Railways.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Railways Act, 1989.

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

Provided that different dates may be appointed for different provisions of this Act, and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

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

(1) "authorised" means authorised by a railway administration;

(2) "carriage" means the carriage of passengers or goods by a railway administration;

(3) "Claims Tribunal" means the Railway Claims Tribunal established under section 3 of the Railway Claims Tribunal Act, 1987;

(4) "classification" means the classification of commodities made under section 31 for the purpose of determining the rates to be charged for carriage of such commodities;

(5) "class rates" means the rate fixed for a class of commodity in the classification;

(6) "Commissioner" means the Chief Commissioner of Railway Safety or the Commissioner of Railway Safety appointed under section 5;

(7) "commodity" means a specific item of goods;

Short
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54 of 1987

(8) "consignee" means the person named as consignee in a railway receipt;

(9) "consignment" means goods entrusted to a railway administration for carriage;

(10) "consignor" means the person, named in a railway receipt as consignor, by whom or on whose behalf goods covered by the railway receipt are entrusted to a railway administration for carriage;

(11) "demurrage" means the charge levied for the detention of any rolling stock after the expiry of free time, if any, allowed for such detention;

(12) "endorsee" means the person in whose favour an endorsement is made, and in the case of successive endorsements, the person in whose favour the last endorsement is made;

(13) "endorsement" means the signing by the consignee or the endorsee after adding a direction on a railway receipt to pass the property in the goods mentioned in such receipt to a specified person;

(14) "fare" means the charge levied for the carriage of passengers;

(15) "ferry" includes a bridge of boats, pontoons or rafts, a swing bridge, a fly-bridge and a temporary bridge and the approaches to, and landing places of, a ferry;

(16) "forwarding note" means the document executed under section 64;

(17) "freight" means the charge levied for the carriage of goods including transshipment charges, if any;

(18) "General Manager" means the General Manager of a Zonal Railway appointed under section 4;

(19) "goods" includes—

(i) containers, pallets or similar articles of transport used to consolidate goods; and

(ii) animals;

(20) "Government railway" means a railway owned by the Central Government;

(21) "in transit", in relation to the carriage of goods by railway, means the period between the commencement and the termination of transit of such goods, and unless otherwise previously determined—

(a) transit commences as soon as the railway receipt is issued or the consignment is loaded, whichever is earlier;

(b) transit terminates on the expiry of the free time allowed for unloading of consignment from any rolling stock and where such unloading has been completed within such free time, transit

terminates on the expiry of the free time allowed, for the removal of the goods from the railway premises;

(22) "level crossing" means an inter-section of a road with lines of rails at the same level;

(23) "luggage" means the goods of a passenger either carried by him in his charge or entrusted to a railway administration for carriage;

(24) "lump sum rate" means the rate mutually agreed upon between a railway administration and a consignor for the carriage of goods and for any service in relation to such carriage;

(25) "non-Government railway" means a railway other than a Government railway;

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

(27) "parcel" means goods entrusted to a railway administration for carriage by a passenger or a parcel train;

(28) "pass" means an authority given by the Central Government or a railway administration to a person allowing him to travel as a passenger, but does not include a ticket;

(29) "passenger" means a person travelling with a valid pass or ticket;

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

(31) "railway" means a railway, or any portion of a railway, for the public carriage of passengers or goods, and includes—

(a) all lands within the fences or other boundary marks indicating the limits of the land appurtenant to a railway;

(b) all lines of rails, sidings, or yards, or branches used for the purposes of, or in connection with, a railway;

(c) all electric traction equipments, power supply and distribution installations used for the purposes of, or in connection with, a railway;

(d) all rolling stock, stations, offices, warehouses, wharves, workshops, manufactories, fixed plant and machinery, roads and streets, running rooms, rest houses, institutes, hospitals, water works and water supply installations, staff dwellings and any other works constructed for the purpose of, or in connection with, railway;

(e) all vehicles which are used on any road for the purposes of traffic of a railway and owned, hired or worked by a railway; and

(f) all ferries, ships, boats and rafts which are used on any canal, river, lake or other navigable inland waters for the pur-

poses of the traffic of a railway and owned, hired or worked by a railway administration,

but does not include—

- (i) a tramway wholly within a municipal area; and
 - (ii) lines of rails built in any exhibition ground, fair, park, or any other place solely for the purpose of recreation;
- (32) "railway administration", in relation to—
- (a) a Government railway, means the General Manager of a Zonal Railway; and
 - (b) a non-Government railway, means the person who is the owner or lessee of the railway or the person working the railway under an agreement;
- (33) "railway receipt" means the receipt issued under section 65;
- (34) "railway servant" means any person employed by the Central Government or by a railway administration in connection with the service of a railway;
- (35) "rate" includes any fare, freight or any other charge for the carriage of any passenger or goods;
- (36) "regulations" means the regulations made by the Railway Rates Tribunal under this Act;
- (37) "rolling stock" includes locomotives, tenders, carriages, wagons, rail-cars, containers, trucks, trolleys and vehicles of all kinds moving on rails;
- (38) "station to station rate" means a special reduced rate applicable to a specific commodity booked between specified stations;
- (39) "traffic" includes rolling stock of every description, as well as passengers and goods;
- (40) "Tribunal" means the Railway Rates Tribunal constituted under section 33;
- (41) "wharfage" means the charge levied on goods for not removing them from the railway after the expiry of the free time for such removal;
- (42) "Zonal Railway" means a Zonal Railway constituted under section 3.

CHAPTER II

RAILWAY ADMINISTRATIONS

Zonal
Railways.

3. (1) The Central Government may, for the purpose of the efficient administration of the Government railways, by notification, constitute such railways into as many Zonal Railways as it may deem fit and specify in such notification the names and headquarters of such Zonal Railways and the areas in respect of which they shall exercise jurisdiction.

(2) The Zonal Railway existing immediately before the commencement of this Act shall be deemed to be Zonal Railways constituted under sub-section (1).

(3) The Central Government may, by notification, declare any unit of the railways engaged in research, development, designing, construction or production of rolling stock, its parts or other equipment used on a railway, to be a Zonal Railway.

(4) The Central Government may, by notification, abolish any Zonal Railway or constitute any new Zonal Railway out of any existing Zonal Railway or Zonal Railways, change the name or headquarters of any Zonal Railway or determine the areas in respect of which a Zonal Railway shall exercise jurisdiction.

4. (1) The Central Government shall, by notification, appoint a person to be the General Manager of a Zonal Railway.

Appoint-
ment of
General
Manager.

(2) The general superintendence and control of a Zonal Railway shall vest in the General Manager.

CHAPTER III

COMMISSIONERS OF RAILWAY SAFETY

5. The Central Government may appoint a person to be the Chief Commissioner of Railway Safety and such other persons as it may consider necessary to be the Commissioners of Railway Safety.

Appoint-
ment of
Chief
Commis-
sioner
of Rail-
way
Safety
and
Commis-
sioners
of Rail-
way
Safety.

6. The Commissioner shall—

Duties of
Commis-
sioner.

(a) inspect any railway with a view to determine whether it is fit to be opened for the public carriage of passengers and report thereon to the Central Government as required by or under this Act;

(b) make such periodical or other inspections of any railway or of any rolling stock used thereon as the Central Government may direct;

(c) make an inquiry under this Act into the cause of any accident on a railway; and

(d) discharge such other duties as are conferred on him by or under this Act.

Powers
of Com-
mis-
sioner.

7. Subject to the control of the Central Government, the Commissioner, whenever it is necessary so to do for any of the purposes of this Act, may—

(a) enter upon and inspect any railway or any rolling stock used thereon;

(b) by order in writing addressed to a railway administration, require the attendance before him of any railway servant and to require answers or returns to such inquiries as he thinks fit to make from such railway servant or from the railway administration; and

(c) require the production of any book, document or material object belonging to or in the possession or control of any railway administration which appears to him to be necessary to inspect.

Commis-
sioner to
be public
servant.

8. The Commissioner shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Facilities
to be
afforded
to Com-
missioners.

9. A railway administration shall afford to the Commissioner all reasonable facilities for the discharge of the duties or for the exercise of the powers imposed or conferred on him by or under this Act.

Annual
report of
Commis-
sioners.

10. The Chief Commissioner of Railway Safety shall prepare in each financial year an annual report giving a full account of the activities of the Commissioners during the financial year immediately preceding the financial year in which such report is prepared and forward, before such date as may be specified by the Central Government, copies thereof to the Central Government, and that Government shall cause that report to be laid, as soon as may be, after its receipt before each House of Parliament.

CHAPTER IV

CONSTRUCTION AND MAINTENANCE OF WORKS

Power of
railway
adminis-
trations
to execute
all neces-
sary
works.

11. Notwithstanding anything contained in any other law for the time being in force, but subject to the provisions of this Act and the provisions of any law for the acquisition of land for a public purpose or for companies, and subject also, in the case of a non-Government railway, to the provisions of any contract between the non-Government railway and the Central Government, a railway administration may, for the purposes of constructing or maintaining a railway—

(a) make or construct in or upon, across, under or over any lands, or any streets, hills, valleys, roads, railway, tramways, or any rivers, canals, brooks, streams or other waters, or any drains, water-pipes, gas-pipes, oil-pipes, sewers, electric supply lines, or telegraph lines, such temporary or permanent inclined-planes, bridges, tunnels, culverts, embankments, aqueducts, bridges, roads, lines of rail, ways, passages, conduits, drains, piers, cuttings and fences, in-take wells, tube wells, dams, river training and protection works as it thinks proper;

(b) alter the course of any rivers, brooks, streams or other water courses, for the purpose of constructing and maintaining tunnels, bridges, passages or other works over or under them and divert or alter either temporarily or permanently, the course of any rivers, brooks, streams or other water courses or any roads, streets or ways, or raise or sink the level thereof, in order to carry them more conveniently over or under or by the side of the railway;

(c) make drains or conduits into, through or under any lands adjoining the railway for the purpose of conveying water from or to the railway;

(d) erect and construct such houses, warehouses, offices and other buildings, and such yards, stations, wharves, engines, machinery apparatus and other works and conveniences as the railway administration thinks proper;

(e) alter, repair or discontinue such buildings, works and conveniences as aforesaid or any of them and substitute others in their stead;

(f) erect, operate, maintain or repair any telegraph and telephone lines in connection with the working of the railway;

(g) erect, operate, maintain or repair any electric traction equipment, power supply and distribution installation in connection with the working of the railway; and

(h) do all other acts necessary for making, maintaining, altering or repairing and using the railway.

12. (1) A railway administration may, for the purpose of exercising the powers conferred on it by this Act, alter the position of any pipe for the supply of gas, water, oil or compressed air, or the position of any electric supply line, drain or sewer:

Provided that before altering the position of any such pipe, electric supply line, drain or sewer, the railway administration shall give a notice indicating the time at which the work of such alteration shall commence, to the local authority or other person having control over the pipe, electric supply line, drain or sewer.

(2) The railway administration shall execute the work referred to in sub-section (1) to the reasonable satisfaction of the local authority or the person receiving the notice under the proviso to sub-section (1).

13. Nothing in sections 11 and 12 shall authorise—

(a) a railway administration of the Government railway to do anything on or to any works, lands or buildings vested in, or in the possession of, a State Government without the consent of that Government; and

(b) a railway administration of a non-Government railway to do anything on or to any works, lands or buildings vested in, or in the possession of, the Central Government or a State Government, without the consent of the Government concerned.

Power to alter the position of pipe, electric supply line, drain or sewer, etc.

Protection for Government property.

Temporary entry upon land to remove obstruction, to repair or to prevent accident.

14. (1) Where in the opinion of a railway administration—

(a) there is imminent danger that any tree, post or structure may fall on the railway so as to obstruct the movement of rolling stock; or

(b) any tree, post, structure or light obstructs the view of any signal provided for movement of rolling stock; or

(c) any tree, post or structure obstructs any telephone or telegraph line maintained by it,

it may take such steps as may be necessary to avert such danger or remove such obstruction and submit a report thereof to the Central Government in such manner and within such time as may be prescribed.

(2) Where in the opinion of a railway administration—

(a) a slip or accident has occurred; or

(b) there is apprehension of any slip or accident to any cutting, embankment or other work on a railway,

it may enter upon any lands adjoining the railway and do all such works as may be necessary for the purpose of repairing or preventing such slip or accident and submit a report thereof to the Central Government in such manner and within such time as may be prescribed.

(3) The Central Government may, after considering the report under sub-section (1) or sub-section (2), in the interest of public safety, by order, direct the railway administration that further action under sub-section (1) or sub-section (2) shall be stopped or the same shall be subject to such conditions as may be specified in that order.

Payment of amount for damage or loss.

15. (1) No suit shall lie against a railway administration to recover any amount for any damage or loss caused in the exercise of the powers conferred by any of the foregoing provisions of this Chapter.

(2) A railway administration shall pay or tender payment for any damage or loss caused in the exercise of the powers conferred by any of the foregoing provisions of this Chapter, and in case of a dispute as to the sufficiency of any amount so paid or tendered or as to the persons entitled to receive the amount, it shall immediately refer the dispute for the decision of the District Judge of the district and his decision thereon shall be final:

Provided that where the railway administration fails to make a reference within sixty days from the date of commencement of the dispute, the District Judge may, on an application made to him by the person concerned, direct the railway administration to refer the dispute for his decision.

(3) The reference under sub-section (2) shall be treated as an appeal under section 96 of the Code of Civil Procedure, 1908 and shall be disposed of accordingly.

(4) Where any amount has been paid as required by sub-section (2), the railway administration shall, notwithstanding anything in any other law for the time being in force, be discharged from all liabilities to any person whatsoever in respect of any amount so paid.

16. (1) A railway administration shall make and maintain the following works for the accommodation of the owners and occupiers of lands adjoining the railway, namely:—

Accommodation
works.

(a) such crossings, bridges, culverts and passages over, under or by the sides of, or leading to or from, the railway as may, in the opinion of the State Government, be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway is made; and

(b) all necessary bridges, tunnels, culverts, drains, water sources or other passages, over, under or by the sides of the railway, of such dimensions as will, in the opinion of the State Government, be sufficient at all times to convey water as freely from or to the lands lying near or affected by the railway as it was before the making of the railway or as nearly as possible.

(2) Subject to the other provisions of this Act, the works specified in sub-section (1) shall be made at the cost of the railway administration during or immediately after the laying out or formation of the railway over the lands traversed and in such a manner as to cause as little damage or inconvenience as possible to persons interested in the lands or affected by the works:

Provided that—

(a) a railway administration shall not be required to make any administration shall be liable to execute any further or additional the working or using of the railway, or to make any accommodation works with respect to which the owners or occupiers of the lands have been paid compensation in consideration of their not requiring the said works to be made;

(b) save as hereinafter, in this Chapter, provided, no railway administration shall be liable to execute any further or additional accommodation works for the use of the owners or occupiers of the lands after the expiration of ten years from the date on which the railway passing through the lands was first opened for public traffic;

(c) where a railway administration has provided suitable accommodation work for the crossing of a road or stream and the road or stream is afterwards diverted by the act or neglect of the person having the control thereof, the railway administration shall not be compelled to provide any other accommodation work for the crossing of such road or stream.

(3) The State Government may specify a date for the commencement of any work to be executed under sub-section (1) and, if within three months next after that date, the railway administration fails to commence the work or having commenced it, fails to proceed diligently to execute it, the Central Government shall, on such failure being brought to its notice by the State Government, issue such directions to the railway administration as it thinks fit.

Explanation.—For the purposes of this section, the expression “lands” shall include public roads.

Power of owner, occupier, State Government or local authority to cause additional accommodation works to be made.

17. (1) If an owner or occupier of any land affected by a railway considers the works made under section 16 to be insufficient for the use of the land, or if the State Government or a local authority desires to construct a public road or other work across, under or over a railway, such owner or occupier, or, as the case may be, the State Government or the local authority may, at any time, require the railway administration to make at the expense of the owner or occupier or of the State Government or the local authority, as the case may be, such further accommodation works as are considered necessary and are agreed to by the railway administration.

(2) The accommodation works made under sub-section (1) shall be maintained at the cost of the owner or occupier of the land, the State Government or the local authority, at whose request the works were made.

(3) In the case of any difference of opinion between the railway administration and the owner or occupier, the State Government or the local authority, as the case may be, in relation to—

(i) the necessity of such further accommodation works; or

(ii) the expenses to be incurred on the construction of such further accommodation works; or

(iii) the quantum of expenses on the maintenance of such further accommodation works,

it shall be referred to the Central Government whose decision thereon shall be final.

Fences, gates and bars.

18. The Central Government may, within such time as may be specified by it or within such further time, as it may grant, require that—

(a) boundary marks or fences be provided or renewed by a railway administration for a railway or any part thereof and for roads constructed in connection therewith;

(b) suitable gates, chains, bars, stiles or hand-rails be erected or renewed by a railway administration at level crossings;

(c) persons be employed by a railway administration to open and shut gates, chains or bars.

Over-bridges and under-bridges.

19. (1) Where a railway administration has constructed lines of rails across a public road at the same level, the State Government or the local authority maintaining the road, may, at any time, in the interest of public safety, require the railway administration to take the road either under or over the railway by means of a bridge or arch with convenient ascents and descents and other convenient approaches, instead of crossing the road on the level, or to execute such other works as may, in the circumstances of the case, appear to the State Government or the local authority maintaining the road to be best adapted for removing or diminishing the danger arising from the level crossing.

(2) The railway administration may require the State Government or the local authority, as the case may be, as a condition of executing any work under sub-section (1), to undertake to pay the whole of the

cost of the work and the expense of maintaining the work, to the railway administration or such proportion of the cost and expenses as the Central Government considers just and reasonable.

(3) In the case of any difference of opinion between the railway administration and the State Government or the local authority, as the case may be, over any of the matters mentioned in sub-section (1), it shall be referred to the Central Government, whose decision thereon shall be final.

20. Notwithstanding anything contained in any other law, the Central Government may, if it is of the opinion that any work undertaken or may be undertaken, is likely to alter or impede the natural course of water flow or cause an increase in the volume of such flow endangering any cutting, embankment or other work on a railway, issue directions in writing to any person, officer or authority responsible for such work to close, regulate or prohibit that work.

Power of Central Government to give directions for safety.

CHAPTER V

OPENING OF RAILWAYS

21. No railway shall be opened for the public carriage of passengers until the Central Government has, by order, sanctioned the opening thereof for that purpose.

Sanction of the Central Government to the opening of railway.

22. (1) The Central Government shall, before giving its sanction to the opening of a railway under section 21, obtain a report from the Commissioner that—

Formalities to be complied with before giving sanction to the opening of a railway.

(a) he has made a careful inspection of the railway and the rolling stock that may be used thereon;

(b) the moving and fixed dimensions as laid down by the Central Government have not been infringed;

(c) the structure of lines of rails, strength of bridges, general structural character of the works and the size of, and maximum gross load upon, the axles of any rolling stock, comply with the requirements laid down by the Central Government; and

(d) in his opinion, the railway can be opened for the public carriage of passengers without any danger to the public using it.

(2) If the Commissioner is of the opinion that the railway cannot be opened without any danger to the public using it, he shall, in his report, state the grounds therefor, as also the requirements which, in his opinion, are to be complied with before sanction is given by the Central Government.

(3) The Central Government, after considering the report of the Commissioner, may sanction the opening of a railway under section 21 as such or subject to such conditions as may be considered necessary by it for the safety of the public.

Sections 21 and 22 to apply to the opening of certain works.

23. The provisions of sections 21 and 22 shall apply to the opening of the following works if they form part of, or are directly connected with, a railway used for the public carriage of passengers and have been constructed subsequent to the giving of a report by the Commissioner under section 22, namely:—

- (a) opening of additional lines of railway and deviation lines;
- (b) opening of stations, junctions and level crossings;
- (c) re-modelling of yards and re-building of bridges;
- (d) introduction of electric traction; and

(e) any alteration or reconstruction materially affecting the structural character of any work to which the provisions of sections 21 and 22 apply or are extended by this section.

Temporary suspension of traffic.

24. When an accident has occurred on a railway resulting in a temporary suspension of traffic, and either the original lines of rails and works have been restored to their original standard or a temporary diversion has been laid for the purpose of restoring communication, the original lines of rails and works so restored, or the temporary diversion, as the case may be, may, without prior inspection by the Commissioner, be opened for the public carriage of passengers, subject to the following conditions, namely:—

(a) the railway servant in charge of the works undertaken by reason of the accident has certified in writing that the opening of the restored lines of rails and works, or of the temporary diversion will not in his opinion be attended with danger to the public; and

(b) a notice of the opening of the lines of rails and works or the diversion shall be sent immediately to the Commissioner.

Power to close railway opened for the public carriage of passengers.

25. Where, after the inspection of any railway opened and used for the public carriage of passengers or any rolling stock used thereon, the Commissioner is of the opinion that the use of the railway or of any rolling stock will be attended with danger to the public using it, the Commissioner shall send a report to the Central Government who may thereupon direct that—

(i) the railway be closed for the public carriage of passengers; or

(ii) the use of the rolling stock be discontinued; or

(iii) the railway or the rolling stock may be used for the public carriage of passengers subject to such conditions as it may consider necessary for the safety of the public.

Re-opening of closed railway.

26. When the Central Government has, under section 25, directed the closure of a railway or the discontinuance of the use of any rolling stock—

(a) the railway shall not be re-opened for the public carriage of passengers until it has been inspected by the Commissioner and its re-opening is sanctioned in accordance with the provisions of this Chapter; and

(b) the rolling stock shall not be used until it has been inspected by the Commissioner and its re-use is sanctioned in accordance with the provisions of this Chapter.

27. A railway administration may use such rolling stock as it may consider necessary for the construction, operation and working of a railway:

Use of rolling stock.

Provided that before using any rolling stock of a design or type different from that already running on any section of the railway, the previous sanction of the Central Government shall be obtained for such use:

Provided further that before giving any such sanction, the Central Government shall obtain a report from the Commissioner that he has made a careful inspection of the rolling stock and, in his opinion, such rolling stock can be used.

28. The Central Government may, by notification, direct that any of its powers or functions under this Chapter, except section 29, or the rules made thereunder shall, in relation to such matters and subject to such conditions, if any, as may be specified in the notification, be exercised or discharged also by a Commissioner.

Delegation of powers.

29. (1) The Central Government may, by notification, make rules to carry out the purposes of this Chapter.

Power to make rules in respect of matters in this Chapter.

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

(a) the duties of a railway administration and the Commissioner in regard to the opening of a railway for the public carriage of passengers;

(b) the arrangements to be made for and the formalities to be complied with before opening a railway for the public carriage of passengers;

(c) for regulating the mode in which, and the speed at which rolling stock used on railways is to be moved or propelled; and

(d) the cases in which and the extent to which the procedure provided in this Chapter may be dispensed with.

CHAPTER VI

FIXATION OF RATES

30. (1) The Central Government may, from time to time, by general or special order fix, for the carriage of passengers and goods, rates for the whole or any part of the railway and different rates may be fixed for different classes of goods and specify in such order the conditions subject to which such rates shall apply.

Power to fix rates.

(2) The Central Government may, by a like order, fix the rates of any other charges incidental to or connected with such carriage including demurrage and wharfage for the whole or any part of the railway and specify in the order the conditions subject to which such rates shall apply.

Power to classify commodities or alter rates.

31. The Central Government shall have power to—

(a) classify or reclassify any commodity for the purpose of determining the rates to be charged for the carriage of such commodities; and

(b) increase or reduce the class rates and other charges.

Power of railway administration to charge certain rates.

32. Notwithstanding anything contained in this Chapter, a railway administration may, in respect of the carriage of any commodity and subject to such conditions as may be specified,—

(a) quote a station to station rate;

(b) increase or reduce or cancel, after due notice in the manner determined by the Central Government, a station to station rate, not being a station to station rate introduced in compliance with an order made by the Tribunal;

(c) withdraw, alter or amend the conditions attached to a station to station rate other than conditions introduced in compliance with an order made by the Tribunal; and

(d) charge any lump sum rate.

CHAPTER VII

RAILWAY RATES TRIBUNAL

Constitution of the Railway Rates Tribunal.

33. (1) There shall be a Tribunal, to be called the Railway Rates Tribunal, for the purpose of discharging the functions specified in this Chapter.

(2) The Tribunal shall consist of a Chairman and two other members to be appointed by the Central Government.

(3) A person shall not be qualified for appointment as the Chairman of the Tribunal unless he is, or has been, a Judge of the Supreme Court or of a High Court and of the other two members, one shall be a person, who, in the opinion of the Central Government, has special knowledge of the commercial, industrial or economic conditions of the country, and the other shall be a person, who, in the opinion of the Central Government, has special knowledge and experience of the commercial working of the railways.

(4) The Chairman and the other members of the Tribunal shall hold office for such period, not exceeding five years, as may be prescribed.

(5) In case the Chairman or any other member is, by infirmity or otherwise, rendered incapable of carrying out his duties or is absent on leave or otherwise in circumstances not involving the vacation of his office, the Central Government may appoint another person to act in his place during his absence.

(6) A person who holds office as the Chairman or other member of the Tribunal shall, on the expiration of the term of his office (not being an office to fill a casual vacancy), be ineligible for re-appointment to that office.

(7) Subject to the provisions of sub-sections (5) and (6), the Chairman and other members of the Tribunal shall hold office on such terms and conditions as may be prescribed.

(8) No act or proceeding of the Tribunal shall be invalidated merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Tribunal; or

(b) any defect in the appointment of a person acting as a Chairman or other member of the Tribunal.

34. (1) The Tribunal may, with the previous approval of the Central Government, appoint such officers and employees as it considers necessary for the efficient discharge of its functions under this Chapter.

Staff
of the
Tribunal.

(2) The terms and conditions of service of the officers and employees of the Tribunal shall be such as may be determined by regulations.

35. The Tribunal may sit at such place or places as it may find convenient for the transaction of its business.

Sittings
of the
Tribunal.

36. Any complaint that a railway administration—

(a) is contravening the provisions of section 70; or

(b) is charging for the carriage of any commodity between two stations a rate which is unreasonable; or

(c) is levying any other charge which is unreasonable,

Com-
plaints
against a
railway
adminis-
tration.

may be made to the Tribunal, and the Tribunal shall hear and decide any such complaint in accordance with the provisions of this Chapter.

37. Nothing in this Chapter shall confer jurisdiction on the Tribunal in respect of—

(a) classification or re-classification of any commodity;

(b) fixation of wharfage and demurrage charges (including conditions attached to such charges);

(c) fixation of fares levied for the carriage of passengers and freight levied for the carriage of luggage, parcels, railway material and military traffic; and

(d) fixation of lump sum rates.

Matters
not with-
in the
jurisdic-
tion of
the
Tribunal.

5 of 1908.

38. (1) The Tribunal shall have the powers of a civil court under the Code of Civil Procedure, 1908 for the purposes of taking evidence on oath, enforcing the attendance of witnesses, compelling the discovery and production of documents, issuing commissions for the examination of witnesses and of review and shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1973 and any reference in such section or chapter to the presiding officer of a court shall be deemed to include a reference to the Chairman of the Tribunal.

Powers
of the
Tribunal.

2 of 1974.

(2) The Tribunal shall also have power to pass such interim and final orders as the circumstances may require, including orders for the payment of costs.

Reference
to the
Tribunal.

39. Notwithstanding anything contained in section 37, the Central Government may make a reference to the Tribunal in respect of any of the matter specified in that section and where any such reference is made in respect of any such matter, the Tribunal shall make an inquiry into that matter and submit its report thereon to the Central Government.

Assistance
by the
Central
Govern-
ment.

40. (1) The Central Government shall give to the Tribunal such assistance as it may require and shall also place at its disposal any information in the possession of the Central Government which that Government may think relevant to any matter before the Tribunal.

(2) Any person duly authorised in this behalf by the Central Government shall be entitled to appear and be heard in any proceedings before the Tribunal.

Burden of
proof, etc.

41. In the case of any complaint under clause (a) of section 36,—

(a) whenever it is shown that a railway administration charges one trader or class of traders or the traders in any local area, lower rates for the same or similar goods or lower charges for the same or similar services than it charges to other traders in any other local area, the burden of providing that such lower rate or charge does not amount to an undue preference, shall lie on the railway administration;

(b) in deciding whether a lower rate or charge does not amount to an undue preference, the Tribunal may, in addition to any other considerations affecting the case, take into consideration whether such lower rate or charge is necessary in the interests of the public.

Decision,
etc.,
of the
Tribunal.

42. The decisions or orders of the Tribunal shall be by a majority of the members sitting and shall be final.

Bar of
jurisdic-
tion of
courts.

43. No suit shall be instituted or proceeding taken in respect of any matter which the Tribunal is empowered to deal with, or decide, under this Chapter.

Reliefs
which
the
Tribunal
may
grant.

44. In the case of any complaint made under clause (b) or clause (c) of section 36, the Tribunal may—

(i) fix such rate or charge as it considers reasonable from any date as it may deem proper, not being a date earlier to the date of the filing of the complaint;

(ii) direct a refund of amount, if any, as being the excess of the rate or charge fixed by the Tribunal under clause (i).

Revision
of deci-
sions
given by
the
Tribunal.

45. Where a railway administration considers that since the date of decision by the Tribunal, there has been a material change in the circumstances on which it was based, it may, after the expiry of one year from such date, make an application to the Tribunal and the Tribunal may, after making such inquiry as it considers necessary, vary or revoke the decision.

46. The Tribunal may transmit any decision or order made by it to a civil court having local jurisdiction and such civil court shall execute the decision or order as if it were a decree made by that court.

Execution of decisions or orders of the Tribunal.

47. The Tribunal shall present annually a report to the Central Government of all its proceedings under this Chapter.

Report to the Central Government.

48. (1) The Tribunal may, with the previous approval of the Central Government, make regulations consistent with this Act and rules generally to regulate its procedure for the effective discharge of its functions under this Chapter.

Power of the Tribunal to make regulations.

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

(a) the terms and conditions of service of the officers and employees of the Tribunal;

(b) the award of costs by the Tribunal in any proceedings before it;

(c) the reference of any question to a member or to an officer of the Tribunal or any other person appointed by the Tribunal, for report after holding a local inquiry;

(d) the right of audience before the Tribunal, provided that any party shall be entitled to be heard in person, or by a representative duly authorised in writing, or by a legal practitioner;

(e) the disposal by the Tribunal of any proceedings before it, notwithstanding that in the course thereof there has been a change in the persons sitting as members of the Tribunal;

(f) a scale of fees for and in connection with the proceedings before the Tribunal.

CHAPTER VIII

CARRIAGE OF PASSENGERS

49. (1) Every railway administration shall cause to be pasted in a conspicuous and accessible place at every station in Hindi and English and also in the regional language commonly in use in the area where the station is situated,—

Exhibition of certain timings and tables of fares at stations.

(i) a table of times of arrival and departure of trains which carry passengers and stop at that station, and

(ii) list of fares from such station to such other stations as it may consider necessary.

(2) At every station where tickets are issued to passengers, a copy of the time table in force shall be kept in the office of the station master.

Supply of tickets on payment of fare.

50. (1) Any person desirous of travelling on a railway shall, upon payment of the fare, be supplied with a ticket by a railway servant or an agent authorised in this behalf and such ticket shall contain the following particulars, namely:—

- (i) the date of issue;
- (ii) the class of carriage;
- (iii) the place from and the place to which it is issued; and
- (iv) the amount of the fare.

(2) Every railway administration shall display the hours during which booking windows at a station shall be kept open for the issue of tickets to passengers.

(3) The particulars required to be specified on a ticket under clauses (ii) and (iii) of sub-section (1) shall,—

(a) if it is for the lowest class of carriage, be set forth in Hindi, English and the regional language commonly in use at the place of issue of the ticket; and

(b) if it is for any other class of carriage, be set forth in Hindi and English:

Provided that where it is not feasible to specify such particulars in any such language due to mechanisation or any other reason, the Central Government may exempt such particulars being specified in that language.

Provision for case in which ticket is issued for class or train not having accommodation for additional passengers.

51. (1) A ticket shall be deemed to have been issued subject to the condition of availability of accommodation in the class of carriage and the train for which the ticket is issued.

(2) If no accommodation is available in the class of carriage for which a ticket is issued, and the holder thereof travels in a carriage of a lower class, he shall, on returning such ticket, be entitled to a refund of the difference between the fare paid by him and the fare payable for the class of carriage in which he travels.

Cancellation of ticket and refund.

52. If a ticket is returned for cancellation, the railway administration shall cancel the same and refund such amount as may be prescribed.

Prohibition against transfer of certain tickets.

53. A ticket issued in the name of a person shall be used only by that person:

Provided that nothing contained in this section shall prevent mutual transfer of a seat or berth by passengers travelling by the same train:

Provided further that a railway servant authorised in this behalf may permit change of name of a passenger having reserved a seat or berth subject to such circumstances as may be prescribed.

Exhibition and surrender of passes and tickets.

54. Every passenger shall, on demand by any railway servant authorised in this behalf, present his pass or ticket to such railway servant for examination during the journey or at the end of the journey and surrender such ticket—

- (a) at the end of the journey, or

(b) if such ticket is issued for a specified period, on the expiration of such period.

55. (1) No person shall enter or remain in any carriage on a railway for the purpose of travelling therein as a passenger unless he has with him a proper pass or ticket or obtained permission of a railway servant authorised in this behalf for such travel.

Prohibition against travelling without pass or ticket.

(2) A person obtaining permission under sub-section (1) shall ordinarily get a certificate from the railway servant referred to in that sub-section that he has been permitted to travel in such carriage on condition that he subsequently pays the fare payable for the distance to be travelled.

56. (1) A person suffering from such infectious or contagious diseases, as may be prescribed, shall not enter or remain in any carriage on a railway or travel in a train without the permission of a railway servant authorised in this behalf.

Power to refuse to carry persons suffering from infectious or contagious diseases.

(2) The railway servant giving permission under sub-section (1), shall arrange for the separation of the person suffering from such disease from other persons in the train and such person shall be carried in the train subject to such other conditions as may be prescribed.

(3) Any person who enters or remains in any carriage or travels in a train without permission as required under sub-section (1) or in contravention of any condition prescribed under sub-section (2), such person and a person accompanying him shall be liable to the forfeiture of their passes or tickets and removal from railway by any railway servant.

57. Subject to the approval of the Central Government, every railway administration shall fix the maximum number of passengers which may be carried in each compartment of every description of carriage, and shall exhibit the number so fixed in a conspicuous manner inside or outside each compartment in Hindi, English and also in one or more of the regional languages commonly in use in the areas served by the railway.

Maximum number of passengers for each compartment.

58. Every railway administration shall, in every train carrying passengers, earmark for the exclusive use of females, one compartment or such number of berths or seats, as the railway administration may think fit.

Earmarking of compartment, etc., for ladies.

59. A railway administration shall provide and maintain in every train carrying passengers, such efficient means of communication between the passengers and the railway servant in charge of the train as may be approved by the Central Government:

Communications between passengers and railway servant in charge of train.

Provided that where the railway administration is satisfied that the means of communication provided in a train are being misused, it may cause such means to be disconnected in that train for such period as it thinks fit:

Provided further that the Central Government may specify the circumstances under which a railway administration may be exempted from providing such means of communication in any train.

Power to make rules in respect of matters in this Chapter.

60. (1) The Central Government may, by notification, make rules to carry out the purposes of this Chapter.

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

(a) the convenience and accommodation (including the reservation of seats or berths in trains) to passengers;

(b) the amount of refund for the cancellation of a ticket;

(c) the circumstances under which change of names of passengers, having reserved seats or berths, may be permitted;

(d) the carriage of luggage and the conditions subject to which luggage may be kept in the cloak rooms at the stations;

(e) diseases which are infectious or contagious;

(f) the conditions subject to which a railway administration may carry passengers suffering from infectious or contagious diseases and the manner in which carriages used by such passengers may be disinfected;

(g) generally, for regulating the travelling upon, and the use, working and management of the railways.

(3) Any rule made under this section may provide that a contravention thereof shall be punishable with fine which shall not exceed five hundred rupees.

(4) Every railway administration shall keep at every station on its railway a copy of all the rules made under this section and shall also allow any person to inspect it free of charge.

CHAPTER IX

CARRIAGE OF GOODS

Maintenance of rate-books, etc., for carriage of goods.

61. Every railway administration shall maintain, at each station and at such other places where goods are received for carriage, the rate-books or other documents which shall contain the rate authorised for the carriage of goods from one station to another and make them available for the reference of any person during all reasonable hours without payment of any fee.

Conditions for receiving, etc., of goods.

62. (1) A railway administration may impose conditions, not inconsistent with this Act or any rules made thereunder, with respect to the receiving, forwarding, carrying or delivering of any goods.

(2) A railway administration shall maintain, at each station and at such other places where goods are received for carriage, a copy of the conditions for the time being in force under sub-section (1) and make them available for the reference of any person during all reasonable hours without payment of any fee.

Provision of risk rates.

63. (1) Where any goods are entrusted to a railway administration for carriage, such carriage shall, except where owner's risk rate is applicable in respect of such goods, be at railway risk rate.

(2) Any goods, for which owner's risk rate and railway risk rate are in force, may be entrusted for carriage at either of the rates and if no rate is opted, the goods shall be deemed to have been entrusted at owner's risk rate.

64. (1) Every person entrusting any goods to a railway administration for carriage shall execute a forwarding note in such form as may be specified by the Central Government:

Forwarding note.

Provided that no forwarding note shall be executed in the case of such goods as may be prescribed.

(2) The consignor shall be responsible for the correctness of the particulars furnished by him in the forwarding note.

(3) The consignor shall indemnify the railway administration against any damage suffered by it by reason of the incorrectness or incompleteness of the particulars in the forwarding note.

65. (1) A railway administration shall,—

Railway receipt.

(a) in a case where the goods are to be loaded by a person entrusting such goods, on the completion of such loading; or

(b) in any other case, on the acceptance of the goods by it, issue a railway receipt in such form as may be specified by the Central Government.

(2) A railway receipt shall be *prima facie* evidence of the weight and the number of packages stated therein:

Provided that in the case of a consignment in wagon-load or train-load and the weight or the number of packages is not checked by a railway servant authorised in this behalf, and a statement to that effect is recorded in such railway receipt by him, the burden of proving the weight or, as the case may be, the number of packages stated therein, shall lie on the consignor, the consignee or the endorsee.

66. (1) The owner or a person having charge of any goods which are brought upon a railway for the purposes of carriage by railway, and the consignee or the endorsee of any consignment shall, on the request of any railway servant authorised in this behalf, deliver to such railway servant a statement in writing signed by such owner or person or by such consignee or endorsee, as the case may be, containing such description of the goods as would enable the railway servant to determine the rate for such carriage.

Power to require statement relating to the description of goods.

(2) If such owner or person refuses or neglects to give the statement as required under sub-section (1) and refuses to open the package containing the goods, if so required by the railway servant, it shall be open to the railway administration to refuse to accept such goods for carriage unless such owner or person pays for such carriage the highest rate for any class of goods.

(3) If the consignee or endorsee refuses or neglects to give the statement as required under sub-section (1) and refuses to open the package containing the goods, if so required by the railway servant, it shall be

open to the railway administration to charge in respect of the carriage of the goods the highest rate for any class of goods.

(4) If the statement delivered under sub-section (1) is materially false with respect to the description of any goods to which it purports to relate, the railway administration may charge in respect of the carriage of such goods such rate, not exceeding double the highest rate for any class of goods as may be specified by the Central Government.

(5) If any difference arises between a railway servant and such owner or person, the consignee or the endorsee, as the case may be, in respect of the description of the goods for which a statement has been delivered under sub-section (1), the railway servant may detain and examine the goods.

(6) Where any goods have been detained under sub-section (5) for examination and upon such examination it is found that the description of the goods is different from that given in the statement delivered under sub-section (1), the cost of such detention and examination shall be borne by such owner or person, the consignee or the endorsee, as the case may be, and the railway administration shall not be liable for any loss, damage or deterioration which may be caused by such detention or examination.

Carriage
of dan-
gerous or
offensive
goods.

67. (1) No person shall take with him on a railway, or require a railway administration to carry such dangerous or offensive goods, as may be prescribed, except in accordance with the provisions of this section.

(2) No person shall take with him on a railway the goods referred to in sub-section (1) unless he gives a notice in writing of their dangerous or offensive nature to the railway servant authorised in this behalf.

(3) No person shall entrust the goods referred to in sub-section (1) to a railway servant authorised in this behalf for carriage unless he distinctly marks on the outside of the package containing such goods their dangerous or offensive nature and gives a notice in writing of their dangerous or offensive nature to such railway servant.

(4) If any railway servant has reason to believe that goods contained in a package are dangerous or offensive and notice as required under sub-section (2) or sub-section (3), as the case may be, in respect of such goods is not given, he may cause such package to be opened for the purpose of ascertaining its contents.

(5) Notwithstanding anything contained in this section, any railway servant may refuse to accept any dangerous or offensive goods for carriage or stop, in transit, such goods or cause the same to be removed, as the case may be, if he has reason to believe that the provisions of this section for such carriage are not complied with.

(6) Nothing in this section shall be construed to derogate from the provisions of the Indian Explosives Act, 1884, or any rule or order made under that Act, and nothing in sub-sections (4) and (5) shall be construed to apply to any goods entrusted for carriage by order or on behalf of the Government or to any goods which a soldier, sailor, airman or any other officer of the armed forces of the Union or a police officer or a

member of the Territorial Army or of the National Cadet Corps may take with him on a railway in the course of his employment or duty as such.

68. A railway administration shall not be bound to carry any animal suffering from such infectious or contagious disease as may be prescribed.

Carriage of animals suffering from infectious or contagious diseases.

69. Where due to any cause beyond the control of a railway administration or due to congestion in the yard or any other operational reasons, goods are carried over a route other than the route by which such goods are booked, the railway administration shall not be deemed to have committed a breach of the contract of carriage by reason only of the deviation of the route.

Deviation of route.

70. A railway administration shall not make or give any undue or unreasonable preference or advantage to, or in favour of, any particular person or any particular description of traffic in the carriage of goods.

Prohibition of undue preference.

71. (1) The Central Government may, if it is of the opinion that it is necessary in the public interest so to do, by general or special order, direct any railway administration—

Power to give direction in regard to carriage of certain goods.

(a) to give special facilities for, or preference to, the carriage of such goods or class of goods consigned by or to the Central Government or the Government of any State or of such other goods or class of goods;

(b) to carry any goods or class of goods by such route or routes and at such rates;

(c) to restrict or refuse acceptance of such goods or class of goods at or to such station for carriage,

as may be specified in the order.

(2) Any order made under sub-section (1) shall cease to have effect after the expiration of a period of one year from the date of such order, but may, by a like order, be renewed from time to time for such period not exceeding one year at a time as may be specified in the order.

(3) Notwithstanding anything contained in this Act, every railway administration shall be bound to comply with any order given under sub-section (1) and any action taken by a railway administration in pursuance of any such order shall not be deemed to be a contravention of section 70.

72. (1) The gross weight of every wagon or truck bearing on the axles when the wagon or truck is loaded to its maximum carrying capacity shall not exceed such limit as may be fixed by the Central Government for the class of axle under the wagon or truck.

Maximum carrying capacity for wagons and trucks.

(2) Subject to the limit fixed under sub-section (1), every railway administration shall determine the normal carrying capacity for every wagon or truck in its possession and shall exhibit in words and figures the normal carrying capacity so determined in a conspicuous manner on the outside of every such wagon or truck.

(3) Every person owning a wagon or truck which passes over a railway shall determine and exhibit the normal carrying capacity for the wagon or truck in the manner specified in sub-section (2).

(4) Notwithstanding anything contained in sub-section (2) or sub-section (3), where a railway administration considers it necessary or expedient so to do in respect of any wagon or truck carrying any specified class of goods or any class of wagons or trucks of any specified type, it may vary the normal carrying capacity for such wagon or truck or such class of wagons or trucks and subject to such conditions as it may think fit to impose, determine for the wagon or truck or class of wagons or trucks such carrying capacity as may be specified in the notification and it shall not be necessary to exhibit the words and figures representing the carrying capacity so determined on the outside of such wagon or truck or such class of wagons or trucks.

Punitive charge for over-loading a wagon.

73. Where a person loads goods in a wagon beyond its permissible carrying capacity as exhibited under sub-section (2) or sub-section (3), or notified under sub-section (4), of section 72, a railway administration may, in addition to the freight and other charges, recover from the consignor, the consignee or the endorsee, as the case may be, charges by way of penalty at such rates, as may be prescribed, before the delivery of the goods:

Provided that it shall be lawful for the railway administration to unload the goods loaded beyond the capacity of the wagon, if detected at the forwarding station or at any place before the destination station and to recover the cost of such unloading and any charge for the detention of any wagon on this account.

Passing of property in the goods covered by railway receipt.

74. The property in the consignment covered by a railway receipt shall pass to the consignee or the endorsee, as the case may be, on the delivery of such railway receipt to him and he shall have all the rights and liabilities of the consignor.

Section 74 not to affect right of stoppage in transit or claims for freight.

75. Nothing contained in section 74 shall prejudice or affect—

(a) any right of the consignor for stoppage of goods in transit as an unpaid vendor (as defined under the Sale of Goods Act, 1930) on his written request to the railway administration;

(b) any right of the railway to claim freight from the consignor;

or

(c) any liability of the consignee or the endorsee, referred to in that section, by reason of his being such consignee or endorsee.

76. The railway administration shall deliver the consignment under a railway receipt on the surrender of such railway receipt:

Surrender of railway receipt.

Provided that in case the railway receipt is not forthcoming, the consignment may be delivered to the person, entitled in the opinion of the railway administration to receive the goods, in such manner as may be prescribed.

77. Where no railway receipt is forthcoming and any consignment or the sale proceeds of any consignment are claimed by two or more persons, the railway administration may withhold delivery of such consignment or sale proceeds, as the case may be, and shall deliver such consignment or sale proceeds in such manner as may be prescribed.

Power of railway administration to deliver goods or sale proceeds thereof in certain cases.

78. Notwithstanding anything contained in the railway receipt, the railway administration may, before the delivery of the consignment, have the right to—

Power to measure, weigh, etc.

(i) re-measure, re-weigh or re-classify any consignment,

(ii) re-calculate the freight and other charges; and

(iii) correct any other error or collect any amount that may have been omitted to be charged.

79. A railway administration may, on the request made by the consignee or endorsee, allow weighment of the consignment subject to such conditions and on payment of such charges as may be prescribed and the demurrage charges if any:

Weighment of consignment on request of the consignee or endorsee.

Provided that except in cases where a railway servant authorised in this behalf considers it necessary so to do, no weighment shall be allowed of goods booked at owner's risk rate or goods which are perishable and are likely to lose weight in transit:

Provided further that no request for weighment of consignment in wagon-load or train-load shall be allowed if the weighment is not feasible due to congestion in the yard or such other circumstances as may be prescribed.

80. Where a railway administration delivers the consignment to the person who produces the railway receipt, it shall not be responsible for any wrong delivery on the ground that such person is not entitled thereto or that the endorsement on the railway receipt is forged or otherwise defective.

Liability of railway administration for wrong delivery.

81. Where the consignment arrives in a damaged condition or shows signs of having been tampered with and the consignee or the endorsee demands open delivery, the railway administration shall give open delivery in such manner as may be prescribed.

Partial
delivery
of con-
sign-
ments..

82. (1) The consignee or endorse shall, as soon as the consignment or part thereof is ready for delivery, take delivery of such consignment or part thereof notwithstanding that such consignment or part thereof is damaged.

(2) In the case of partial delivery under sub-section (1), the railway administration shall furnish a partial delivery certificate, in such form as may be prescribed.

(3) If the consignee or endorsee refuses to take delivery under sub-section (1), the consignment or part thereof shall be subject to wharfage charges beyond the time allowed for removal.

Lien for
freight
or any
other
sum
due.

83. (1) If the consignor, the consignee or the endorse fails to pay on demand any freight or other charges due from him in respect of any consignment, the railway administration may detain such consignment or part thereof or, if such consignment is delivered, it may detain any other consignment of such person which is in, or thereafter comes into its possession.

(2) The railway administration may, if the consignment detained under sub-section (1) is—

(a) perishable in nature, sell at once; or

(b) not perishable in nature, sell, by public auction,

such consignment or part thereof, as may be necessary to realise a sum equal to the freight or other charges:

Provided that where a railway administration for reasons to be recorded in writing is of the opinion that it is not expedient to hold the auction, such consignment or part thereof may be sold in such manner as may be prescribed.

(3) The railway administration shall give a notice of not less than seven days of the public auction under clause (b) of sub-section (2) in one or more local newspapers or where there are no such newspapers in such manner as may be prescribed.

(4) The railway administration may, out of the sale proceeds received under sub-section (2), retain a sum equal to the freight and other charges including expenses for the sale due to it and the surplus of such proceeds and the part of the consignment, if any, shall be rendered to the person entitled thereto.

Unclaim-
ed con-
sign-
ment.

84. (1) If any person fails to take delivery of—

(a) any consignment; or

(b) the consignment released from detention made under sub-section (1) of section 83; or

(c) any remaining part of the consignment under sub-section (2) of section 83;

such consignment shall be treated as unclaimed.

(2) The railway administration may,—

(a) in the case of an unclaimed consignment which is perishable in nature, sell such consignment in the manner provided in clause (a) of sub-section (2) of section 83; or

(b) in the case of an unclaimed consignment which is not perishable in nature, cause a notice to be served upon the consignee if his name and address are known, and upon the consignor if the name and address of the consignee are not known, requiring him to remove the goods within a period of seven days from the receipt thereof and if such notice cannot be served or there is a failure to comply with the requisition in the notice, sell such consignment in the manner provided in clause (b) of sub-section (2) of section 83.

(3) The railway administration shall, out of the sale proceeds received under sub-section (2), retain a sum equal to the freight and other charges including expenses for the sale due to it and the surplus, if any, of such sale proceeds shall be rendered to the person entitled thereto.

85. (1) Where by reason of any flood, land-slip, breach of any lines of rails, collision between trains, derailment of, or other accident to a train or any other cause, traffic on any route is interrupted and there is no likelihood of early resumption of such traffic, nor is there any other reasonable route whereby traffic of perishable consignment may be diverted to prevent loss or deterioration of, or damage to, such consignment, the railway administration may sell them in the manner provided in clause (a) of sub-section (2) of section 83.

Disposal of perishable consignments in certain circumstances.

(2) The railway administration shall, out of the sale proceeds received under sub-section (1), retain a sum equal to the freight and other charges including expenses for the sale due to it and the surplus, if any, of such sale proceeds, shall be rendered to the person entitled thereto.

86. Notwithstanding anything contained in this Chapter, the right of sale under sections 83 to 85 shall be without prejudice to the right of the railway administration to recover by suit, any freight, charge, amount or other expenses due to it.

Sales under sections 83 to 85 not to affect the right to suit.

87. (1) The Central Government may, by notification, make rules to carry out the purposes of this Chapter.

Power to make rules in respect of matters in this Chapter.

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

(a) goods in respect of which no forwarding note shall be executed under proviso to sub-section (1) of section 64;

(b) dangerous and offensive goods for the purposes of sub-section (1) of section 67;

(c) infectious or contagious diseases for the purposes of section 68;

(d) rates of penalty charges under section 73;

(e) the manner in which the consignment may be delivered without a railway receipt under section 76;

(f) the manner of delivery of consignment or the sale proceeds to the person entitled thereto under section 77;

(g) the conditions subject to which and charges payable for allowing weighment and circumstances for not allowing weighment of consignment in wagon-load or train-load under section 79;

(h) the manner of giving open delivery under section 81;

(i) the form of partial delivery certificate under sub-section (2) of section 82;

(j) the manner of sale of consignment or part thereof under the proviso to sub-section (2) of section 83;

(k) the manner in which a notice under sub-section (3) of section 83 may be given;

(l) generally, for regulating the carriage of goods by the railways.

(3) Any rule made under this section may provide that a contravention thereof shall be punishable with fine which may extend to one hundred and fifty rupees.

(4) Every railway administration shall keep at each station a copy of the rules for the time being in force under this section, and shall allow any person to refer to it free of charge.

CHAPTER X

SPECIAL PROVISIONS AS TO GOODS BOOKED TO NOTIFIED STATIONS

Defini-
tions.

88. In this Chapter, unless the context otherwise requires,—

(a) "essential commodity" means an essential commodity as defined in clause (a) of section 2 of the Essential Commodities Act, 1955;

10 of 1955.

(b) "notified station" means a station declared to be a notified station under section 89;

(c) "State Government", in relation to a notified station, means the Government of the State in which such station is situated, or where such station is situated in a Union territory, the administrator of that Union territory appointed under article 239 of the Constitution.

Power to
declare
notified
stations.

89. (1) The Central Government may, if it is satisfied that it is necessary that goods entrusted for carriage by train intended solely for the carriage of goods to any railway station should be removed without delay from such railway station, declare, by notification, such railway station to be a notified station for such period as may be specified in the notification:

Provided that before declaring any railway station to be a notified station under this sub-section, the Central Government shall have regard to all or any of the following factors, namely:—

(a) the volume of traffic and the storage space available at such railway station;

(b) the nature and quantities of goods generally booked to such railway station;

(c) the scope for causing scarcity of such goods by not removing them for long periods from such railway station and the hardship which such scarcity may cause to the community;

(d) the number of wagons likely to be held up at such railway station if goods are not removed therefrom quickly and the need for quick movement and availability of such wagons;

(e) such other factors (being relevant from the point of view of the interest of the general public) as may be prescribed:

Provided further that the period specified in any notification issued under this sub-section in respect of any railway station shall not exceed six months in the first instance, but such period may, by notification, be extended from time to time by a period not exceeding six months on each occasion.

(2) If any person entrusting any goods to a railway administration to be carried to a notified station makes an application in such form and manner as may be prescribed and specifies therein the address of the person to whom intimation by registered post of the arrival of the goods at the notified station shall be given and pays the postage charges required for giving such intimation, the railway administration shall, as soon as may be after the arrival of the goods at the notified station, send such intimation accordingly.

(3) There shall be exhibited at a conspicuous place at each notified station a statement in the prescribed form setting out the description of the goods which by reason of the fact that they have not been removed from the station within a period of seven days from the termination of transit thereof are liable to be sold, in accordance with the provision, of sub-section (1) of section 90 by public auction and the dates on which they would be so sold:

Provided that different statements may be so exhibited in respect of goods proposed to be sold on different dates.

(4) If the goods specified in any statement to be exhibited under sub-section (3) include essential commodities, the railway servant preparing the statement shall, as soon as may be after the preparation of such statement, forward a copy thereof to—

(a) the representative of the Central Government nominated by that Government in this behalf;

(b) the representative of the State Government, nominated by that Government in this behalf; and

(c) the District Magistrate within the local limits of whose jurisdiction the railway station is situated.

90. (1) If any goods entrusted for carriage to any notified station by a train intended solely for the carriage of goods are not removed from such station by a person entitled to do so within a period of seven days after the termination of transit thereof at such station, the railway administration may, subject to the provisions of sub-section (2), sell

Disposal
of un-
removed
goods at
notified
stations.

such goods by public auction and apart from exhibiting, in accordance with the provisions of sub-section (3) of section 89, a statement containing a description of such goods, it shall not be necessary to give any notice of such public auction, but the date on which such auction may be held under this sub-section may be notified in one or more local newspapers, or where there are no such newspapers, in such manner as may be prescribed:

Provided that if at any time before the sale of such goods under this sub-section, the person entitled thereto pays the freight and other charges and the expenses due in respect thereof to the railway administration, he shall be allowed to remove such goods.

(2) If any goods which may be sold by public auction under sub-section (1) at a notified station, being essential commodities, are required by the Central Government or the State Government for its own use or if the Central Government or such State Government considers that it is necessary for securing the availability of all or any such essential commodities at fair prices so to do, it may, by order in writing, direct the railway servant in-charge of such auction to transfer such goods to it or to such agency, co-operative society or other person (being an agency, co-operative society or other person subject to the control of the Government) engaged in the business of selling such essential commodities as may be specified in the direction.

(3) Every direction issued under sub-section (2) in respect of any essential commodity shall be binding on the railway servant to whom it is issued and the railway administration and it shall be a sufficient defence against any claim by the person entitled to the goods that such essential commodities have been transferred in compliance with such direction:

Provided that—

(a) such direction shall not be binding on such railway servant or the railway administration—

(i) if it has not been received by the railway servant sufficiently in time to enable him to prevent the sale of the essential commodities to which it relates; or

(ii) if before the time appointed for such sale, the person entitled to such goods pays the freight and other charges and the expenses due in respect thereof and claims that he be allowed to remove the goods; or

(iii) if the price payable for such goods (as estimated by the Central Government or, as the case may be, the State Government) is not credited to the railway administration in the prescribed manner and the railway administration is not indemnified against any additional amount which it may become liable to pay towards the price by reason of the price not having been computed in accordance with the provisions of sub-section (4);

(b) where directions are issued in respect of the same goods both by the Central Government and the State Government, the directions received earlier shall prevail.

(4) The price payable for any essential commodity transferred in compliance with a direction issued under sub-section (2) shall be the price calculated in accordance with the provisions of sub-section (3) of section 3 of the Essential Commodities Act, 1955.

10 of 1955.

Provided that—

(a) in the case of any essential commodity being a food-stuff in respect whereof a notification issued under sub-section (3A) of section 3 of the Essential Commodities Act, 1955 is in force in the locality in which the notified station is situated, the price payable shall be calculated in accordance with the provisions of clauses (iii) and (iv) of that sub-section;

10 of 1955.

(b) in the case of an essential commodity being any grade or variety of foodgrains, edible oil-seeds or edible oils in respect whereof no notification issued under sub-section (3A) of section 3 of the Essential Commodities Act, 1955, is in force in the locality in which the notified station is situated, the price payable shall be calculated in accordance with the provisions of sub-section (3B) of that section;

10 of 1955.

(c) in the case of an essential commodity being any kind of sugar in respect whereof no notification issued under sub-section (3A) of section 3 of the Essential Commodities Act, 1955, is in force in the locality in which the notified station is situated, the price payable shall, if such sugar has been booked by the producer to himself, be calculated in accordance with the provisions of sub-section (3C) of that section.

10 of 1955.

Explanation.—For the purposes of this clause, the expressions “producer” and “sugar” shall have the meanings assigned to these expressions in the *Explanation* to sub-section (3C) of section 3, and clause (e) of section 2 of the Essential Commodities Act, 1955, respectively.

10 of 1955.

91. (1) Out of the proceeds of any sale of goods under sub-section (1) of section 90 or the price payable therefor under sub-section (4) of that section, the railway administration may retain a sum equal to the freight and other charges due in respect of such goods and the expenses incurred in respect of the goods and the auction thereof and render the surplus, if any, to the person entitled thereto.

Price to be paid to person entitled after deducting dues.

(2) Notwithstanding anything contained in sub-section (1), the railway administration may recover by suit any such freight or charge or expenses referred to therein or balance thereof.

(3) Any goods sold under sub-section (1) of section 90 or transferred in compliance with the directions issued under sub-section (2) of that section shall vest in the buyer or the transferee free from all encumbrances but subject to a priority being given for the sum which may be retained by a railway administration under sub-section (1), the person in whose favour such encumbrance subsists may have a claim in respect of such encumbrance against the surplus, if any, referred to in that sub-section.

Power to make rules in respect of matters in this Chapter.

92. (1) The Central Government may, by notification, make rules to carry out the purposes of this Chapter.

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

(a) the factors to which the Central Government shall have regard under clause (e) of the first proviso to sub-section (1) of section 89;

(b) the form and manner in which an application may be made under sub-section (2) of section 89;

(c) the form in which a statement is required to be exhibited under sub-section (3) of section 89;

(d) the manner in which the dates of public auctions may be notified under sub-section (1) of section 90;

(e) the manner of crediting to the railway administration the price of goods referred to in sub-clause (iii) of clause (a) of the proviso to sub-section (3) of section 90.

CHAPTER XI

RESPONSIBILITIES OF RAILWAY ADMINISTRATIONS AS CARRIERS

General responsibility of a railway administration as carrier of goods.

93. Save as otherwise provided in this Act, a railway administration shall be responsible for the loss, destruction, damage or deterioration in transit, or non-delivery of any consignment, arising from any cause except the following, namely:—

(a) act of God;

(b) act of war;

(c) act of public enemies;

(d) arrest, restraint or seizure under legal process;

(e) orders or restrictions imposed by the Central Government or a State Government or by an officer or authority subordinate to the Central Government or a State Government authorised by it in this behalf;

(f) act or omission or negligence of the consignor or the consignee or the endorsee or the agent or servant of the consignor or the consignee or the endorsee;

(g) natural deterioration or wastage in bulk or weight due to inherent defect, quality or vice of the goods;

(h) latent defects;

(i) fire, explosion or any unforeseen risk:

Provided that even where such loss, destruction, damage, deterioration or non-delivery is proved to have arisen from any one or more of the aforesaid causes, the railway administration shall not be relieved of its responsibility for the loss, destruction, damage, deterioration or

non-delivery unless the railway administration further proves that it has used reasonable foresight and care in the carriage of the goods.

94. (1) Where goods are required to be loaded at a siding not belonging to a railway administration for carriage by railway, the railway administration shall not be responsible for any loss, destruction, damage or deterioration of such goods from whatever cause arising, until the wagon containing the goods has been placed at the specified point of interchange of wagons between the siding and the railway administration and a railway servant authorised in this behalf has been informed in writing accordingly by the owner of the siding.

Goods to be loaded or delivered at a siding not belonging to a railway administration.

(2) Where any consignment is required to be delivered by a railway administration at a siding not belonging to a railway administration, the railway administration shall not be responsible for any loss, destruction, damage or deterioration or non-delivery of such consignment from whatever cause arising after the wagon containing the consignment has been placed at the specified point of interchange of wagons between the railway and the siding and the owner of the siding has been informed in writing accordingly by a railway servant authorised in this behalf.

95. A railway administration shall not be responsible for the loss, destruction, damage or deterioration of any consignment proved by the owner to have been caused by the delay or detention in their carriage if the railway administration proves that the delay or detention arose for reasons beyond its control or without negligence or misconduct on its part or on the part of any of its servants.

Delay or retention in transit.

96. Where in the course of carriage of any consignment from a place in India to a place outside India or from a place outside India to a place in India or from one place outside India to another place outside India or from one place in India to another place in India over any territory outside India, it is carried over the railways of any railway administration in India, the railway administration shall not be responsible under any of the provisions of this Chapter for the loss, destruction, damage or deterioration of the goods, from whatever cause arising, unless it is proved by the owner of the goods that such loss, destruction, damage or deterioration arose over the railway of the railway administration.

Traffic passing over railways in India and railways in foreign countries.

97. Notwithstanding anything contained in section 93, a railway administration shall not be responsible for any loss, destruction, damage, deterioration or non-delivery in transit, of any consignment carried at owner's risk rate, from whatever cause arising, except upon proof, that such loss, destruction, damage, deterioration or non-delivery was due to negligence or misconduct on its part or on the part of any of its servants:

Goods carried at owner's risk rate.

Provided that—

(a) where the whole of such consignment or the whole of any package forming part of such consignment is not delivered to the consignee or the endorsee and such non-delivery is not proved by the railway administration to have been due to fire or to any accident to the train; or

(b) where in respect of any such¹ consignment or of any package forming part of such consignment which had been so covered or protected that the covering or protection was not readily removable by hand, it is pointed out to the railway administration on or before delivery that any part of that consignment or package had been pilfered in transit,

the railway administration shall be bound to disclose to the consignor, the consignee or the endorsee how the consignment or the package was dealt with throughout the time it was in its possession or control, but if negligence or misconduct on the part of the railway administration or of any of its servants cannot be fairly inferred from such disclosure, the burden of proving such negligence or misconduct shall lie on the consignor, the consignee or the endorsee.

Goods in defective condition or defectively packed.

98. (1) Notwithstanding anything contained in the foregoing provisions of this Chapter, when any goods entrusted to a railway administration for carriage—

(a) are in a defective condition as a consequence of which they are liable to damage, deterioration, leakage or wastage; or

(b) are either defectively packed or not packed in such manner as may be prescribed and as a result of such defective or improper packing are liable to damage, deterioration, leakage or wastage,

and the fact of such condition or defective or improper packing has been recorded by the consignor or his agent in the forwarding note, the railway administration shall not be responsible for any damage, deterioration, leakage or wastage or for the condition in which such goods are available for delivery at destination:

Provided that the railway administration shall be responsible for any such damage, deterioration, leakage or wastage or for the condition in which such goods are available for delivery at destination if negligence or misconduct on the part of the railway administration or of any of its servants is proved.

(2) When any goods entrusted to a railway administration for carriage are found on arrival at the destination station to have been damaged or to have suffered deterioration, leakage or wastage, the railway administration shall not be responsible for the damage, deterioration, leakage or wastage of the goods on proof by railway administration,—

(a) that the goods were, at the time of entrustment to the railway administration, in a defective condition, or were at that time either defectively packed or not packed in such manner as may be prescribed and as a result of which were liable to damage, deterioration, leakage or wastage; and

(b) that such defective condition or defective or improper packing was not brought to the notice of the railway administration or any of its servants at the time of entrustment of the goods to the railway administration for carriage by railway:

Provided that the railway administration shall be responsible for any such damage, deterioration, leakage or wastage if negligence or misconduct on the part of the railway administration or of any of its servants is proved.

9 of 1872.

99. (1) A railway administration shall be responsible as a bailee under sections 151, 152 and 161 of the Indian Contract Act, 1872, for the loss, destruction, damage, deterioration or non-delivery of any consignment up to a period of seven days after the termination of transit:

Res-
ponsi-
bility
of a
railway
adminis-
tration
after
termi-
nation of
transit.

Provided that where the consignment is at owner's risk rate, the railway administration shall not be responsible as a bailee for such loss, destruction, damage, deterioration or non-delivery except on proof of negligence or misconduct on the part of the railway administration or of any of its servants.

(2) The railway administration shall not be responsible in any case for the loss, destruction, damage, deterioration or non-delivery of any consignment arising after the expiry of a period of seven days after the termination of transit.

(3) Notwithstanding anything contained in the foregoing provisions of this section, a railway administration shall not be responsible for the loss, destruction, damage, deterioration or non-delivery of perishable goods, animals, explosives and such dangerous or other goods as may be prescribed, after the termination of transit.

(4) Nothing in the foregoing provisions of this section shall affect the liability of any person to pay any demurrage or wharfage, as the case may be, for so long as the consignment is not unloaded from the railway wagons or removed from the railway premises.

100. A railway administration shall not be responsible for the loss, destruction, damage, deterioration or non-delivery of any luggage unless a railway servant has booked the luggage and given a receipt therefor and in the case of luggage which is carried by the passenger in his charge, unless it is also proved that the loss, destruction, damage or deterioration was due to the negligence or misconduct on its part or on the part of any of its servants.

Res-
ponsi-
bility as
carrier of
luggage.

101. A railway administration shall not be responsible for any loss or destruction of, or injuries to, any animal carried by railway arising from freight or restiveness of the animal or from overloading of wagons by the consignor.

Res-
ponsi-
bility as
a carrier
of ani-
mals.

102. Notwithstanding anything contained in the foregoing provisions of this Chapter, a railway administration shall not be responsible for the loss, destruction, damage, deterioration or non-delivery of any consignment,—

Exone-
ration
from
liability
in cer-
tain
cases.

(a) when such loss, destruction, damage, deterioration or non-delivery is due to the fact that a materially false description of the consignment is given in the statement delivered under sub-section (1) of section 66; or

(b) where a fraud has been practised by the consignor or the consignee or the endorsee or by an agent of the consignor, consignee or the endorsee; or

(c) where it is proved by the railway administration to have been caused by, or to have arisen from—

(i) improper loading or unloading by the consignor or the consignee or the endorsee or by an agent of the consignor, consignee or the endorsee;

(ii) riot, civil commotion, strike, lock-out, stoppage or restraint of labour from whatever cause arising whether partial or general; or

(d) for any indirect or consequential loss or damage or for loss of particular market.

Extent
of mone-
tary
liability
in res-
pect
of any
consign-
ment.

103. (1) Where any consignment is entrusted to a railway administration for carriage by railway and the value of such consignment has not been declared as required under sub-section (2) by the consignor, the amount of liability of the railway administration for the loss, destruction, damage, deterioration or non-delivery of the consignment shall in no case exceed such amount calculated with reference to the weight of the consignment as may be prescribed, and where such consignment consists of an animal, the liability shall not exceed such amount as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), where the consignor declares the value of any consignment at the time of its entrustment to a railway administration for carriage by railway, and pays such percentage charge as may be prescribed on so much of the value of such consignment as is in excess of the liability of the railway administration as calculated or specified, as the case may be, under sub-section (1), the liability of the railway administration for the loss, destruction, damage, deterioration or non-delivery of such consignment shall not exceed the value so declared.

(3) The Central Government may, from time to time, by notification, direct that such goods as may be specified in the notification shall not be accepted for carriage by railway unless the value of such goods is declared and percentage charge is paid as required under sub-section (2).

Extent
of
liability
in res-
pect of
goods
carried
in open
wagon

104. Where any goods, which, under ordinary circumstances, would be carried in covered wagon and would be liable to damage, if carried otherwise, are with the consent of the consignor, recorded in the forwarding note, carried in open wagon, the responsibility of railway administration for destruction, damage or deterioration which may arise only by reason of the goods being so carried, shall be one-half of the amount of liability for such destruction, damage or deterioration determined under this Chapter.

105. Where the value has been declared under section 103 in respect of any consignment a railway administration may make it a condition of carrying such consignment that a railway servant authorised by it in this behalf has been satisfied by examination or otherwise that the consignment tendered for carriage contain the articles declared.

Right of railway administration to check contents of certain consignment or luggage.

106. (1) A person shall not be entitled to claim compensation against a railway administration for the loss, destruction, damage, deterioration or non-delivery of goods carried by railway, unless a notice thereof is served by him or on his behalf,—

Notice of claim for compensation and refund of overcharge.

(a) to the railway administration to which the goods are entrusted for carriage; or

(b) to the railway administration on whose railway the destination station lies, or the loss, destruction, damage or deterioration occurs,

within a period of six months from the date of entrustment of the goods.

(2) Any information demanded or enquiry made in writing from, or any complaint made in writing to, any of the railway administrations mentioned in sub-section (1) by or on behalf of the person within the said period of six months regarding the non-delivery or delayed delivery of the goods with particulars sufficient to identify the goods shall, for the purpose of this section, be deemed to be a notice of claim for compensation.

(3) A person shall not be entitled to a refund of an overcharge in respect of goods carried by railway unless a notice therefor has been served by him or on his behalf to the railway administration to which the overcharge has been paid within six months from the date of such payment or the date of delivery of such goods at the destination station, whichever is later.

107. An application for compensation for loss, destruction, damage, deterioration or non-delivery of goods shall be filed against the railway administration on whom a notice under section 106 has been served.

Applications for compensation for loss, etc., of goods.

108. (1) If a railway administration pays compensation for the loss, destruction, damage, deterioration or non-delivery of goods entrusted to it for carriage, to the consignee or the endorsee producing the railway receipt, the railway administration shall be deemed to have discharged its liability and no application before the Claims Tribunal or any other legal proceeding shall lie against the railway administration on the ground that the consignee or the endorsee was not legally entitled to receive such compensation.

Person entitled to claim compensation.

(2) Nothing in sub-section (1) shall affect the right of any person having any interest in the goods to enforce the same against the consignee or the endorsee receiving compensation under that sub-section.

Railway administration against which application for compensation for personal injury is to be filed.

109. An application before the Claims Tribunal for compensation for the loss of life or personal injury to a passenger, may be instituted against,—

(a) the railway administration from which the passenger obtained his pass or purchased his ticket, or

(b) the railway administration on whose railway the destination station lies or the loss or personal injury occurred.

Burden of proof.

110. In an application before the Claims Tribunal for compensation for loss, destruction, damage, deterioration or non-delivery of any goods, the burden of proving—

(a) the monetary loss actually sustained; or

(b) where the value has been declared under sub-section (2) of section 103 in respect of any consignment that the value so declared is its true value,

shall lie on the person claiming compensation, but subject to the other provisions contained in this Act, it shall not be necessary for him to prove how the loss, destruction, damage, deterioration or non-delivery was caused.

Extent of liability of railway administration in respect of accidents at sea.

111. (1) When a railway administration contracts to carry passengers or goods partly by railway and partly by sea, a condition exempting the railway administration from responsibility for any loss of life, personal injury or loss of or damage to goods which may happen during the carriage by sea from act of God, public enemies, fire, accidents from machinery, boilers and steam and all and every other dangers and accidents of the seas, rivers and navigation of whatever nature and kind shall, without being expressed, be deemed to be part of the contract, and, subject to that condition, the railway administration shall, irrespective of the nationality or ownership of the ship used for the carriage by sea, be responsible for any loss of life, personal injury or loss of or damage to goods which may happen during the carriage by sea, to the extent to which it would be responsible under the Merchant Shipping Act, 1958, if the ships were registered under that Act and the railway administration were owner of the ship and not to any greater extent.

(2) The burden of proving that any such loss, injury or damage as is mentioned in sub-section (1) happened during the carriage by sea shall lie on the railway administration.

Power to make rules in respect of matters in this Chapter.

112. (1) The Central Government may, by notification, make rules to carry out the purposes of this Chapter.

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

(a) the manner of packing of goods entrusted to a railway administration under clause (b) of sub-section (1) of section 98;

(b) the goods for the purposes of sub-section (3) of section 99; and

(c) the maximum amount payable by the railway administration for the loss, destruction, damage, deterioration or non-delivery of any consignment under sub-section (1) of section 103.

CHAPTER XII

ACCIDENTS

113. (1) Where, in the course of working a railway,—

(a) any accident attended with loss of any human life, or with grievous hurt, as defined in the Indian Penal Code, or with such serious injury to property as may be prescribed; or

(b) any collision between trains of which one is a train carrying passengers; or

(c) the derailment of any train carrying passengers, or of any part of such train; or

(d) any accident of a description usually attended with loss of human life or with such grievous hurt as aforesaid or with serious injury to property; or

(e) any accident of any other description which the Central Government may notify in this behalf in the Official Gazette,

occurs, the station master of the station nearest to the place at which the accident occurs or where there is no station master, the railway servant in charge of the section of the railway on which the accident occurs, shall, without delay, give notice of the accident to the District Magistrate and Superintendent of Police, within whose jurisdiction the accident occurs, the officer in charge of the police station within the local limits of which the accident occurs and to such other Magistrate or police officer as may be appointed in this behalf by the Central Government.

(2) The railway administration within whose jurisdiction the accident occurs, as also the railway administration to whom the train involved in the accident belongs, shall without delay, give notice of the accident to the State Government and the Commissioner having jurisdiction over the place of the accident.

114. (1) On the receipt of a notice under section 113 of the occurrence of an accident to a train carrying passengers resulting in loss of human life or grievous hurt causing total or partial disablement of permanent nature to a passenger or serious damage to railway property, the Commissioner shall, as soon as may be, notify the railway administration in whose jurisdiction the accident occurred of his intention to hold an inquiry into the causes that led to the accident and shall at the same time fix and communicate the date, time and place of inquiry;

Provided that it shall be open to the Commissioner to hold an inquiry into any other accident which, in his opinion, requires the holding of such an inquiry.

(2) If for any reason, the Commissioner is not able to hold an inquiry as soon as may be after the occurrence of the accident, he shall notify the railway administration accordingly.

Notice
of rail-
way
accident.

Inquiry
by Com-
missio-
ner.

Inquiry
by rail-
way admi-
nistration.

115. Where no inquiry is held by the Commissioner under sub-section (1) of section 114 or where the Commissioner has informed the railway administration under sub-section (2) of that section that he is not able to hold an inquiry, the railway administration within whose jurisdiction the accident occurs, shall cause an inquiry to be made in accordance with the prescribed procedure.

Powers
of Com-
missioner
in rela-
tion to
inqui-
ries.

116. (1) For the purpose of conducting an inquiry under this Chapter into the causes of any accident on a railway, the Commissioner shall, in addition to the powers specified in section 7, have the powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

5 of 1908.

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

(2) The Commissioner while conducting an inquiry under this Chapter shall be deemed to be a Civil Court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

2 of 1974.

State-
ment
made
before
Com-
missio-
ner.

117. No statement made by a person in the course of giving evidence in an inquiry before the Commissioner shall subject him to, or be used against him in, any civil or criminal proceeding, except a prosecution for giving false evidence by such statement:

Provided that the statement is—

- (a) made in reply to a question which is required by the Commissioner to answer; or
- (b) relevant to the subject-matter of the inquiry.

Proce-
dure,
etc.

118. Any railway administration or the Commissioner conducting an inquiry under this Chapter may send notice of the inquiry to such persons, follow such procedure, and prepare the report in such manner as may be prescribed.

No in-
quiry,
investi-
gation,
etc.,
to be
made if
the
Com-
mission
of
Inquiry
is ap-
pointed.

119. Notwithstanding anything contained in the foregoing provisions of this Chapter, where a Commission of Inquiry is appointed under the Commissions of Inquiry Act, 1952, to inquire into an accident, any inquiry, investigation or other proceeding pending in relation to that accident shall not be proceeded with, and all records or other documents relating to such inquiry shall be forwarded to such authority as may be specified by the Central Government in this behalf.

3 of 1952.

120. Where any accident of the nature not specified in section 113 occurs in the course of working a railway, the railway administration within whose jurisdiction the accident occurs, may cause such inquiry to be made into the causes of the accident, as may be prescribed.

Inquiry into accident not covered by section 113.
Returns.

121. Every railway administration shall send to the Central Government, a return of accidents occurring on its railway, whether attended with injury to any person or not, in such form and manner and at such intervals as may be prescribed.

122. (1) The Central Government may, by notification, make rules to carry out the purposes of this Chapter.

Power to make rules in respect of matters in this Chapter.

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

(a) the injury to property which shall be considered serious under clause (a) of sub-section (1) of section 113;

(b) the forms of notice of accidents to be given under section 113 and the particulars of the accident such notices shall contain;

(c) the manner of sending the notices of accidents, including the class of accidents to be sent immediately after the accident;

(d) the duties of the Commissioner, railway administration, railway servants, police officers and Magistrates on the occurrence of an accident;

(e) the persons to whom notices in respect of any inquiry under this Chapter are to be sent, the procedure to be followed in such inquiry and the manner in which a report of such inquiry shall be prepared;

(f) the nature of inquiry to be made by a railway administration into the causes of an accident under section 120;

(g) the form and manner of sending a return of accidents by a railway administration under section 121.

CHAPTER XIII

LIABILITY OF RAILWAY ADMINISTRATION FOR DEATH AND INJURY TO PASSENGERS DUE TO ACCIDENTS

123. In this Chapter, unless the context otherwise requires,—

(a) "accident" means an accident of the nature described in section 124;

Definitions.

(b) "dependant" means any of the following relatives of a deceased passenger, namely:—

(i) the wife, husband, son and daughter, and in case the deceased passenger is unmarried or is a minor, his parent;

(ii) the parent, minor brother or unmarried sister, widowed sister, widowed daughter-in-law and a minor child of a pre-

4 Ins. by S. 5, ibid. [w.e.f. 1.8.1994].

deceased son, if dependant wholly or partly on the deceased passenger;

(iii) a minor child of a pre-deceased daughter, if wholly dependant on the deceased passenger;

(iv) the paternal grand parent wholly dependant on the deceased passenger.

Extent of liability.

124. When in the course of working a railway, an accident occurs, being either a collision between trains of which one is a train carrying passengers or the derailment of or other accident to a train or any part of a train carrying passengers, then whether or not there has been any wrongful act, neglect or default on the part of the railway administration such as would entitle a passenger who has been injured or has suffered a loss to maintain an action and recover damages in respect thereof, the railway administration shall, notwithstanding anything contained in any other law, be liable to pay compensation to such extent as may be prescribed and to that extent only for loss occasioned by the death of a passenger dying as a result of such accident, and for personal injury and loss, destruction, damage or deterioration of goods owned by the passenger and accompanying him in his compartment or on the train, sustained as a result of such accident.

Explanation.—For the purposes of this section “passenger” includes a railway servant on duty.

Application for compensation.

125. (1) An application for compensation under section 124 may be made to the Claims Tribunal— 3 [or section 124A]

(a) by the person who has sustained the injury or suffered any loss, or

(b) by any agent duly authorised by such person in this behalf, or

(c) where such person is a minor, by his guardian, or

(d) where death has resulted from the accident by any dependant of the deceased or where such a dependant is a minor, by his guardian.

(2) Every application by a dependant for compensation under this section shall be for the benefit of every other dependant.

Interim relief by railway administration.

126. (1) Where a person who has made an application for compensation under section 125 desires to be paid interim relief, he may apply to the railway administration for payment of interim relief along with a copy of the application made under that section.

(2) Where, on the receipt of an application made under sub-section (1) and after making such inquiry as it may deem fit, the railway administration is satisfied that circumstances exist which require relief to be afforded to the applicant immediately, it may, pending determination by the Claims Tribunal of the actual amount of compensation payable under section 124 pay to any person who has sustained the injury or suffered any loss, or where death has resulted from the accident, to any dependant of the deceased, such sum as it considers

3 [or the untoward incident]

4 [or section 124A]

1 Ins by Act 28 of 1994 [w.e.f. 1.8.1994]
Ins by S. 3, ibid. [w.e.f. 1.8.1994]
Ins by S. 4, ibid. [w.e.f. 1.8.1994]

reasonable for affording such relief, so however, that the sum paid shall not exceed the amount of compensation payable at such rates as may be prescribed.

(3) The railway administration shall, as soon as may be, after making an order regarding payment of interim relief under sub-section (2), send a copy thereof to the Claims Tribunal.

(4) Any sum paid by the railway administration under sub-section (2) shall be taken into account by the Claims Tribunal while determining the amount of compensation payable.

127. (1) Subject to such rules as may be made, the rates of compensation payable in respect of any injury shall be determined by the Claims Tribunal.

Determination of compensation in respect of any injury or loss of goods.

(2) The compensation payable in respect of any loss of goods shall be such as the Claims Tribunal may, having regard to the circumstances of the case, determine to be reasonable.

128. (1) The right of any person to claim compensation under section 124 shall not affect the right of any such person to recover compensation payable under the Workmen's Compensation Act, 1923, or any other law for the time being in force; but no person shall be entitled to claim compensation more than once in respect of the same accident.

[or section 124A]

Saving as to certain rights.

8 of 1923.

(2) Nothing in sub-section (1) shall affect the right of any person to claim compensation payable under any contract or scheme providing for payment of compensation for death or personal injury or for damage to property or any sum payable under any policy of insurance.

129. (1) The Central Government may, by notification, make rules to carry out the purposes of this Chapter.

Power to make rules in respect of matters in this Chapter.

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

(a) the compensation payable for death;

(b) the nature of the injuries for which compensation shall be paid and the amount of such compensation.

CHAPTER XIV

REGULATION OF HOURS OF WORK AND PERIOD OF REST

130. In this Chapter, unless the context otherwise requires,—

Definitions.

(a) the employment of a railway servant is said to be "continuous" except when it is excluded or has been declared to be essentially intermittent or intensive;

(b) the employment of a railway servant is said to be "essentially intermittent" when it has been declared to be so by the pres-

Ans. by Act 28 of 1994, s.6 [w.e.f. 1-8-1994]

cribed authority on the ground that the daily hours of duty of the railway servant normally include periods of inaction aggregating to fifty per cent. or more (including at least one such period of not less than one hour or two such periods of not less than half an hour each) in a tour of twelve hours duty (on the average over seventy-two consecutive hours), during which the railway servant may be on duty, but is not called upon to display either physical activity or sustained attention;

(c) the employment of a railway servant is said to be "excluded", if he belongs to any one of the following categories, namely:—

(i) railway servants employed in a managerial or confidential capacity;

(ii) armed guards or other personnel subject to discipline similar to that of any of the armed police forces;

(iii) staff of the railway schools imparting technical training or academic education;

(iv) such staff as may be specified as supervisory under the rules;

(v) such other categories of staff as may be prescribed;

(d) the employment of a railway servant is said to be "intensive" when it has been declared to be so by the prescribed authority on the ground that it is of a strenuous nature involving continued concentration or hard manual labour with little or no period of relaxation.

131. Nothing in this Chapter shall apply to any railway servant to whom the Factories Act, 1948 or the Mines Act, 1952 or the Railway Protection Force Act, 1957 or the Merchant Shipping Act, 1958, applies.

63 of 1948.
35 of 1952.
23 of 1957.
44 of 1958.

Chapter
not to
apply to
certain
railway
servants.

Limita-
tion of
hours of
work.

132. (1) A railway servant whose employment is essentially intermittent shall not be employed for more than seventy-five hours in any week.

(2) A railway servant whose employment is continuous shall not be employed for more than fifty-four hours a week on an average in a two-weekly period of fourteen days.

(3) A railway servant whose employment is intensive shall not be employed for more than forty-five hours a week on an average in a two-weekly period of fourteen days.

(4) Subject to such rules as may be prescribed, temporary exemptions of railway servants from the provisions of sub-section (1) or sub-section (2) or sub-section (3) may be made by the prescribed authority if it is of opinion that such temporary exemptions are necessary to avoid serious interference with the ordinary working of the railway or in cases of accident, actual or threatened, or when urgent work is required to be done to the railway or to rolling stock or in any emergency which

could not have been foreseen or prevented, or in other cases of exceptional pressure of work:

Provided that where such exemption results in the increase of hours of employment of a railway servant referred to in any of the sub-sections, he shall be paid overtime at not less than two times his ordinary rate of pay for the excess hours of work.

133. (1) Subject to the provisions of this section, a railway servant—

Grant of periodical rest.

(a) whose employment is intensive or continuous shall, for every week commencing on a Sunday, be granted a rest of not less than thirty consecutive hours;

(b) whose employment is essentially intermittent shall, for every week commencing on a Sunday, be granted a rest of not less than twenty-four consecutive hours including a full night.

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

(i) any locomotive or traffic running staff shall be granted, each month, a rest of at least four periods of not less than thirty consecutive hours each or at least five periods of not less than twenty-two consecutive hours each, including a full night;

(ii) the Central Government may, by rules, specify the railway servants to whom periods of rest on scales less than those laid down under sub-section (1) may be granted and the periods thereof.

(3) Subject to such rules as may be made in this behalf, if the prescribed authority is of the opinion that such circumstances as are referred to in sub-section (4) of section 132 are present, it may exempt any railway servant from the provisions of sub-section (1) or clause (i) of sub-section (2):

Provided that a railway servant so exempted shall, in such circumstances as may be prescribed, be granted compensatory periods of rest for the periods he has foregone.

134. Nothing in this Chapter or the rules made thereunder shall, where due provision has been made for the relief of a railway servant, authorise him to leave his duty until he has been relieved.

Railway servant to remain on duty.

135. (1) Subject to such rules as may be made in this behalf, the Central Government may appoint supervisors of railway labour.

Supervisors of railway labour.

(2) The duties of supervisors of railways labour shall be—

(i) to inspect railways in order to determine whether the provisions of this Chapter or of the rules made thereunder are duly observed; and

(ii) to perform such other functions as may be prescribed.

(3) A supervisor of railway labour shall be deemed to be a Commissioner for the purposes of sections 7 and 9.

Power to make rules in respect of matters in this Chapter.

136. (1) The Central Government may, by notification, make rules to carry out the purposes of this Chapter.

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

(a) the authorities who may declare the employment of any railway servant essentially intermittent or intensive;

(b) the appeals against any such declaration and the manner in which, and the conditions subject to which any such appeal may be filed and heard;

(c) the categories of staff that may be specified under sub-clauses (iv) and (v) of clause (c) of section 130;

(d) the authorities by whom exemptions under sub-section (4) of section 132 or sub-section (3) of section 133 may be made;

(e) the delegation of power by the authorities referred to in clause (d);

(f) the railway servants to whom clause (ii) of sub-section (2) of section 133 apply and the periods of rest to be granted to them;

(g) the appointment of supervisors of railway labour and their functions.

CHAPTER XV

PENALTIES AND OFFENCES

Fraudulently travelling or attempting to travel without proper pass or ticket.

137. (1) If any person, with intent to defraud a railway administration,—

(a) enters or remains in any carriage on a railway or travels in a train in contravention of section 55, or

(b) uses or attempts to use a single pass or a single ticket which has already been used on a previous journey, or in the case of a return ticket, a half thereof which has already been so used,

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:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such punishment shall not be less than a fine of five hundred rupees.

(2) The person referred to in sub-section (1) shall also be liable to pay the excess charge mentioned in sub-section (3) in addition to the ordinary single fare for the distance which he has travelled, or where there is any doubt as to the station from which he started, the ordinary single fare from the station from which the train originally started, or if the tickets of passengers travelling in the train have been examined since the original starting of the train, the ordinary single fare from the place where the tickets were so examined or, in case of their having been examined more than once, were last examined.

(3) The excess charge referred to in sub-section (2) shall be a sum equal to the ordinary single fare referred to in that sub-section or fifty rupees, whichever is more.

45 of 1860. (4) Notwithstanding anything contained in section 65 of the Indian Penal Code, the court convicting an offender may direct that the person in default of payment of any fine inflicted by the court shall suffer imprisonment for a term which may extend to six months.

138. (1) If any passenger,—

(a) being in or having alighted from a train, fails or refuses to present for examination or to deliver up his pass or ticket immediately on a demand being made therefor under section 54, or

(b) travels in a train in contravention of the provisions of section 55,

he shall be liable to pay, on the demand of any railway servant authorised in this behalf, the excess charge mentioned in sub-section (3) in addition to the ordinary single fare for the distance which he has travelled or, where there is any doubt as to the station from which he started, the ordinary single fare from the station from which the train originally started, or, if the tickets of passengers travelling in the train have been examined since the original starting of the train, the ordinary single fare from the place where the tickets were so examined or in the case of their having been examined more than once, were last examined.

Levy of excess charge and fare for travelling without proper pass or ticket or beyond authorised distance.

(2) If any passenger,—

(a) travels or attempts to travel in or on a carriage, or by a train, of a higher class than that for which he has obtained a pass or purchased a ticket; or

(b) travels in or on a carriage beyond the place authorised by his pass or ticket,

he shall be liable to pay, on the demand of any railway servant authorised in this behalf, any difference between the fare paid by him and the fare payable in respect of the journey he has made and the excess charge referred to in sub-section (3).

(3) The excess charge shall be a sum equal to the amount payable under sub-section (1) or sub-section (2), as the case may be, or fifty rupees, whichever is more:

Provided that if the passenger has with him a certificate granted under sub-section (2) of section 55, no excess charge shall be payable.

(4) If any passenger liable to pay the excess charge and the fare mentioned in sub-section (1), or the excess charge and any difference of fare mentioned in sub-section (2), fails or refuses to pay the same on a demand being made therefor under one or other of these sub-sections, as the case may be, any railway servant authorised by the railway administration in this behalf may apply to any Metropolitan Magistrate or a Judicial Magistrate of the first or second class, as the case may be, for the recovery of the sum payable as if it were a fine, and the Magistrate if satisfied that the sum is payable shall order it to be so recovered,

and may order that the person liable for the payment shall in default of payment suffer imprisonment of either description for a term which may extend to one month but not less than ten days.

(5) Any sum recovered under sub-section (4) shall, as and when it is recovered, be paid to the railway administration.

Power to
remove
persons.

139. Any person failing or refusing to pay the fare and the excess charge referred to in section 138 may be removed by any railway servant authorised in this behalf who may call to his aid any other person to effect such removal:

Provided that nothing in this section shall be deemed to preclude a person removed from a carriage of a higher class from continuing his journey in a carriage of a class for which he holds a pass or ticket:

Provided further that a woman or a child if unaccompanied by a male passenger, shall not be so removed except either at the station from where she or he commences her or his journey or at a junction or terminal station or station at the headquarters of a civil district and such removal shall be made only during the day.

Security
for good
behavi-
our in
certain
cases.

140. (1) When a court convicting a person of an offence under section 137 or section 138 finds that he has been habitually committing or attempting to commit that offence and the court is of the opinion that it is necessary or desirable to require that person to execute a bond for good behaviour, such court may, at the time of passing the sentence on the person, order him to execute a bond with or without sureties, for such amount and for such period not exceeding three years as it deems fit.

(2) An order under sub-section (1) may also be made by an appellate court or by the High Court when exercising its powers of revision.

Need-
lessly
inter-
fering
with
means of
communi-
cation in
a train.

141. If any passenger or any other person, without reasonable and sufficient cause, makes use of, or interferes with, any means provided by a railway administration in a train for communication between passengers and the railway servant in charge of the train, 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:

Provided that, in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, where a passenger, without reasonable and sufficient cause, makes use of the alarm chain provided by a railway administration, such punishment shall not be less than—

(a) a fine of five hundred rupees, in the case of conviction for the first offence; and

(b) imprisonment for three months in case of conviction for the second or subsequent offence.

Penalty
for trans-
fer of
tickets.

142. (1) If any person not being a railway servant or an agent authorised in this behalf—

(a) sells or attempts to sell any ticket or any half of a return ticket; or

(b) parts or attempts to part with the possession of a ticket against which reservation of a seat or berth has been made or any half of a return ticket or a season ticket,

in order to enable any other person to travel therewith, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and shall also forfeit the ticket which he sells or attempts to sell or parts or attempts to part.

(2) If any person purchases any ticket referred to in clause (a) of sub-section (1) or obtains the possession of any ticket referred to in clause (b) of that sub-section from any person other than a railway servant or an agent authorised in this behalf, he shall be punishable with imprisonment for a term which may extend to three months and with fine which may extend to five hundred rupees and if the purchaser or holder of any ticket aforesaid travels or attempts to travel therewith, he shall forfeit the ticket which he so purchased or obtained and shall be deemed to be travelling without a proper ticket and shall be liable to be dealt with under section 138:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, the punishment under sub-section (1) or sub-section (2) shall not be less than a fine of two hundred and fifty rupees.

143. (1) If any person, not being a railway servant or an agent authorised in this behalf,—

(a) carries on the business of procuring and supplying tickets for travel on a railway or for reserved accommodation for journey in a train; or

(b) purchases or sells or attempts to purchase or sell tickets with a view to carrying on any such business either by himself or by any other person,

he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to ten thousand rupees, or with both, and shall also forfeit the tickets which he so procures, supplies, purchases, sells or attempts to purchase or sell:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such punishment shall not be less than imprisonment for a term of one month or a fine of five thousand rupees.

(2) Whoever abets any offence punishable under this section shall, whether or not such offence is committed, be punishable with the same punishment as is provided for the offence.

144. (1) If any person canvasses for any custom or hawks or exposes for sale any article whatsoever in any railway carriage or upon any part of a railway, except under and in accordance with the terms and conditions of a licence granted by the railway administration in this behalf, he shall be punishable with imprisonment for a term which may extend

Penalty for unauthorised carrying on of business of procuring and supplying of railway tickets.

Prohibition on hawking, etc., and begging.

to one year, or with fine which may extend to two thousand rupees, or with both:

Provided that, in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such punishment shall not be less than a fine of one thousand rupees.

(2) If any person begs in any railway carriage or upon a railway station, he shall be liable for punishment as provided under sub-section (1).

(3) Any person referred to in sub-section (1) or sub-section (2) may be removed from the railway carriage or any part of the railway or railway station, as the case may be, by any railway servant authorised in this behalf or by any other person whom such railway servant may call to his aid.

Drunken-
ness or
nuisance.

145. If any person in any railway carriage or upon any part of a railway—

(a) is in a state of intoxication; or

(b) commits any nuisance or act of indecency or uses abusive or obscene language; or

(c) wilfully or without excuse interferes with any amenity provided by the railway administration so as to affect the comfortable travel of any passenger,

he may be removed from the railway by any railway servant and shall, in addition to the forfeiture of his pass or ticket, be punishable with imprisonment which may extend to six months and with fine which may extend to five hundred rupees:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such punishment shall not be less than—

(a) a fine of one hundred rupees in the case of conviction for the first offence; and

(b) imprisonment of one month and a fine of two hundred and fifty rupees, in the case of conviction for second or subsequent offence.

Obstruct-
ing railway
servant
in his
duties.

146. If any person wilfully obstructs or prevents any railway servant in the discharge of his duties, 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.

Trespass
and refu-
sal to
desist
from
trespass.

147. (1) If any person enters upon or into any part of a railway without lawful authority, or having lawfully entered upon or into such part misuses such property or refuses to leave, 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:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such punishment shall not be less than a fine of five hundred rupees.

(2) Any person referred to in sub-section (1) may be removed from the railway by any railway servant or by any other person whom such railway servant may call to his aid.

148. If in any application for compensation under section 125, any person makes a statement which is false or which he knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Penalty for making a false statement in an application for compensation.

149. If any person requiring compensation from a railway administration for loss, destruction, damage, deterioration or non-delivery of any consignment makes a claim which is false or which he knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Making a false claim for compensation.

150. (1) Subject to the provisions of sub-section (2), if any person unlawfully,—

Maliciously wrecking or attempting to wreck a train.

(a) puts or throws upon or across any railway, any wood, stone or other matter or thing; or

(b) takes up, removes, loosens or displaces any rail, sleeper or other matter or things belonging to any railway; or

(c) turns, moves, unlocks or diverts any points or other machinery belonging to any railway; or

(d) makes or shows, or hides or removes, any signal or light upon or near to any railway; or

(e) does or causes to be done or attempts to do any other act or thing in relation to any railway,

with intent or with knowledge that he is likely to endanger the safety of any person travelling on or being upon the railway, he shall be punishable with imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, where a person is punishable with rigorous imprisonment, such imprisonment shall not be less than—

(a) three years, in the case of a conviction for the first offence; and

(b) seven years, in the case of conviction for the second or subsequent offence.

(2) If any person unlawfully does any act or thing referred to in any of the clauses of sub-section (1)—

(a) with intent to cause the death of any person and the doing of such act or thing causes the death of any person; or

(b) with knowledge that such act or thing is so imminently dangerous that it must in all probability cause the death of any person or such bodily injury to any person as is likely to cause the death of such person,

he shall be punishable with death or imprisonment for life.

Damage to or destruction of certain railway properties.

151. (1) If any person, with intent to cause, or knowing that he is likely to cause damage or destruction to any property of a railway referred to in sub-section (2), causes by fire, explosive substance or otherwise, damage to such property or destruction of such property, he shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

(2) The properties of a railway referred to in sub-section (1) are railway track, bridges, station buildings and installations, carriages or wagons, locomotives, signalling, telecommunications, electric traction and block equipments and such other properties as the Central Government being of the opinion that damage thereto or destruction thereof is likely to endanger the operation of a railway, may, by notification, specify.

Maliciously hurting or attempting to hurt persons travelling by railway.

152. If any person unlawfully throws or causes to fall or strike at against, into or upon any rolling stock forming part of a train, any wood, stone or other matter or thing with intent, or with knowledge that he is likely to endanger the safety of any person being in or upon such rolling stock or in or upon any other rolling stock forming part of the same train, he shall be punishable with imprisonment for life, or with imprisonment for a term which may extend to ten years.

Endangering safety of persons travelling by railway by wilful act or omission.

153. If any person by any unlawful act or by any wilful omission or neglect, endangers or causes to be endangered the safety of any person travelling on or being upon any railway, or obstructs or causes to be obstructed or attempts to obstruct any rolling stock upon any railway, he shall be punishable with imprisonment for a term which may extend to five years.

Endangering safety of persons travelling by railway by rash or negligent act or omission.

154. If any person in a rash and negligent manner does any act, or omits to do what he is legally bound to do, and the act or omission is likely to endanger the safety of any person travelling or being upon any railway, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

155. (1) If any passenger--

(a) having entered a compartment wherein no berth or seat has been reserved by a railway administration for his use, or

(b) having unauthorisedly occupied a berth or seat reserved by a railway administration for the use of another passenger,

refuses to leave it when required to do so by any railway servant authorised in this behalf, such railway servant may remove him or cause him to be removed, with the aid of any other person, from the compartment, berth or seat, as the case may be, and he shall also be punishable with fine which may extend to five hundred rupees.

(2) If any passenger resists the lawful entry of another passenger into a compartment not reserved for the use of the passenger resisting, he shall be punishable with fine which may extend to two hundred rupees.

156. If any passenger or any other person, after being warned by a railway servant to desist, persists in travelling on the roof, step or foot-board of any carriage or on an engine, or in any other part of a train not intended for the use of passengers, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both and may be removed from the railway by any railway servant.

157. If any passenger wilfully alters or defaces his pass or ticket so as to render the date, number or any material portion thereof illegible, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

158. Any person under whose authority any railway servant is employed in contravention of any of the provisions of Chapter XIV or of the rules made thereunder, shall be punishable with fine which may extend to five hundred rupees.

159. If any driver or conductor of any vehicle while upon the premises of a railway disobeys the reasonable directions of any railway servant or police officer, he shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Entering into a compartment reserved or resisting entry into a compartment not reserved.

Travelling on roof, step or engine of a train.

Altering or defacing pass or ticket.

Penalty for contravention of any of the provisions of Chapter XIV.

Disobedience of drivers or conductors of vehicles to directions of railway servant, etc.

Opening
or break-
ing a
level
crossing
gate.

160. (1) If any person, other than a railway servant or a person authorised in this behalf, opens any gate or chain or barrier set up on either side of a level crossing which is closed to road traffic, he shall be punishable with imprisonment for a term which may extend to three years.

(2) If any person breaks any gate or chain or barrier set up on either side of a level crossing which is closed to road traffic, he shall be punishable with imprisonment for a term which may extend to five years.

Negli-
gently
crossing
unmann-
ed level
crossing.

161. If any person driving or leading a vehicle is negligent in crossing an unmanned level crossing, he shall be punishable with imprisonment which may extend to one year.

Explanation.—For the purposes of this section, “negligence” in relation to any person driving or leading a vehicle in crossing an unmanned level crossing means the crossing of such level crossing by such person—

(a) without stopping or caring to stop the vehicle near such level crossing to observe whether any approaching rolling stock is in sight, or

(b) even while an approaching rolling stock is in sight.

Entering
carriage
or other
place re-
served
for
females.

162. If a male person knowing or having reason to believe that a carriage, compartment, berth or seat in a train or room or other place is reserved by a railway administration for the exclusive use of females, without lawful excuse,—

(a) enters such carriage, compartment, room or other place, or having entered such carriage, compartment, room or place, remains therein; or

(b) occupies any such berth or seat having been required by any railway servant to vacate it,

he shall, in addition to being liable to forfeiture of his pass or ticket, be punishable with fine which may extend to five hundred rupees and may also be removed by any railway servant.

Giving
false ac-
count of
goods.

163. If any person required to furnish an account of goods under section 66, gives an account which is materially false, he and, if he is not the owner of the goods, the owner also shall, without prejudice to his liability to pay any freight or other charge under any provision of this Act, be punishable with fine which may extend to five hundred rupees for every quintal or part thereof of such goods.

Unlaw-
fully
bringing
dangerous
goods on
a railway.

164. If any person, in contravention of section 67, takes with him any dangerous goods or entrusts such goods for carriage to the railway administration, he shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to one thousand rupees or with both and shall also be liable for any loss, injury or damage which may be caused by reason of bringing such goods on the railway.

165. If any person, in contravention of section 67, takes with him any offensive goods or entrusts such goods for carriage to the railway administration, he shall be punishable with fine which may extend to five hundred rupees and shall also be liable for any loss, injury or damage which may be caused by reason of bringing such goods on the railway.

Unlawfully bringing offensive goods on a railway.

166. If any person without lawful authority—

(a) pulls down or wilfully damages any board or document set up or posted by the order of a railway administration on a railway or any rolling stock; or

(b) obliterates or alters any letters or figures upon any such board or document or upon any rolling stock,

Defacing public notices.

he shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

167. (1) No person in any compartment of a train shall, if objected to by any other passenger in that compartment, smoke therein.

Smoking.

(2) Notwithstanding anything contained in sub-section (1), a railway administration may prohibit smoking in any train or part of a train.

(3) Whosoever contravenes the provisions of sub-section (1) or sub-section (2) shall be punishable with fine which may extend to one hundred rupees.

168. (1) If a person under the age of twelve years is guilty of any of the offences under sections 150 to 154, the court convicting him may require the father or guardian of such person to execute, within such time as the court may fix, a bond for such amount and for such period as the court may direct for the good conduct of such person.

Provision with respect to commission of offence by the children of acts endangering safety of person travelling on railway.

(2) The amount of the bond, if forfeited, shall be recoverable by the court as if it were a fine imposed by itself.

(3) If a father or guardian fails to execute a bond under sub-section (1) within the time fixed by the court, he shall be punishable with fine which may extend to fifty rupees.

169. If a non-Government railway fails to comply with, any requisition made, decision or direction given, by the Central Government, under any of the provisions of this Act, or otherwise contravenes any of the provisions of this Act, it shall be open to the Central Government, by order, to levy a penalty not exceeding two hundred and fifty rupees and a further penalty not exceeding one hundred and fifty rupees for every day during which the contravention continues:

Levy of penalty on non-Government railway.

Provided that no such penalty shall be levied except after giving a reasonable opportunity to the non-Government railway to make such representation as it deems fit.

Recovery
of penalty.

170. Any penalty imposed by the Central Government under section 169, shall be recoverable by a suit in the District Court having jurisdiction in the place where the head office of the non-Government railway is situated.

Section
169 or
170 not
to pre-
clude
Central
Govern-
ment
from
taking
any other
action.

171. Nothing in section 169 or 170 shall preclude the Central Government from resorting to any other action to compel a non-Government railway to discharge any obligation imposed upon it by or under this Act.

Penalty
for
intoxica-
tion.

172. If any railway servant is in a state of intoxication while on duty, he shall be punishable with fine which may extend to five hundred rupees and when the performance of any duty in such state is likely to endanger the safety of any person travelling on or being upon a railway, such railway servant shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Abandon-
ing train,
etc.,
without
authority.

173. If any railway servant, when on duty, is entrusted with any responsibility connected with the running of a train, or of any other rolling stock from one station or place to another station or place, and he abandons his duty before reaching such station or place without authority or without properly handing over such train or rolling stock to another authorised railway servant, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

Obstruct-
ing run-
ning of
train, etc.

174. If any railway servant (whether on duty or otherwise) or any other person obstructs or causes to be obstructed or attempts to obstruct any train or other rolling stock upon a railway,—

(a) by squatting or picketing or during any *rail roko* agitation or *bandh*; or

(b) by keeping without authority any rolling stock on the railway; or

(c) by tampering with, disconnecting or interfering in any other manner with its hose pipe or tampering with signal gear or otherwise,

he shall 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.

Endanger-
ing the
safety of
persons.

175. If any railway servant, when on duty, endangers the safety of any person—

(a) by disobeying any rule made under this Act; or

(b) by disobeying any instruction, direction or order under this Act or the rules made thereunder; or

(c) by any rash or negligent act or omission,

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

176. If any railway servant unnecessarily—

(a) allows any rolling stock to stand across a place where the railway crosses a public road on the level; or

(b) keeps a level crossing closed against the public,

he shall be punishable with fine which may extend to one hundred rupees.

Obstructing level crossing.

177. If any railway servant required to furnish a return by or under this Act, signs and furnishes a return which is false in any material particular or which he knows or believes to be false, or does not believe to be true, he shall be punishable with imprisonment which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

False returns.

178. If any railway servant who is required by a railway administration to inquire into a claim for loss, destruction, damage, deterioration or non-delivery of any consignment makes a report which is false or which he knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

Making a false report by a railway servant.

179. (1) If a person commits any offence mentioned in sections 137, 141 to 147, 150 to 157, 160 to 162, 164, 166, 168 and 172 to 175, he may be arrested without warrant or other written authority by any railway servant or police officer not below the rank of a head constable.

Arrest for offences under certain sections.

(2) The railway servant or the police officer may call to his aid any other person to effect the arrest under sub-section (1).

(3) Any person so arrested under this section shall be produced before the nearest Magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the Magistrate.

180. (1) If any person who commits any offence under this Act, other than an offence mentioned in section 179, or is liable to pay any excess charge or other sum demanded under section 138, fails or refuses to give his name and address or there is reason to believe that the name and address given by him are fictitious or that he will abscond, any railway servant authorised in this behalf or any police officer not below the rank of a head constable may arrest him without warrant or written authority.

Arrest of persons likely to abscond, etc.

(2) The railway servant or the police officer may call to his aid any other person to effect the arrest under sub-section (1).

(3) Any person arrested under this section shall be produced before the nearest Magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the Magistrate unless he is released earlier on

giving bail or if his true name and address are ascertained on executing a bond without sureties for his appearance before the Magistrate having jurisdiction to try him for the offence.

(4) The provisions of Chapter XXIII of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to the giving of bail and the execution of bonds under this section. 2 of 1974.

Magistrate having jurisdiction under the Act.
Place of trial.

181. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try an offence under this Act. 2 of 1974.

182. (1) Any person committing an offence under this Act or any rule made thereunder shall be triable for such offence in any place in which he may be or which the State Government may notify in this behalf, as well as in any other place in which he is liable to be tried under any law for the time being in force.

(2) Every notification under sub-section (1) shall be published in the Official Gazette, and a copy thereof shall be exhibited for the information of the public in some conspicuous place at such railway stations as the State Government may direct.

CHAPTER XVI

MISCELLANEOUS

Power to provide other transport services.

183. (1) A railway administration may, for the purpose of facilitating the carriage of passengers or goods or to provide integrated service for such carriage, provide any other mode of transport.

(2) Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act shall apply to the carriage of passengers or goods by the mode of transport referred to in sub-section (1).

Taxation on railways by local authorities.

184. (1) Notwithstanding anything to the contrary contained in any other law, a railway administration shall not be liable to pay any tax in aid of the funds of any local authority unless the Central Government, by notification, declares the railway administration to be liable to pay the tax specified in such notification.

(2) While a notification of the Central Government under sub-section (1) is in force, the railway administration shall be liable to pay to the local authority either the tax specified in the notification or, in lieu thereof, such sum, if any, as an officer appointed in this behalf by the Central Government may, having regard to all the circumstances of the case, from time to time, determine to be fair and reasonable.

(3) The Central Government may at any time revoke or vary a notification issued under sub-section (1).

(4) Nothing in this section shall be construed to prevent any railway administration from entering into a contract with any local authority for the supply of water or light, or for the scavenging of railway premises,

or for any other service which the local authority may be rendering or be prepared to render to the railway administration.

185. (1) Notwithstanding anything to the contrary contained in any other law, a railway administration shall not be liable to pay any tax to any local authority in respect of any advertisement made on any part of the railway unless the Central Government, by notification, declares the railway administration to be liable to pay the tax specified in such notification.

Taxation on railways for advertisement.

(2) The Central Government may at any time revoke or vary a notification issued under sub-section (1).

186. No suit, prosecution or other legal proceeding shall lie against the Central Government, any railway administration, a railway servant or any other person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules or orders made thereunder.

Protection of action taken in good faith.

187. (1) No rolling stock, machinery, plant, tools, fittings, materials or effects used or provided by a railway administration for the purpose of traffic on its railway, or of its stations or workshops, shall be liable to be taken in execution of any decree or order of any court or of any local authority or person having by law the power to attach or distrain property or otherwise to cause property to be taken in execution, without the previous sanction of the Central Government.

Restriction on execution against railway property.

(2) Nothing in sub-section (1) shall be construed to affect the authority of any court to attach the earnings of a railway in execution of a decree or order.

45 of 1860.

188. (1) Any railway servant, who is not a public servant within the meaning of section 21 of the Indian Penal Code, shall be deemed to be a public servant for the purposes of Chapter IX and section 409 of that Code.

Railway servants to be public servants for the purposes of Chapter IX and section 409 of the Indian Penal Code.

45 of 1860.

(2) In the definition of "legal remuneration" in section 161 of the Indian Penal Code, the word "Government" shall, for the purposes of sub-section (1), be deemed to include any employer of a railway servant as such.

189. A railway servant shall not—

(a) purchase or bid for, either in person or by an agent, in his own name or in that of another, or jointly or in shares with others, any property put to auction under section 83 or section 84 or section 85 or section 90; or

Railway servants not to engage in trade.

(b) in contravention of any direction of the railway administration in this behalf, engage in trade.

Procedure for delivery to railway administration of property detained by a railway servant.

190. If a railway servant is discharged from service or is suspended, or dies or absconds or absents himself, and he or his wife or widow or any member of his family or his representative, refuses or neglects, after notice in writing for that purpose, to deliver up to the railway administration or to a person appointed by the railway administration, in this behalf, any station, office or other building with its appurtenances, or any books, papers, keys, equipment or other matters, belonging to the railway administration and in the possession or custody of such railway servant at the occurrence of any such event as aforesaid, any Metropolitan Magistrate or Judicial Magistrate of the first class may, on application made by or on behalf of the railway administration, order any police officer, with proper assistance, to enter upon the station, office or other building and remove any person found therein and take possession thereof, or to take possession of the books, papers or other matters, and to deliver the same to the railway administration or to a person appointed by the railway administration in that behalf.

Proof of entries in records and documents.

191. Entries made in the records or other documents of a railway administration shall be admitted in evidence in all proceedings by or against the railway administration, and all such entries may be proved either by the production of the records or other documents of the railway administration containing such entries or by the production of a copy of the entries certified by the officer having custody of the records or other documents under his signature and stating that it is a true copy of the original entries and that such original entries are contained in the records or other documents of the railway administration in his possession.

Service of notice, etc., on railway administration.

192. Any notice or other document required or authorised by this Act to be served on a railway administration may be served, in the case of a Zonal Railway, on the General Manager or any of the railway servant authorised by the General Manager, and in the case of any other railway, on the owner or lessee of the railway or the person working the railway under an agreement—

- (a) by delivering it to him; or
- (b) by leaving it at his office; or
- (c) by registered post to his office address.

Service of notice, etc., by railway administration.

193. Unless otherwise provided in this Act or the rules framed thereunder, any notice or other document required or authorised by this Act to be served on any person by a railway administration may be served—

- (a) by delivering it to the person; or
- (b) by leaving it at the usual or last known place of abode of the person; or
- (c) by registered post addressed to the person at his usual or last known place of abode.

Presumption where notice is served by post.

194. Where a notice or other document is served by post, it shall be deemed to have been served at the time when the letter containing it would be delivered in the ordinary course of post, and in proving such service, it shall be sufficient to prove that the letter containing the notice or other document was properly addressed and registered.

195. (1) A railway administration may, by order in writing, authorise any railway servant or other person to act for, or represent it, as the case may be, in any proceeding before any civil, criminal or other court.

Representation of railway administration.

2 of 1974.

(2) A person authorised by a railway administration to conduct prosecutions on its behalf shall, notwithstanding anything in section 302 of the Code of Criminal Procedure, 1973, be entitled to conduct such prosecutions without the permission of the Magistrate.

196. (1) The Central Government may, by notification, exempt any railway from all or any of the provisions of this Act.

Power to exempt railway from Act.

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

197. (1) For the purposes of sections 67, 113, 121, 123, 147, 151 to 154, 160, 164, 166, 168, 170, 171, 173 to 176, 179, 180, 182, 184, 185, 187 to 190, 192, 193, 195 and of this section, the word "railway" whether it occurs alone or as a prefix to another word, has reference to a railway or portion of a railway under construction and to a railway or portion of a railway not used for the public carriage of passengers, animals or goods as well as to a railway falling within the definition of that word in clause (31) of section 2.

Matters supplemental to the definitions of "railway" and "railway servant"

(2) For the purposes of sections 7, 24, 113, 146, 172 to 176 and 188 to 190, the expression "railway servant" includes a person employed under a railway in connection with the service thereof by a person fulfilling a contract with the railway administration.

198. Without prejudice to any power to make rules contained elsewhere in this Act, the Central Government may make rules generally to carry out the purposes of this Act.

General power to make rules.

199. 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.

Rules to be laid before Parliament.

9 of 1890.

200. (1) The Indian Railways Act, 1890 is hereby repealed.

Repeal and saving.

9 of 1890.

(2) Notwithstanding the repeal of the Indian Railways Act, 1890 (hereinafter referred to as the repealed Act)—

(a) anything done or any action taken or purported to have been done or taken (including any rule, notification, inspection, order or notice made or issued, or any appointment or declaration made or any licence, permission, authorisation or exemption granted or any document or instrument executed or any direction given or any proceedings taken or any penalty or fine imposed), under the repealed

Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act;

(b) any complaint made to the Railway Rates Tribunal under sub-section (1) of section 41 of the repealed Act but not disposed of before the commencement of this Act and any complaint that may be made to the said Tribunal against any act or omission of a railway administration under the repealed Act shall be heard and decided by the Tribunal constituted under this Act in accordance with the provisions of Chapter VII of this Act.

(3) The mention of particular matters in sub-section (2) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897, with regard to the effect of repeal.

THE DELHI MOTOR VEHICLES TAXATION (AMENDMENT)
ACT, 1989

No. 25 OF 1989

[2nd August, 1989.]

An Act further to amend the Delhi Motor Vehicles Taxation
Act, 1962.

BE it enacted by Parliament in the Fortieth Year of the Republic of
India as follows:—

1. (1) This Act may be called the Delhi Motor Vehicles Taxation
(Amendment) Act, 1989.

Short
title
and com.
mence-
ment.

(2) It shall come into force on ^{*}such date as the Administrator may,
by notification in the Official Gazette, appoint.

57 of 1962.

2. In section 3 of the Delhi Motor Vehicles Taxation Act, 1962 (here-
inafter referred to as the principal Act),—

Amend.
ment of
section 3.

(i) for sub-section (1), the following sub-section shall be sub-
stituted, namely:—

“(1) Subject to the other provisions of this Act, on and from
the commencement of the Delhi Motor Vehicles Taxation
(Amendment) Act, 1989, there shall be levied and collected on—

(a) all motor vehicles described in column (1) of Part A
of Schedule I and used or kept for use in Delhi, a tax at
the rate specified in the corresponding entry in column (2)
of the said Part;

(b) all motor vehicles described in column (1) of Part B
of Schedule I and used or kept for use in Delhi,—

(i) on their first registration in Delhi, a one time tax
at the amount specified in the corresponding entry in
column (2) of the said Part;

(ii) the same having been earlier registered in Delhi
or in any other State, then having regard to the month of
their first registration in Delhi or, as the case may be,

in that other State, a one time tax at the amount specified in the respective columns (3) to (14) of Part C of Schedule I:

Provided that where such motor vehicles are more than ten years old from the date of their first registration, the owners thereof shall present the registration certificates of such motor vehicles to the taxation authority for an endorsement therein to the effect that the motor vehicles are more than ten years old and their use or keeping for use in Delhi do not attract any tax.”;

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

“Provided further that any such increase shall not apply in respect of a motor vehicle specified in Part B of Schedule I on which one time tax has been levied and collected.”.

Amend-
ment of
section 4.

3. In section 4 of the principal Act, in sub-section (2), for clauses (a), (b) and (c), the following clauses shall be substituted, namely:—

“(a) where such vehicle is described in Part A of Schedule I,—

(i) for a year at the rate specified in the corresponding entry in column (2) thereof (hereinafter referred to as the annual rate); or

(ii) for one or more quarters, at one-fourth of the annual rate for each quarter; or

(iii) for any period less than a quarter expiring on the last day of the quarter, at one-twelfth of the annual rate for each complete month or part thereof included in such period; or

(b) where such vehicle is described in Part B of Schedule I, a one time tax at the amount specified in the corresponding entry in column (2) in the said Part or, as the case may be, the amount specified in the respective columns in Part C.”.

Substitu-
tion of
new
section
for sec-
tion 10.

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

Refund
of tax.

“10. (1) When any person who has paid the tax in respect of a motor vehicle produces before the taxation authority a certificate signed by the registering authority stating that the tax token and the certificate of registration issued in respect of such vehicle have been surrendered on the date specified by the registering authority in his

certificate, such person shall, on an application made in that behalf to the taxation authority and subject to such conditions as may be prescribed, be entitled to a refund,—

(a) in a case where payment of tax has been made in accordance with clause (a) of sub-section (2) of section 4, for each complete month of the period for which such tax has been paid and which is unexpired on the date on which the tax token and the certificate of registration were surrendered, of an amount equal to one-twelfth of the annual tax payable in respect of such vehicle; and

(b) in a case where payment of tax has been made in accordance with clause (b) of sub-section (2) of section 4, at the rates specified in Schedule IA.

(2) When any person has paid the tax in respect of a motor vehicle and the vehicle is removed outside Delhi before the expiry of the period for which the tax has been paid and taxed in another State or the registration of such vehicle is cancelled before the expiry of the period for which the tax has been paid, such person shall, on an application made in that behalf to the taxation authority and subject to such conditions as may be prescribed, be entitled to a refund,—

(a) in a case where payment of tax has been made in accordance with clause (a) of sub-section (2) of section 4, for each complete month of the period for which such tax has been paid and during which the vehicle was removed from Delhi or such vehicle's registration is cancelled, of an amount equal to one-twelfth of the annual tax payable in respect of such vehicle; and

(b) in a case where payment of tax has been made in accordance with clause (b) of sub-section (2) of section 4, at the rates specified in Schedule IB.

(3) Where the rates of tax leviable under Part B of Schedule I are increased by notification in the Official Gazette under sub-section (2) of section 3, the Administrator may, from time to time, by the same notification or by a separate notification in the Official Gazette, correspondingly increase the rates of refund payable under this section and the refund of tax payable in respect of the vehicles registered on or after the date of such notification shall be at such increased rates.”.

5. In section 23 of the principal Act, in sub-section (3), after the words and figure “of section 3”, the words, brackets and figures “and sub-section (3) of section 10” shall be inserted.

Substitution of new Schedules for Schedule I.

6. For Schedule I of the principal Act, the following Schedules shall be substituted, namely:—

'SCHEDULE I

(See section 3)

PART A

Description of motor vehicle (1)	Annual rate of tax for each motor vehicle (2)
	Rupees
GROUP A.—Motor vehicles fitted solely with pneumatic tyres	
I. Motor vehicles (including tricycles) used for transport or haulage of goods or materials, the registered laden weight of which—	
(a) does not exceed one tonne	Two hundred and twenty
(b) exceeds one tonne but does not exceed two tonnes	Three hundred and ten
(c) exceeds two tonnes but does not exceed four tonnes	Four hundred and seventy
(d) exceeds four tonnes but does not exceed six tonnes	Six hundred and thirty
(e) exceeds six tonnes but does not exceed eight tonnes	Seven hundred and eighty
(f) exceeds eight tonnes but does not exceed nine tonnes	Nine hundred and forty
(g) exceeds nine tonnes but does not exceed ten tonnes	Eleven hundred
(h) exceeds ten tonnes	The rate specified in (g) above plus one hundred and fifty-six rupees for every one tonne or part thereof in addition to ten tonnes.
II. Additional tax payable in respect of vehicles referred to in Item I, used for drawing trailers—	
(a) for each trailer the registered laden weight of which does not exceed two tonnes	One hundred and fifty
(b) for each trailer the registered laden weight of which exceeds two tonnes :	Three hundred
Provided that two or more vehicles shall not be chargeable under this Item in respect of the same trailer.	
III. Motor vehicles (including tricycles) plying for hire and used for the transport of passengers, when—	
(a) licensed to carry, in all not more than two passengers (excluding driver)	One hundred
(b) licensed to carry, in all more than two but not more than four passengers (excluding driver and conductor)	Two hundred
(c) licensed to carry, in all more than four passengers but not more than six passengers (excluding driver and conductor)	Three hundred and seventy-five
(d) licensed to carry, in all more than six passengers but not more than eighteen passengers (excluding driver and conductor)	Six hundred and thirty
(e) licensed to carry more than eighteen passengers (excluding driver and conductor)	The rate specified in (d) above plus ninety-four rupees for every passenger in addition to eighteen passengers.
IV. Motor vehicles owned by Airline Companies or Corporations for carrying passengers and staff—	
(a) the seating capacity of which does not exceed four (excluding driver)	Two hundred
(b) the seating capacity of which exceeds four but does not exceed six (excluding driver)	Three hundred and seventy-five
(c) the seating capacity of which exceeds six but does not exceed eighteen (excluding driver)	Six hundred and thirty
(d) the seating capacity of which exceeds eighteen	The rate specified in (c) above plus ninety-four rupees for every person in addition to eighteen persons.
V. Break-down vans used for towing disabled vehicles and tower wagons used for maintenance of overhead electric lines	Three hundred and ten
GROUP B.—Motor vehicles other than those fitted solely with pneumatic tyres	The rates shown in Group A in this Part plus fifty per cent. thereof.

PART B

Description of motor vehicle	Amount
(1)	(2)
Rupees	
GROUP A.—Motor vehicles fitted solely with pneumatic tyres—	
I. Motor cycles and tricycles (including motor scooters and cycles with attachment for propelling the same by mechanised power)—	
(a) motor cycles, scooters (flat rate)	Four hundred
(b) scooterettes and autocycles (flat rate)	Two hundred
(c) tricycles (flat rate)	Five hundred
(d) motor vehicles specified in (a) or (c) above used for drawing a trailer or side car	The rate specified in (a) or (c) above plus one hundred and fifty rupees.
II. Motor vehicles (adapted and used for invalids) the registered unladen weight of which does not exceed three hundred kilograms	One hundred
III. Motor vehicles other than those liable to tax under the foregoing provisions of this Schedule the registered unladen weight of which—	
(a) does not exceed one thousand kilograms	One thousand two hundred and fifty
(b) exceeds one thousand kilograms but does not exceed one thousand and five hundred kilograms	One thousand and six hundred
(c) exceeds one thousand and five hundred kilograms but does not exceed two thousand kilograms	Two thousand and three hundred
(d) exceeds two thousand kilograms	The amount specified in (c) above plus one thousand and five hundred for every one thousand kilograms or part thereof in addition to two thousand kilograms.
IV. Additional tax payable in respect of vehicles referred to in Item III if such vehicles are used for drawing trailers—	
(a) for each trailer the registered unladen weight of which does not exceed one tonne	Six hundred
(b) for each trailer the registered unladen weight of which exceeds one tonne:	One thousand and two hundred
Provided that two or more vehicles shall not be chargeable under this Item in respect of the same trailer.	
GROUP B.—Motor vehicles other than those fitted solely with pneumatic tyres.	The amount shown in Group A of this Part plus fifty per cent. thereof.
NOTE:—The registered unladen weight of motor vehicles shall be as specified in the certificate of registration.	

PART C

Sl. No.	Age of the motor vehicle from the month of first registration	Group A of Part B—Amount on motor vehicles specified in Items—											Group B of Part B Motor vehicles
		I(a)	I(b)	I(c)	I(d)	II	III(a)	III(b)	III(c)	III(d)	IV(a)	IV(b)	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
		Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
01	more than one year but not more than two years	360	180	450	135	90	1125	1440	2070	1350	540	1080	The amount shown for Group A Motor vehicles plus fifty per cent. thereof.
02	more than two years but not more than three years	320	160	400	120	80	1000	1280	1840	1200	480	960	
03	more than three years but not more than four years	280	140	350	105	70	875	1120	1610	1050	420	840	

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
04	more than four years but not more than five years	240	120	300	90	60	750	960	1380	900	360	720	
05	more than five years but not more than six years	200	100	250	75	50	625	800	1150	750	300	600	
06	more than six years but not more than seven years	160	80	200	60	40	500	640	920	600	240	480	
07	more than seven years but not more than eight years	120	60	150	45	30	375	480	690	450	180	360	
08	more than eight years but not more than nine years	80	40	100	30	20	250	320	460	300	120	240	
09	more than nine years but not more than ten years	40	20	50	15	10	125	160	230	150	60	120	
10	more than ten years	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	

NOTES:—1. The amount indicated in column (6) is in addition to the amount specified in column (3) or (5).

2. The amount indicated in column (11) is for every one thousand kilograms or part thereof and in addition to the amount specified in column (10).

3. The amount indicated in column (12) or (13) is in addition to the amount specified in column (8), (9), (10) or (11).

SCHEDULE IA

[See section 10(r)(b)]

GROUP A.—Motor vehicles fitted solely with pneumatic tyres

PART I.—Motor cycles, tricycles (including motor scooters and cycles with attachment for propelling the same by mechanised power)

Rate of refund per quarter or part thereof					
Sl. No.	If after registration the vehicle is not used for a quarter or more and its age from the month of first registration is—	Motor cycles, scooters	Scooterettes, autocycles	Tricycles	Vehicles specified in column (3) or (5) used for drawing a trailer or side car (for side car)
(1)	(2)	(3)	(4)	(5)	(6)
		Rs.	Rs.	Rs.	Rs.
01	one year or less	5.00	2.50	6.00	1.75
02	more than one year but not more than two years	5.00	2.50	6.00	1.75
03	more than two years but not more than three years	5.00	2.50	6.00	1.75
04	more than three years but not more than four years	5.00	2.50	6.00	1.75
05	more than four years but not more than five years	5.00	2.50	6.00	1.75
06	more than five years but not more than six years	5.00	2.50	6.00	1.75
07	more than six years but not more than seven years	5.00	2.50	6.00	1.75
08	more than seven years but not more than eight years	5.00	2.50	6.00	1.75
09	more than eight years but not more than nine years	5.00	2.50	6.00	1.75
10	more than nine years	Nil	Nil	Nil	Nil

PART II.—Motor vehicles (adapted and used for invalids) the registered unladen weight of which does not exceed three hundred kilograms

Sl. No. If after registration the vehicle is not used for a quarter or more and its age from the month of first registration is—		Rate of refund per quarter
(1)	(2)	Rs. (3)
01	one year or less	1.25
02	more than one year but not more than two years	1.25
03	more than two years but not more than three years	1.25
04	more than three years but not more than four years	1.25
05	more than four years but not more than five years	1.25
06	more than five years but not more than six years	1.25
07	more than six years but not more than seven years	1.25
08	more than seven years but not more than eight years	1.25
09	more than eight years but not more than nine years	1.25
10	more than nine years	Nil

PART III.—Motor vehicles other than those liable to tax under Part I or Part II

Sl. No.	If after registration the vehicle is not used for a quarter or more and its age from the month of first registration is—	Rate of refund per quarter when the registered unladen weight of the vehicle			
		does not exceed 1000 kgs.	exceeds 1000 kgs. but does not exceed 1500 kgs.	exceeds 1500 kgs. but does not exceed 2000 kgs.	exceeds 2000 kgs. the amount specified in this column is for every 1000 kgs. or part thereof and is in addition to the rate specified in column (5)
(1)	(2)	(3)	(4)	(5)	(6)
		Rs.	Rs.	Rs.	Rs.
01	one year or less	15.50	20.00	28.75	18.75
02	more than one year but not more than two years	15.50	20.00	28.75	18.75
03	more than two years but not more than three years	15.50	20.00	28.75	18.75
04	more than three years but not more than four years	15.50	20.00	28.75	18.75
05	more than four years but not more than five years	15.50	20.00	28.75	18.75
06	more than five years but not more than six years	15.50	20.00	28.75	18.75
07	more than six years but not more than seven years	15.50	20.00	28.75	18.75
08	more than seven years but not more than eight years	15.50	20.00	28.75	18.75
09	more than eight years but not more than nine years	15.50	20.00	28.75	18.75
10	more than nine years	Nil	Nil	Nil	Nil

PART IV.—Additional tax payable in respect of vehicles referred to in Part III if such vehicles are used for drawing trailers

Sl. No.	If after registration the motor vehicle is not used for a quarter or more and its age from the month of first registration is—	For each trailer the registered unladen weight of which	
		does not exceed one tonne	exceeds one tonne
(1)	(2)	(3)	(4)
		Rs.	Rs.
01	one year or less	7.50	15.00
02	more than one year but not more than two years	7.50	15.00
03	more than two years but not more than three years	7.50	15.00
04	more than three years but not more than four years	7.50	15.00
05	more than four years but not more than five years	7.50	15.00
06	more than five years but not more than six years	7.50	15.00
07	more than six years but not more than seven years	7.50	15.00
08	more than seven years but not more than eight years	7.50	15.00
09	more than eight years but not more than nine years	7.50	15.00
10	more than nine years	Nil	Nil

GROUP B.—Motor vehicles other than those fitted solely with pneumatic tyres

The rate shown in Group A plus fifty per cent. thereof.

Explanation.—In this Schedule “quarter” means a period of three months commencing on the first day of the month following the month in which the intimation of non-use of the vehicle on which the lumpsum tax has been levied and collected is given by the owner to the taxation authority.

SCHEDULE IB

[See section 10(2)(b)]

GROUP A.—Motor cycles fitted solely with pneumatic tyres

PART I.—Motor cycles, tricycles (including motor scooters and cycles with attachment for propelling the same by mechanised power

Sl. No.	If after registration, removal or cancellation of registration of vehicle takes place and its age from the month of first registration is—	Rate of refund			
		Motor cycles, scooters	Scooterettes, autocycles	Tricycles	Vehicles specified in column (3) or (5) used for drawing a trailer or side car (for side car)
(1)	(2)	(3)	(4)	(5)	(6)
		Rs.	Rs.	Rs.	Rs.
01	one year or less	360	180	450	135
02	more than one year but not more than two years	320	160	400	120
03	more than two years but not more than three years	280	140	350	105
04	more than three years but not more than four years	240	120	300	90
05	more than four years but not more than five years	200	100	250	75
06	more than five years but not more than six years	160	80	200	60
07	more than six years but not more than seven years	120	60	150	45
08	more than seven years but not more than eight years	80	40	100	30
09	more than eight years but not more than nine years	40	20	50	15
10	more than nine years	Nil	Nil	Nil	Nil

PART II.—Motor vehicles (adapted and used for Invalids) the registered unladen weight of which does not exceed three hundred kilograms

Sl. No.	If after registration, removal or cancellation of registration of motor vehicles (adapted and used for invalids) takes place and its age from the month of first registration—	Rate of refund
(1)	(2)	(3)
		Rs.
01	one year or less	90
02	more than one year but not more than two years	80
03	more than two years but not more than three years	70
04	more than three years but not more than four years	60
05	more than four years but not more than five years	50
06	more than five years but not more than six years	40
07	more than six years but not more than seven years	30
08	more than seven years but not more than eight years	20
09	more than eight years but not more than nine years	10
10	more than nine years	Nil

PART III.—Motor vehicles other than those liable to tax under Part I or Part II

Sl. No.	If after registration, removal or cancellation of registration of vehicles takes place and its age from the month of registration—	Rate of refund per year when the registered unladen weight of the vehicle			
		does not exceed 1000 kgs.	exceeds 1000 kgs. but does not exceed 1500 kgs.	exceeds 1500 kgs. but does not exceed 2000 kgs.	exceeds 2000 kgs. the amount specified in this column is for every 1000 kgs. or part thereof and is in addition to the rate specified in column (5)
(1)	(2)	(3)	(4)	(5)	(6)
		Rs.	Rs.	Rs.	Rs.
01	one year or less	1125	1440	2070	1350
02	more than one year but not more than two years	1000	1280	1840	1200
03	more than two years but not more than three years	875	1120	1610	1051
04	more than three years but not more than four years	750	960	1380	900
05	more than four years but not more than five years	625	800	1150	750
06	more than five years but not more than six years	500	640	920	600
07	more than six years but not more than seven years	375	480	690	450
08	more than seven years but not more than eight years	250	320	460	300
09	more than eight years but not more than nine years	125	160	230	150
10	more than nine years	Nil	Nil	Nil	Nil

PART IV.— Additional tax payable in respect of vehicles referred to in Item VII—if such vehicles are used for drawing trailers

Sl. No.	If after registration, removal or cancellation for registration of a vehicle takes place and its age from the month of first registration is—	Rate of refund	
		For each trailer the registered laden weight of which does not exceed one tonne	exceeds one tonne
(1)	(2)	(3)	(4)
		Rs.	Rs.
01	one year or less	540	1080
02	more than one year but not more than two years	480	960
03	more than two years but not more than three years	420	840
04	more than three years but not more than four years	360	720
05	more than four years but not more than five years	300	600
06	more than five years but not more than six years	240	480
07	more than six years but not more than seven years	180	360
08	more than seven years but not more than eight years	120	240
09	more than eight years but not more than nine years	60	120
10	more than nine years	Nil	Nil

GROUP B.— Motor vehicles other than those fitted solely with pneumatic tyres.
The rate shown in Group A plus fifty per cent thereof.²

THE PUNJAB APPROPRIATION (No. 2) ACT, 1989

No. 26 OF 1989

[3rd August, 1989.]

An Act to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Punjab for the services of the financial year 1989-90.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. This Act may be called the Punjab Appropriation (No. 2) Act, 1989.

2. From and out of the Consolidated Fund of the State of Punjab there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate [inclusive of the sums specified in column 3 of the Schedule to the Punjab Appropriation (Vote on Account) Act, 1989] to the sum of four thousand nine hundred and fifty-two crores, forty-nine lakhs and twenty-seven thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1989-90 in respect of the services specified in column 2 of the Schedule.

9 of 1989.

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

Short
title.
Issue of
Rs. 4952,
49,27,000
out
of the
Consoli-
dated
Fund
of the
State of
Punjab
for the
financial
year
1989-90.

Appro-
priation.

THE SCHEDULE

(See sections 2 and 3)

1	2	3			
		Sums not exceeding			
No. of Vote/ Appropriation	Services and purposes	Voted by Parliament	Charged on the Consolidated Fund	Total	
		Rs.	Rs.	Rs.	
1	Agriculture and Forests	Revenue	99,08,60,000	3,14,000	99,11,74,000
		Capital	25,44,66,000	..	25,44,66,000
2	Animal Husbandry and Fisheries	Revenue	33,42,61,000	2,81,000	33,45,42,000
		Capital	2,62,50,000	..	2,62,50,000
3	Co-operation	Revenue	14,92,13,000	30,000	14,92,43,000
		Capital	54,59,00,000	..	54,59,00,000
4	Defence Services Welfare	Revenue	3,49,67,000	17,000	3,49,84,000
		Capital	20,00,000	..	20,00,000
5	Education	Revenue	455,68,13,000	6,60,69,000	462,28,82,000
		Capital	48,85,000	..	48,85,000
6	Elections	Revenue	1,12,47,000	15,000	1,12,62,000
7	Excise and Taxation	Revenue	11,89,22,000	64,000	11,89,86,000
8	Finance	Revenue	209,40,64,000	445,01,01,000	654,41,65,000
		Capital	7,58,00,000	1224,42,58,000	1232,00,58,000
9	Food and Supplies	Revenue	3,51,50,000	..	3,51,50,000
		Capital	500,34,47,000	1,80,000	500,36,27,000
10	General Administration	Revenue	15,34,48,000	68,98,000	16,03,46,000
11	Health and Family Welfare	Revenue	145,72,07,000	2,95,000	145,75,02,000
12	Home Affairs and Justice	Revenue	209,28,35,000	2,15,04,000	211,43,39,000
		Capital	34,00,00,000	..	34,00,00,000
13	Industries	Revenue	13,70,37,000	85,000	13,71,22,000
		Capital	21,16,86,000	..	21,16,86,000
14	Information and Public Relations	Revenue	4,68,01,000	15,000	4,68,16,000
15	Irrigation and Power	Revenue	130,23,21,000	5,00,000	130,28,21,000
		Capital	678,07,69,000	..	678,07,69,000
16	Labour and Employment	Revenue	4,47,26,000	1,00,000	4,48,26,000
17	Local Government, Housing and Urban Development	Revenue	28,01,14,000	30,000	28,01,44,000
		Capital	21,56,50,000	3,40,000	21,59,90,000
18	Personnel and Administrative Reforms	Revenue	95,29,000	33,42,000	1,28,71,000

1	2	3		
No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
19	Planning Revenue	23,85,58,000	1,000	23,85,59,000
20	Programme Implementation Revenue	1,00,000	..	1,00,000
21	Public Works Revenue	153,80,67,000	32,00,000	154,12,67,000
	Capital	79,46,71,000	..	79,46,71,000
22	Revenue and Rehabilitation Revenue	44,52,78,000	7,72,000	44,60,50,000
23	Rural Development and Panchayats Revenue	42,75,26,000	4,44,000	42,79,70,000
	Capital	70,00,000	..	70,00,000
24	Science, Technology and Environment Revenue	36,00,000	..	36,00,000
	Capital	2,60,26,000	..	2,60,26,000
25	Social and Women's Welfare and Welfare of Scheduled Castes and Backward Classes Revenue	52,19,50,000	50,000	52,20,00,000
	Capital	1,29,37,000	..	1,29,37,000
26	State Legislature Revenue	2,16,32,000	1,62,000	2,17,94,000
27	Technical Education and Industrial Training Revenue	19,42,31,000	1,00,000	19,43,31,000
	Capital	31,69,000	..	31,69,000
28	Tourism and Cultural Affairs Revenue	1,97,23,000	1,85,000	1,99,08,000
	Capital	1,67,50,000	..	1,67,50,000
29	Transport Revenue	91,60,12,000	50,80,000	92,10,92,000
	Capital	20,41,00,000	..	20,41,00,000
30	Vigilance Revenue	1,87,94,000	3,900	1,87,97,000
	TOTAL	3272,04,92,000	1680,44,35,000	4952,49,27,000

THE APPROPRIATION (No. 4) ACT, 1989

No. 27 OF 1989

[8th August, 1989.]

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 1989-90.

Be it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

Short
title.

1. This Act may be called the Appropriation (No. 4) Act, 1989.

Issue of
Rs. 775,
31,00,000
out of the
Conso-
lidated
Fund of
India
for the
year
1989-90.

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 seven hundred and seventy-five crores and thirty-one lakh rupees towards defraying the several charges which will come in course of payment during the financial year 1989-90, in respect of the services specified in column 2 of the Schedule.

Appro-
priation.

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

THE SCHEDULE
(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parlia- ment	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
4	Department of Rural Development . . . Revenue	500,00,00,000	..	500,00,00,000
8	Department of Com- merce . . . Capital	60,00,000	..	60,00,000
21	Department of Power . . . Revenue	5,00,00,000	..	5,00,00,000
22	Department of Non- Conventional Energy Sources . . . Revenue	1,00,000	..	1,00,000
25	Department of Eco- nomic Affairs . . . Capital	30,00,00,000	..	30,00,00,000
26	Currency, Coinage and Stamps . . . Revenue	..	51,00,000	51,00,000
27	Payments to Financial Institutions . . . Capital	152,55,00,000	..	152,55,00,000
37	Indirect Taxes . . . Revenue	..	9,00,000	9,00,000
46	Other Expenditure of the Ministry of Home Affairs . . . Revenue	..	48,00,000	48,00,000
48	Department of Edu- cation . . . Revenue	7,41,00,000	..	7,41,00,000
	Capital	50,00,000	..	50,00,000
49	Department of Youth Affairs and Sports . . . Revenue	1,00,000	..	1,00,000
50	Art and Culture . . . Revenue	..	1,00,000	1,00,000
51	Department of Women and Child Develop- ment . . . Revenue	2,00,00,000	..	2,00,00,000
52	Department of Indus- trial Development . . . Revenue	30,00,00,000	..	30,00,00,000
54	Department of Chemi- cals and Petrochemi- cals . . . Revenue	..	96,00,000	96,00,000
57	Broadcasting Services . . . Capital	1,42,00,000	..	1,42,00,000
61	Ministry of Personnel, Public Grievances and Pensions . . . Revenue	1,00,000	..	1,00,000
67	Department of Scien- tific and Industrial Research . . . Capital	35,00,000	..	35,00,000
72	Roads . . . Revenue	1,00,000	..	1,00,000

1 No. of Vote	2 Services and purposes	3		
		Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
74	Ministry of Textiles] Capital	60,00,000	..	60,00,000
75	Urban Development and Housing . Revenue	..	8,50,00,000	8,50,00,000
76	Public Works . . Revenue	..	9,25,00,000	9,25,00,000
	Capital	1,00,000	..	1,00,000
80	Atomic Energy . Capital	1,00,000	..	1,00,000
84	Department of Space Capital	25,01,00,000	..	25,01,00,000
90	Delhi . . . Revenue	1,00,000	..	1,00,000
	TOTAL . . .	755,51,00,000	19,80,00,000	775,31,00,000

THE KARNATAKA APPROPRIATION ACT, 1989

No. 28 OF 1989

[23rd August, 1989.]

An Act to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Karnataka for the services of the financial year 1989-90.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. This Act may be called the Karnataka Appropriation Act, 1989.

Short
title.

2. From and out of the Consolidated Fund of the State of Karnataka 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 5 of the Schedule to the Karnataka Appropriation (Vote on Account) Act, 1989] to the sum of five thousand three hundred and seventy-four crores, ninety-three lakhs and thirty-three thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1989-90 in respect of the services specified in column 2 of the Schedule.

Issue of
Rs. 5374,
93,33,000
out of
the
Conso-
lidated
Fund
of the
State of
Karna-
taka
for the
financial
year
1989-90.

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

Appro-
priation

Karnataka
Act No.
11 of 1989.

THE SCHEDULE

(See sections 2 and 3)

1	2	3			
		Sums not exceeding			
No. of Vote/ Appropriation	Services and purposes	Voted by Parliament	Charged on the Consolidated Fund	Total	
		Rs.	Rs.	Rs.	
1	Soil and Water Conservation and Agriculture (excluding Horticulture)	Revenue	84,49,47,000	65,000	84,50,12,000
		Capital	15,21,00,000	..	15,21,00,000
2	Dryland Development	Revenue	8,35,00,000	..	8,35,00,000
3	Horticulture	Revenue	18,05,66,000	..	18,05,66,000
		Capital	10,00,000	..	10,00,000
4	Animal Husbandry and Dairy Development	Revenue	48,50,98,000	60,000	48,51,58,000
		Capital	6,00,00,000	..	6,00,00,000
5	Fisheries	Revenue	8,30,50,000	50,000	8,31,00,000
		Capital	1,79,91,000	..	1,79,91,000
6	Industries (excluding Small Scale Industries and Industrial Co-operatives)	Revenue	12,50,00,000	25,000	12,50,25,000
		Capital	12,50,00,000	..	12,50,00,000
7	Mines and Geology	Revenue	6,16,63,000	1,000	6,16,64,000
8	Small Scale Industries	Revenue	37,85,25,000	24,000	37,85,49,000
		Capital	4,64,55,000	..	4,64,55,000
9	Industrial Co-operatives	Revenue	1,07,48,000	..	1,07,48,000
		Capital	1,27,60,000	..	1,27,60,000
10	Sericulture	Revenue	51,27,54,000	..	51,27,54,000
		Capital	12,54,00,000	..	12,54,00,000
11	Stationery and Printing	Revenue	12,43,45,000	..	12,43,45,000
12	Higher Education	Revenue	167,47,54,000	55,000	167,48,09,000
		Capital	25,00,000	..	25,00,000
13	Youth Services	Revenue	11,78,02,000	80,000	11,78,82,000
14	Literary Cultural Affairs and Development of Kannada	Revenue	4,67,67,000	..	4,67,67,000

1	2	3		
		Voted by Parlia- ment	Sums not exceeding	
			Charged on the Consolidated Fund	Total
No. of Vote/ Appro- pria- tion	Services and purposes	Rs.	Rs.	Rs.
15	Primary Education . Revenue	400,29,14,000	..	400,29,14,000
16	Secondary Education . Revenue	215,45,98,000	29,000	215,46,27,000
	<i>Reduction or Avoidance of Debt</i> . Revenue	..	43,89,00,000	43,89,00,000
	<i>Interest Payments</i> . Revenue	..	346,23,00,000	346,23,00,000
	<i>Internal Debt, Loans from Central Govern- ment and Inter-State Settlement</i> . Capital	..	896,54,75,000	896,54,75,000
17	Taxes on Income Pro- fessions, Sales and Other Services . Revenue	60,78,84,000	20,000	60,79,04,000
18	Insurance, Treasury and Accounts Adminis- tration . Revenue	14,38,95,000	5,000	14,39,00,000
19	Pension and Other Retire- ment Benefits . Revenue	203,50,00,000	1,00,00,000	204,50,00,000
20	Loans to Government Servants and Miscellaneous Loans Revenue	2,50,00,000	..	2,50,00,000
	Capital	14,68,00,000	..	14,68,00,000
21	Small Savings . Revenue	4,06,00,000	..	4,06,00,000
22	Other Miscellaneous Services . Revenue	13,34,98,000	5,000	13,35,03,000
	Capital	4,10,00,000	..	4,10,00,000
23	Food and Civil Supplies Revenue	42,84,30,000	9,000	42,84,39,000
24	Forest . Revenue	71,68,49,000	1,75,39,000	76,43,88,000
	Capital	2,50,000	..	2,50,000
25	State Excise . Revenue	11,53,98,000	2,000	11,54,00,000
26	Taxes on Vehicles . Revenue	7,95,16,000	15,84,000	8,11,00,000
27	Police and Fire Services Revenue	145,08,81,000	61,000	145,09,42,000
	Capital	5,00,000	..	5,00,000
28	Jails, etc. . Revenue	8,51,48,000	10,000	8,51,58,000
29	Information and Tourism Revenue	7,03,16,000	10,000	7,03,26,000
	Capital	27,00,000	..	27,00,000
30	Road Transport . Revenue	1,00,54,000	5,46,000	1,06,00,000
	Capital	27,14,00,000	..	27,14,00,000
31	Medical, Family Wel- fare and Public Health Services . Revenue	239,66,78,000	33,000	239,67,11,000
	Capital	10,00,00,000	..	10,00,00,000

1	2	3		
		Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
32	Housing (excluding Government Residential Buildings) Revenue	13,86,51,000	..	13,86,51,000
	Capital	6,30,70,000	..	6,30,70,000
33	Urban Development, etc. Revenue	26,78,00,000	..	26,78,00,000
	Capital	17,17,00,000	..	17,17,00,000
34	Compensation and Grants to Corporation and Municipalities Revenue	59,75,33,000	..	59,75,33,000
35	Minor Irrigation Revenue	38,41,79,000	..	38,41,79,000
	Capital	21,33,98,000	5,00,000	21,38,98,000
36	Irrigation, Navigation, Drainage and Flood Control Projects Revenue	194,65,73,000	..	194,65,73,000
	Capital	311,32,68,000	2,60,00,000	313,92,68,000
37	State Legislature Revenue	5,74,85,000	11,15,000	5,86,00,000
38	Administration of Justice Revenue	30,50,56,000	..	30,50,56,000
39	Elections Revenue	10,05,00,000	..	10,05,00,000
40	Governor, Ministers and Public Service Commission Revenue	1,60,34,000	1,90,00,000	3,50,34,000
41	Secretariat Revenue	17,59,76,000	1,88,000	17,61,64,000
42	District Administration Revenue	25,93,37,000	63,000	25,94,00,000
43	Miscellaneous Demands of General Administration Revenue	11,52,27,000	4,07,41,000	15,59,68,000
44	Demands of Planning Department Revenue	9,09,45,000	..	9,09,45,000
	Capital	20,00,000	..	20,00,000
45	Public Works (excluding Construction) Revenue	85,62,06,000	1,00,000	85,63,06,000
	Capital	1,45,00,000	..	1,45,00,000
46	Buildings Revenue	6,30,30,000	10,00,000	6,40,30,000
	Capital	28,89,42,000	10,00,000	28,99,42,000
47	Roads and Bridges Revenue	99,36,14,000	..	99,36,14,000
	Capital	26,19,58,000	..	26,19,58,000
48	Ports and Water Transport Services Revenue	2,07,91,000	..	2,07,91,000
	Capital	3,50,00,000	..	3,50,00,000

1	2	3		
		Sums not exceeding		
		Voted by Parlia- ment	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
49	Power Projects . . . Revenue	8,36,96,000	..	8,36,96,000
	Capital	261,11,00,000	..	261,11,00,000
50	Land Revenue, etc. . . Revenue	77,27,13,000	45,000	77,27,58,000
	Capital	14,12,00,000	..	14,12,00,000
51	Stamps and Registration Revenue	7,10,00,000	..	7,10,00,000
52	Relief on account of Natural Calamities . . . Revenue	6,00,00,000	..	6,00,00,000
	Capital	2,00,000	..	2,00,000
53	Rehabilitation Schemes . . . Revenue	4,46,000	..	4,46,000
54	Religious and Charita- ble Institutions, etc. . . Revenue	12,85,99,000	..	12,85,99,000
55	Wakfs . . . Revenue	1,02,00,000	..	1,02,00,000
56	Co-operation (excluding Regulated Markets) . . . Revenue	93,92,29,000	25,000	93,92,54,000
	Capital	7,80,84,000	..	7,80,84,000
57	Regulated Markets . . . Revenue	10,39,72,000	..	10,39,72,000
58	Rural Water Supply and Sanitation . . . Revenue	59,96,81,000	..	59,96,81,000
59	Rural Development and Employment . . . Revenue	168,31,27,000	..	168,31,27,000
60	Labour and Employ- ment . . . Revenue	33,84,50,000	10,000	33,84,60,000
61	Welfare of Scheduled Castes/Scheduled Tribes and Backward Cla- sses . . . Revenue	89,83,55,000	45,000	89,84,00,000
	Capital	90,00,000	..	90,00,000
62	Women and Children Welfare . . . Revenue	130,89,54,000	..	130,89,54,000
	Capital	98,00,000	..	98,00,000
	TOTAL	4073,26,13,000	13,01,67,20,000	5374,93,33,000

THE EMPLOYEES' STATE INSURANCE (AMENDMENT)
ACT, 1989

No. 29 OF 1989

[23rd August, 1989.]

An Act further to amend the Employees' State Insurance Act, 1948.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

Short
title
and com-
mence-
ment.

1. (1) This Act may be called the Employees' State Insurance (Amendment) Act, 1989.

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

Amend-
ment of
section 1.

2. In section 1 of the Employees' State Insurance Act, 1948 (hereinafter referred to as the principal Act),—

34 of 1948.

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

“Provided that nothing contained in this sub-section shall apply to a factory or establishment belonging to or under the control of the Government whose employees are otherwise in receipt of benefits substantially similar or superior to the benefits provided under this Act.”;

(ii) in sub-section (5), the following proviso shall be inserted, namely:—

“Provided that where the provisions of this Act have been brought into force in any part of a State, the said provisions shall stand extended to any such establishment or class of establishments within that part if the provisions have already

∩ The provisions of section 16 of this Act shall in to force on 1.9.1991 vide Notification No. S.O. 555(E), dated 28.8.1991.

∩ The provisions of section 35 of this Act shall come in to force on 1.1.1992 vide Notification N.O. S.O. 528(E), dt. 30.12.1991.

into force on 20-10-1989 vide Notification

∩ The provisions of sections 2(ii) and 7 (iii) (a) of this Act shall come in to force on 16.5.1990.

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

“(6) A factory or an establishment to which this Act applies shall continue to be governed by this Act notwithstanding that the number of persons employed therein at any time falls below the limit specified by or under this Act or the manufacturing process therein ceases to be carried on with the aid of power.”.

3. In section 2 of the principal Act,—

Amend-
ment of
section 2.

(i) clause (2) shall be omitted;

(ii) clause (5) shall be omitted;

(iii) in clause (6A),—

(a) in sub-clause (i), for the words “daughter or a widowed mother; and”, the word “daughter;” shall be substituted;

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

“(ia) a widowed mother;”;

(iv) in clause (9),—

(a) for the words “; but does not include”, the words and figures “or any person engaged as an apprentice, not being an apprentice engaged under the Apprentices Act, 1961, or under the standing orders of the establishment; but does not include” shall be substituted;

(b) in sub-clause (b), for the words “one thousand and six hundred rupees a month”, at both the places where they occur, the words “such wages as may be prescribed by the Central Government” shall be substituted;

(v) for clauses (11) and (12), the following clauses shall be substituted, namely:—

“(11) “family” means all or any of the following relatives of an insured person, namely:—

(i) a spouse;

(ii) a minor legitimate or adopted child dependent upon the insured person;

(iii) a child who is wholly dependent on the earnings of the insured person and who is—

(a) receiving education, till he or she attains the age of twenty-one years,

(b) an unmarried daughter;

(iv) a child who is infirm by reason of any physical or mental abnormality or injury and is wholly dependent on the

earnings of the insured person, so long as the infirmity continues;

(v) dependent parents;

(12) "factory" means any premises including the precincts thereof—

(a) whereon ten or more persons are employed or were employed for wages on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on, or

(b) whereon twenty or more persons are employed or were employed for wages on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power or is ordinarily so carried on,

but does not include a mine subject to the operation of the Mines Act, 1952 or a railway running shed;'

35 of 1952

(vi) in clause (13), the words "and includes a contractor" shall be inserted at the end;

(vii) after clause (14A), the following clause shall be inserted, namely:—

'(14AA) "manufacturing process" shall have the meaning assigned to it in the Factories Act, 1948;'

63 of 1948

(viii) after clause (15B), the following clause shall be inserted, namely:—

'(15C) "power" shall have the meaning assigned to it in the Factories Act, 1948;'

63 of 1948

(ix) after clause (19), the following clause shall be inserted, namely:—

'(19A) "seasonal factory" means a factory which is exclusively engaged in one or more of the following manufacturing processes, namely, cotton ginning, cotton or jute pressing, decortication of groundnuts, the manufacture of coffee, indigo, lac, rubber, sugar (including *gur*) or tea or any manufacturing process which is incidental to or connected with any of the aforesaid processes and includes a factory which is engaged for a period not exceeding seven months in a year—

(a) in any process of blending, packing or repacking of tea or coffee; or

(b) in such other manufacturing process as the Central Government may, by notification in the Official Gazette, specify;'

4. In Chapter II of the principal Act, for the words "nominated", "nomination", "nominating", "renomination" and "nominate", wherever they occur, the words "appointed", "appointment", "appointing", "re-appointment" and "appoint" shall respectively be substituted.

Substitution of "nominated", etc., by "appointed", etc.

5. In section 4 of the principal Act, in clauses (f) and (g), for the word "five", the word "ten" shall be substituted.

Amendment of section 4.

6. In section 16 of the principal Act,—

Amendment of section 16.

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

"(1) The Central Government may, in consultation with the Corporation, appoint a Director General and a Financial Commissioner.";

(ii) in sub-section (3), for the words "The Principal Officers", the words "The Director General and the Financial Commissioner" shall be substituted;

(iii) in sub-section (4),—

(a) for the words "A Principal Officer", the words "The Director General or the Financial Commissioner" shall be substituted;

(b) for the words "Principal Officer", the words "Director General or Financial Commissioner" shall be substituted;

(iv) in sub-section (5), for the words "A Principal Officer", the words "The Director General or the Financial Commissioner" shall be substituted;

(v) in sub-sections (6) and (7), for the words "a Principal Officer", the words "the Director General or the Financial Commissioner" shall be substituted.

7. In section 17 of the principal Act,—

Amendment of section 17.

(i) in sub-section (1), for the words "exceeds two thousand and two hundred fifty rupees", the words "exceeds such salary as may be prescribed by the Central Government" shall be substituted;

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

"(2) (a) The method of recruitment, salary and allowances, discipline and other conditions of service of the members of the staff of the Corporation shall be such as may be specified in the regulations made by the Corporation in accordance with the rules and orders applicable to the officers and employees of the Central Government drawing corresponding scales of pay:

Provided that where the Corporation is of the opinion that it is necessary to make a departure from the said rules or orders in respect of any of the matters aforesaid, it shall obtain the prior approval of the Central Government.

(b) In determining the corresponding scales of pay of the members of the staff under clause (a), the Corporation shall have regard to the educational qualifications, method of recruitment, duties and responsibilities of such officers and employees under the Central Government and in case of any doubt, the Corporation shall refer the matter to the Central Government whose decision thereon shall be final.”;

(iii) in sub-section (3),—

(a) after the words “to posts”, the brackets and words “(other than medical posts)” shall be inserted;

(b) in the proviso, for the words “an aggregate period”, the words “a period” shall be substituted;

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

“Provided further that any such officiating or temporary appointment shall not confer any claim for regular appointment and the services rendered in that capacity shall not count towards seniority or minimum qualifying service specified in the regulations for promotion to next higher grade.”.

Amend-
ment of
section
23.

8. In section 23 of the principal Act, for the words “Principal Officers”, the words “Director General and the Financial Commissioner” shall be substituted.

Inser-
tion of
new
section
28A.

9. After section 28 of the principal Act, the following section shall be inserted, namely:—

Adminis-
trative
expen-
ses.

“28A. The types of expenses which may be termed as administrative expenses and the percentage of the income of the Corporation which may be spent for such expenses shall be such as may be prescribed by the Central Government and the Corporation shall keep its administrative expenses within the limit so prescribed by the Central Government.”.

Substi-
tution of
new
section
for
section
34.

10. For section 34 of the principal Act, the following section shall be substituted, namely:—

Audit.

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

(2) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Corporation 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 Corporation.

(3) The accounts of the Corporation as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded to the Corporation which shall forward the same to the Central Government along with its comments on the report of the Comptroller and Auditor-General."

11. In section 36 of the principal Act,—

(i) for the words "auditor's report thereon", the words "the report of the Comptroller and Auditor-General of India thereon and the comments of the Corporation on such report" shall be substituted;

(ii) the words "and published in the Official Gazette" shall be omitted.

Amend-
ment of
section
36.

12. In section 39 of the principal Act,—

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

"(2) The contributions shall be paid at such rates as may be prescribed by the Central Government:

Provided that the rates so prescribed shall not be more than the rates which were in force immediately before the commencement of the Employees' State Insurance (Amendment) Act, 1989.";

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

(5) (a) If any contribution payable under this Act is not paid by the principal employer on the date on which such contribution has become due, he shall be liable to pay simple interest at the rate of twelve per cent. per annum or at such higher rate as may be specified in the regulations till the date of its actual payment:

Provided that higher interest specified in the regulations shall not exceed the lending rate of interest charged by any scheduled bank.

(b) Any interest recoverable under clause (a) may be recovered as an arrear of land revenue or under section 45C to section 45-I,

Amend-
ment of
section
39.

Explanation.—In this sub-section, “scheduled bank” means a bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934.’

2 of 1934.

Amend-
ment of
section
41.

13. In section 41 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) The immediate employer shall maintain a register of employees employed by or through him as provided in the regulations and submit the same to the principal employer before the settlement of any amount payable under sub-section (1).”.

Amend-
ment of
section
42.

14. In section 42 of the principal Act, in sub-section (1),—

(i) for the words “six rupees”, the words “such wages as may be prescribed by the Central Government” shall be substituted;

(ii) in the *Explanation*, for the words “in the manner specified in the First Schedule”; the words “in such manner as may be prescribed by the Central Government” shall be substituted.

Amend-
ment of
section
45A.

15. In section 45A of the principal Act,—

(i) in sub-section (1),—

(a) for the word “obstructed”, the words “prevented in any manner” shall be substituted;

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

“Provided that no such order shall be passed by the Corporation unless the principal or immediate employer or the person in charge of the factory or establishment has been given a reasonable opportunity of being heard.”;

(ii) in sub-section (2), the following shall be added at the end, namely:—

“or the recovery under section 45C to section 45-I”.

Inser-
tion of
new sec-
tions
after
section
45B.

16. In Chapter IV of the principal Act, after section 45B, the following sections shall be inserted, namely:—

Issue of
certi-
ficate
to the
Recovery
Officer.

‘45C. (1) Where any amount is in arrear under this Act, the authorised officer may issue, to the Recovery Officer, a certificate under his signature specifying the amount of arrears and the Recovery Officer, on receipt of such certificate, shall proceed to recover the amount specified therein from the factory or establishment or, as the case may be, the principal or immediate employer by one or more of the modes mentioned below:—

(a) attachment and sale of the movable or immovable property of the factory or establishment or, as the case may be, the principal or immediate employer;

(b) arrest of the employer and his detention in prison;

(c) appointing a receiver for the management of the movable or immovable properties of the factory or establishment or, as the case may be, the employer:

Provided that the attachment and sale of any property under this section shall first be effected against the properties of the factory or establishment and where such attachment and sale is insufficient for recovering the whole of the amount of arrears specified in the certificate, the Recovery Officer may take such proceedings against the property of the employer for recovery of the whole or any part of such arrears.

(2) The authorised officer may issue a certificate under subsection (1) notwithstanding that proceedings for recovery of the arrears by any other mode have been taken.

45D. (1) The authorised officer may forward the certificate referred to in section 45C to the Recovery Officer within whose jurisdiction the employer—

(a) carries on his business or profession or within whose jurisdiction the principal place of his factory or establishment is situate; or

(b) resides or any movable or immovable property of the factory or establishment or the principal or immediate employer is situate.

(2) Where a factory or an establishment or the principal or immediate employer has property within the jurisdiction of more than one Recovery Officers and the Recovery Officer to whom a certificate is sent by the authorised officer—

(a) is not able to recover the entire amount by the sale of the property, movable or immovable, within his jurisdiction; or

(b) is of the opinion that, for the purpose of expediting or securing the recovery of the whole or any part of the amount, it is necessary so to do,

he may send the certificate or, where only a part of the amount is to be recovered, a copy of the certificate certified in the manner prescribed by the Central Government and specifying the amount to be recovered to the Recovery Officer within whose jurisdiction the factory or establishment or the principal or immediate employer has property or the employer resides, and thereupon that Recovery Officer shall also proceed to recover the amount due under this section as if the certificate or the copy thereof had been the certificate sent to him by the authorised officer.

45E. (1) When the authorised officer issues a certificate to a Recovery Officer under section 45C, it shall not be open to the factory or establishment or the principal or immediate employer to dispute before the Recovery Officer the correctness of the amount, and no objection to the certificate on any other ground shall also be entertained by the Recovery Officer.

Recovery
Officer
to whom
certi-
ficate
is to
be for-
warded.

Validity
of certi-
ficate
and
amend-
ment
thereof.

(2) Notwithstanding the issue of a certificate to a Recovery Officer, the authorised officer shall have power to withdraw the certificate or correct any clerical or arithmetical mistake in the certificate by sending an intimation to the Recovery Officer.

(3) The authorised officer shall intimate to the Recovery Officer any orders withdrawing or cancelling a certificate or any correction made by him under sub-section (2) or any amendment made under sub-section (4) of section 45F.

Stay of proceedings under certificate and amendment or withdrawal thereof.

45F. (1) Notwithstanding that a certificate has been issued to the Recovery Officer for the recovery of any amount, the authorised officer may grant time for the payment of the amount, and thereupon the Recovery Officer shall stay the proceedings until the expiry of the time so granted.

(2) Where a certificate for the recovery of amount has been issued, the authorised officer shall keep the Recovery Officer informed of any amount paid or time granted for payment, subsequent to the issue of such certificate.

(3) Where the order giving rise to a demand of amount for which a certificate for recovery has been issued has been modified in appeal or other proceedings under this Act, and, as a consequence thereof, the demand is reduced but the order is the subject-matter of a further proceeding under this Act, the authorised officer shall stay the recovery of such part of the amount of the certificate as pertains to the said reduction for the period for which the appeal or other proceeding remains pending.

(4) Where a certificate for the recovery of amount has been issued and subsequently the amount of the outstanding demand is reduced as a result of an appeal or other proceeding under this Act, the authorised officer shall, when the order which was the subject-matter of such appeal or other proceeding has become final and conclusive, amend the certificate or withdraw it, as the case may be.

Other modes of recovery.

45G. (1) Notwithstanding the issue of a certificate to the Recovery Officer under section 45C, the Director General or any other officer authorised by the Corporation may recover the amount by any one or more of the modes provided in this section.

(2) If any amount is due from any person to any factory or establishment or, as the case may be, the principal or immediate employer who is in arrears, the Director General or any other officer authorised by the Corporation in this behalf may require such person to deduct from the said amount the arrears due from such factory or establishment or, as the case may be, the principal or immediate employer under this Act and such person shall comply with any such requisition and shall pay the sum so deducted to the credit of the Corporation:

Provided that nothing in this sub-section shall apply to any part of the amount exempt from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908.

(3) (i) The Director General or any other officer authorised by the Corporation in this behalf may, at any time or from time to time, by notice in writing, require any person from whom money is due or may become due to the factory or establishment or, as the case may be, the principal or immediate employer or any person who holds or may subsequently hold money for or on account of the factory or establishment or, as the case may be, the principal or immediate employer, to pay to the Director General either forthwith upon the money becoming due or being held or at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due from the factory or establishment or, as the case may be, the principal or immediate employer in respect of arrears or the whole of the money when it is equal to or less than that amount.

(ii) A notice under this sub-section may be issued to any person who holds or may subsequently hold any money for or on account of the principal or immediate employer jointly with any other person and for the purposes of this sub-section, the shares of the joint-holders in such account shall be presumed, until the contrary is proved, to be equal.

(iii) A copy of the notice shall be forwarded to the principal or immediate employer at his last address known to the Director General or, as the case may be, the officer so authorised and in the case of a joint account to all the joint-holders at their last addresses known to the Director General or the officer so authorised.

(iv) Save as otherwise provided in this sub-section, every person to whom a notice is issued under this sub-section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, bank or an insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made notwithstanding any rule, practice or requirement to the contrary.

(v) Any claim respecting any property in relation to which a notice under this sub-section has been issued arising after the date of the notice shall be void as against any demand contained in the notice.

(vi) Where a person to whom a notice under this sub-section is sent objects to it by a statement on oath that the sum demanded or any part thereof is not due to the principal or immediate employer or that he does not hold any money for or on account of the principal or immediate employer, then, nothing contained in this sub-section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, but if it is discovered that such statement was false in any material particular, such person shall be personally liable to the Director General or the officer so authorised to the extent of his own liability to the principal or immediate employer on the date of the notice, or to the extent of the principal or immediate employer's liability for any sum due under this Act, whichever is less.

(vi) The Director General or the officer so authorised may, at any time or from time to time, amend or revoke any notice issued under this sub-section or extend the time for making any payment in pursuance of such notice.

(vii) The Director General or the officer so authorised shall grant a receipt for any amount paid in compliance with a notice issued under this sub-section and the person so paying shall be fully discharged from his liability to the principal or immediate employer to the extent of the amount so paid.

(x) Any person discharging any liability to the principal or immediate employer after the receipt of a notice under this sub-section shall be personally liable to the Director General or the officer so authorised to the extent of his own liability to the principal or immediate employer so discharged or to the extent of the principal or immediate employer's liability for any sum due under this Act, whichever is less.

(x) If the person to whom a notice under this sub-section is sent fails to make payment in pursuance thereof to the Director General or the officer so authorised, he shall be deemed to be a principal or immediate employer in default in respect of the amount specified in the notice and further proceedings may be taken against him for the realisation of the amount as if it were an arrear due from him, in the manner provided in sections 45C to 45F and the notice shall have the same effect as an attachment of a debt by the Recovery Officer in exercise of his powers under section 45C.

(4) The Director General or the officer authorised by the Corporation in this behalf may apply to the court in whose custody there is money belonging to the principal or immediate employer for payment to him of the entire amount of such money, or if it is more than the amount due, an amount sufficient to discharge the amount due.

(5) The Director General or any officer of the Corporation may, if so authorised by the Central Government by general or special order, recover any arrears of amount due from a factory or an establishment or, as the case may be, from the principal or immediate employer by distraint and sale of its or his movable property in the manner laid down in the Third Schedule to the Income-tax Act, 1961.

43 of 1961.

Applica-
tion of
certain
provi-
sions of
the
Income-
tax Act.

45H. The provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, shall apply with necessary modifications as if the said provisions and the rules referred to the arrears of the amount of contributions, interests or damages under this Act instead of to the income-tax:

Provided that any reference in the said provisions and the rules to the "assessee" shall be construed as a reference to a factory or an establishment or the principal or immediate employer under this Act.

45-I. For the purposes of sections 45C to 45H,—

Defini-
tions.

(a) "authorised officer" means the Director General, Insurance Commissioner, Joint Insurance Commissioner, Regional Director or such other officer as may be authorised by the Central Government, by notification in the Official Gazette;

(b) "Recovery Officer" means any officer of the Central Government, State Government or the Corporation, who may be authorised by the Central Government, by notification in the Official Gazette, to exercise the powers of a Recovery Officer under this Act.

17. In section 46 of the principal Act, in sub-section (1),—

Amend-
ment of
section
46.

(i) in clause (f), for the words "funeral benefit", the words "funeral expenses" shall be substituted;

(ii) in the proviso, for the words "one hundred rupees", the words "such amount as may be prescribed by the Central Government" shall be substituted.

18. Section 47 of the principal Act shall be omitted.

Omission
of sec-
tion 47.

19. For sections 49 and 50 of the principal Act, the following sections shall be substituted, namely:—

Substitu-
tion of
new sec-
tions for
sections
49 and 50.

"49. The qualification of a person to claim sickness benefit, the conditions subject to which such benefit may be given, the rates and period thereof shall be such as may be prescribed by the Central Government.

Sick-
ness
benefit.

50. The qualification of an insured woman to claim maternity benefit, the conditions subject to which such benefit may be given, the rates and period thereof shall be such as may be prescribed by the Central Government."

Mater-
nity
benefit.

20. In section 51 of the principal Act,—

Amend-
ment of
section
51.

(i) in the opening portion, the words "and the regulations, if any" shall be omitted;

(ii) in clause (a), for the words "for the period of such disablement in accordance with the provisions of the First Schedule", the words "at such rates and for such period and subject to such conditions as may be prescribed by the Central Government" shall be substituted;

(iii) in clause (b), for the words "for such disablement in accordance with the provisions of the First Schedule", the words "at such rates and for such period and subject to such conditions as may be prescribed by the Central Government" shall be substituted;

(iv) the proviso shall be omitted.

Amend-
ment of
section
52.

21. In section 52 of the principal Act,—

(a) in sub-section (1),—

(i) for the words "in accordance with the provisions of the First Schedule", the words "at such rates and for such period and subject to such conditions as may be prescribed by the Central Government" shall be substituted;

(ii) for the words, brackets and figure "sub-clause (i) and", the words, brackets, figures and letter "sub-clause (i), sub-clause (ia) and" shall be substituted;

(b) in sub-section (2), for the words "in accordance with the provisions of the First Schedule", the words "at such rates and for such period and subject to such conditions as may be prescribed by the Central Government" shall be substituted.

Amend-
ment of
section
54A.

22. In section 54A of the principal Act, after sub-section (2), the following provisos shall be inserted, namely:—

"Provided that no appeal by an insured person shall lie under this sub-section if such person has applied for commutation of disablement benefit on the basis of the decision of the medical board and received the commuted value of such benefit:

Provided further that no appeal by the Corporation shall lie under this sub-section if the Corporation paid the commuted value of the disablement benefit on the basis of the decision of the medical board."

Amend-
ment of
section
56.

23. In section 56 of the principal Act, in sub-section (3), after the proviso, the following shall be inserted, namely:—

'Provided further that an insured person who ceases to be in insurable employment on account of permanent disablement shall continue, subject to payment of contribution and such other conditions as may be prescribed by the Central Government, to receive medical benefit till the date on which he would have vacated the employment on attaining the age of superannuation had he not sustained such permanent disablement:

Provided also that an insured person, who has attained the age of superannuation, and his spouse shall be eligible to receive medical benefit subject to payment of contribution and such other conditions as may be prescribed by the Central Government.

Explanation.—In this section, "superannuation", in relation to an insured person, means the attainment by that person of such age as is fixed in the contract or conditions of service as the age on the attainment of which he shall vacate the insurable employment or the age of sixty years where no such age is fixed and the person is no more in the insurable employment.'

24. In section 62 of the principal Act, for the words "periodical payment", the words "disablement benefit" shall be substituted.

Amendment of section 62.

25. For section 63 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 63.

"63. Save as may be provided in the regulations, no person shall be entitled to sickness benefit or disablement benefit for temporary disablement on any day on which he works or remains on leave or on a holiday in respect of which he receives wages or on any day on which he remains on strike."

Persons not entitled to receive benefit in certain cases.

26. In section 64 of the principal Act, in clause (d), the words "or sick visitor" shall be omitted.

Amendment of section 64.

27. In sub-section (2) of section 68 and sub-section (3) of section 70 of the principal Act, the following shall be added at the end, namely:—

Amendment of sections 68 and 70.

"or under section 45C to section 45-I".

28. In section 71 of the principal Act, for the words, brackets and figures "Except as provided in the proviso to sub-section (2) of section 50, if a person dies", the words "If a person dies" shall be substituted.

Amendment of section 71.

29. In section 75 of the principal Act, after sub-section (2A), the following sub-section shall be inserted, namely:—

Amendment of section 75.

"(2B) No matter which is in dispute between a principal employer and the Corporation in respect of any contribution or any other dues shall be raised by the principal employer in the Employees' Insurance Court unless he has deposited with the Court fifty per cent. of the amount due from him as claimed by the Corporation:

Provided that the Court may, for reasons to be recorded in writing, waive or reduce the amount to be deposited under this sub-section."

30. In section 77 of the principal Act, in sub-section (1A), in the *Explanation*, for clause (b), the following clauses shall be substituted, namely:—

Amendment of section 77.

"(b) the cause of action in respect of a claim by the Corporation for recovering contributions (including interest and damages) from the principal employer shall be deemed to have arisen on the date on which such claim is made by the Corporation for the first time:

Provided that no claim shall be made by the Corporation after five years of the period to which the claim relates;

(c) the cause of action in respect of a claim by the principal employer for recovering contributions from an immediate employer shall not be deemed to arise till the date by which the evidence of contributions having been paid is due to be received by the Corporation under the regulations."

Amendment of section 82.

31. In section 82 of the principal Act, in sub-section (4), for the words and figures "Indian Limitation Act, 1908", the words and figures "Limitation Act, 1963" shall be substituted.

9 of 1908.
36 of 1963.

Amendment of section 84.

32. In section 84 of the principal Act,—

(i) for the words "three months", the words "six months" shall be substituted;

(ii) for the words "five hundred", the words "two thousand" shall be substituted;

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

"Provided that where an insured person is convicted under this section, he shall not be entitled for any cash benefit under this Act for such period as may be prescribed by the Central Government."

Amendment of section 85.

33. In section 85 of the principal Act, for clauses (i) and (ii), the following clauses shall be substituted, namely:—

"(i) where he commits an offence under clause (a), with imprisonment for a term which may extend to three years but—

(a) which shall not be less than one year, in case of failure to pay the employee's contribution which has been deducted by him from the employee's wages and shall also be liable to fine of ten thousand rupees;

(b) which shall not be less than six months, in any other case and shall also be liable to fine of five thousand rupees:

Provided that the Court may, for any adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a lesser term;

(ii) where he commits an offence under any of the clauses (b) to (g) (both inclusive), with imprisonment for a term which may extend to one year or with fine which may extend to four thousand rupees, or with both."

Amendment of section 85A.

34. In section 85A of the principal Act,—

(i) for the words "one year, or with fine which may extend to two thousand rupees, or with both", the words "two years and with fine of five thousand rupees" shall be substituted;

(ii) in the proviso, for the words "one year but which shall not be less than three months and shall also be liable to fine which may extend to four thousand rupees", the words "five years but which shall not be less than two years and shall also be liable to fine of twenty-five thousand rupees" shall be substituted.

35. In section 85B of the principal Act,—

(a) in sub-section (1),—

(i) for the words "from the employer such damages not exceeding the amount of arrears as it may think fit to impose", the words "from the employer by way of penalty such damages not exceeding the amount of arrears as may be specified in the regulations" shall be substituted;

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

"Provided further that the Corporation may reduce or waive the damages recoverable under this section in relation to an establishment which is a sick industrial company in respect of which a scheme for rehabilitation has been sanctioned by the Board for Industrial and Financial Reconstruction established under section 4 of the Sick Industrial Companies (Special Provisions) Act, 1985, subject to such terms and conditions as may be specified in regulations.";

(b) in sub-section (2) the following shall be added at the end, namely:—

"or under section 45C to section 45-I".

36. In section 85C of the principal Act,—

(i) in sub-section (1), the following shall be added at the end, namely:—

"and to furnish the return relating to such contributions";

(ii) in sub-section (2), for the words "one hundred", the words "one thousand" shall be substituted.

37. In section 86 of the principal Act,—

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

"(2) No court inferior to that of a Metropolitan Magistrate or Judicial Magistrate of the First Class shall try any offence under this Act.";

(ii) in sub-section (3), the words "within six months of the date on which the offence is alleged to have been committed" shall be omitted.

38. After section 86 of the principal Act, the following section shall be inserted, namely:—

'86A. (1) If the person committing an offence under this Act is a company, every person, who at the time the offence was committed was incharge 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:

Amend-
ment of
section
85B.

Amend-
ment of
section
85C.

Amend-
ment of
section
86.

Insert-
tion of
new
section
86A.

Offences
by com-
panies.

Provided that nothing contained in this sub-section shall render any 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 with the consent or connivance of, or is attributable to, any neglect on the part of, any director or 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,—

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

(ii) "director" in relation to—

(a) a company, other than a firm, means the managing director or a whole-time director;

(b) a firm means a partner in the firm.'

Amend-
ment of
section
90.

39. In section 90 of the principal Act, the words "the Government or" shall be omitted.

Inser-
tion of
new sec-
tions
91B
and
91C.

40. After section 91A of the principal Act, the following sections shall be inserted, namely:—

Misuse
of bene-
fits.

"91B. If the Central Government is satisfied that the benefits under this Act are being misused by insured persons in a factory or establishment, that Government may, by order, published in the Official Gazette, disentitle such persons from such of the benefits as it thinks fit:

Provided that no such order shall be passed unless a reasonable opportunity of being heard is given to the concerned factory or establishment, insured persons and the trade unions registered under the Trade Unions Act, 1926 having members in the factory or establishment.

16 of 1926.

Writing
off of
losses.

91C. Subject to the conditions as may be prescribed by the Central Government, where the Corporation is of opinion that the amount of contribution, interest and damages due to the Corporation is irrecoverable, the Corporation may sanction the writing off finally of the said amount."

Amend-
ment of
section
92.

41. Section 92 of the principal Act shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

"(2) The Central Government may, from time to time, give such directions to the Corporation as it may think fit for the efficient

administration of the Act, and if any such direction is given, the Corporation shall comply with such direction.”.

7 of 1913.
1 of 1956.

42. In section 94 of the principal Act, for the words and figures “or under section 230 of the Indian Companies Act, 1913”, the words and figures “or under section 530 of the Companies Act, 1956” shall be substituted.

Amend-
ment of
section
94.

43. In section 95 of the principal Act, in sub-section (2),—

Amend-
ment of
section
95.

(i) clause (a) shall be relettered as clause (ac) thereof and before clause (ac) as so relettered, the following clauses shall be inserted, namely:—

“(a) the limit of wages beyond which a person shall not be deemed to be an employee;

(ab) the limit of maximum monthly salary for the purpose of sub-section (1) of section 17;”;

(ii) in clause (ac) as so relettered, for the word “nominations”, the word “appointments” shall be substituted;

(iii) in clause (d), for the words “Principal Officers”, the words “Director General and the Financial Commissioner” shall be substituted;

(iv) clause (ee) shall be relettered as clause (ei) thereof and before clause (ei) as so relettered, the following clauses shall be inserted, namely:—

“(ea) the types of expenses which may be termed as administrative expenses, the percentage of income of the Corporation which may be spent for such expenses;

(eb) the rates of contributions and limits of wages below which employees are not liable to pay contribution;

(ec) the manner of calculation of the average daily wage;

(ed) the manner of certifying the certificate to recover amount by the Recovery Officer;

(ee) the amount of funeral expenses;

(ef) the qualifications, conditions, rates and period of sickness benefit, maternity benefit, disablement benefit and dependent's benefit;

(eg) the conditions for grant of medical benefits for insured persons who cease to be in insurable employment on account of permanent disablement;

(eh) the conditions for grant of medical benefits for persons who have attained the age of superannuation;”;

(v) in clause (o), the word “and” occurring at the end shall be omitted;

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

“(oa) the period of non-entitlement for cash benefit in case of conviction of an insured person;”.

Amend-
ment of
section 97.

44. In section 97 of the principal Act,—

(i) in sub-section (1), the words "with the prior approval of the Central Government and" shall be omitted;

(ii) in sub-section (2),—

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

"(iii) the rate of interest higher than twelve per cent. on delayed payment of contributions;"

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

"(iva) the register of employees to be maintained by the immediate employer;

(ivb) the entitlement of sickness benefit or disablement benefit for temporary disablement on any day on which person works or remains on leave or on holiday and in respect of which he receives wages or for any day on which he remains on strike;"

(c) clause (xv) shall be omitted;

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

"(xviii) the amount of damages to be recovered as penalty;

(xvib) the terms and conditions for reduction or waiver of damages in relation to a sick industrial company;"

(e) in clause (xxi), for the words "Principal Officers", the words "Director General and Financial Commissioner" shall be substituted.

Substi-
tution of
new sec-
tion for
section
99.

45. For section 99 of the principal Act, the following section shall be substituted, namely:—

Medical
care for
the
families
of insu-
red per-
sons.

"99. At any time when its fund so permit, the Corporation may provide or contribute towards the cost of medical care for the families of insured persons."

Omission
of the
First
Schedule.

46. The First Schedule to the principal Act shall be omitted.

47. In the Second Schedule to the principal Act,—

Amend-
ment of
the
Second
Schedule.

(a) after Serial Number 16 and entries relating thereto, the following shall be inserted, namely:—

“16A. Guillotine amputation of the tip of the thumb
without loss of bone 10”;

(b) against Serial Number 27, for the figures “40”, the figures “50” shall be substituted;

(c) against Serial Number 28, for the figures “30”, the figures “50” shall be substituted;

(d) against Serial Number 29, for the figures “30”, the figures “50” shall be substituted;

(e) after Serial Number 32 and entries relating thereto, the following shall be inserted, namely:—

“32A. Partial loss of vision of one eye 10”.

THE SALARY, ALLOWANCES AND PENSION OF MEMBERS
OF PARLIAMENT (AMENDMENT) ACT, 1989

No. 30 OF 1989

[28th August, 1989.]

An Act further to amend the Salary, Allowances and Pension of
Members of Parliament Act, 1954.

BE it enacted by Parliament in the Fortieth Year of the Republic of
India as follows:—

Short
title.

1. This Act may be called the Salary, Allowances and Pension of Mem-
bers of Parliament (Amendment) Act, 1989.

Amend-
ment of
section
6A.

2. In section 6A of the Salary, Allowances and Pension of Members of
Parliament Act, 1954, to clause (b) of sub-section (1) and clause (iii) 30 of 1954.
of sub-section (5), the following shall be added at the end, namely:—

“and back”.

THE WORKING JOURNALISTS AND OTHER NEWSPAPER
EMPLOYEES (CONDITIONS OF SERVICE) AND MISCEL-
LANEOUS PROVISIONS (AMENDMENT) ACT, 1989

No. 31 of 1989

[28th August, 1989.]

An Act further to amend the Working Journalists and other News-
paper Employees (Conditions of Service) and Miscellaneous
Provisions Act, 1955.

BE it enacted by Parliament in the Fortieth Year of the Republic of
India as follows:—

1. This Act may be called the Working Journalists and other News-
paper Employees (Conditions of Service) and Miscellaneous Provisions
(Amendment) Act, 1989.

Short
title.

45 of 1955.

2. In section 2 of the Working Journalists and other Newspaper Em-
ployees (Conditions of Service) and Miscellaneous Provisions Act, 1955
(hereinafter referred to as the principal Act),—

Amend-
ment of
section 2.

(i) in clause (d), the following shall be inserted and shall be
deemed always to have been inserted at the end, namely:—

“and includes newspaper establishments specified as one estab-
lishment under the Schedule.

Explanation.—For the purposes of this clause,—

(a) different departments, branches and centres of news-
paper establishments shall be treated as parts thereof;

(b) a printing press shall be deemed to be a newspaper
establishment if the principal business thereof is to print
newspaper;”;

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

“(eee) “wages” means all remuneration capable of being
expressed in terms of money, which would, if the terms of
employment, expressed or implied, were fulfilled, be payable to
a newspaper employee in respect of his employment or of work
done in such employment, and includes—

(i) such allowances (including dearness allowance) as
the newspaper employee is for the time being entitled to;

(ii) the value of any house accommodation, or of supply of light, water, medical attendance or other amenity or of any service or of any concessional supply of food-grains or other articles;

(iii) any travelling concession,

but does not include—

(a) any bonus;

(b) any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the newspaper employee under any law for the time being in force;

(c) any gratuity payable on the termination of his service.

Explanation.—In this clause, the term “wages” shall also include new allowances, if any, of any description fixed from time to time.’

Amend-
ment of
section 10.

3. In section 10 of the principal Act, to sub-section (4), the following *Explanation* shall be added, namely:—

“*Explanation.*—For the removal of doubts, it is hereby declared that nothing in this sub-section shall prevent the Board from making recommendations for fixation or revision of rates of wages on all-India basis.”

Insertion
of the
Schedule.

4. After section 20 of the principal Act, the following Schedule shall be inserted and shall be deemed always to have been inserted, namely:—

“THE SCHEDULE

[See section 2(d)]

1. For the purposes of clause (d) of section 2,—

(1) two or more newspaper establishments under common control shall be deemed to be one newspaper establishment;

(2) two or more newspaper establishments owned by an individual and his or her spouse shall be deemed to be one newspaper establishment unless it is shown that such spouse is a sole proprietor or partner or a shareholder of a corporate body on the basis of his or her own individual funds;

(3) two or more newspaper establishments publishing newspapers bearing the same or similar title and in the same language in any place in India or bearing the same or similar title but in different languages in the same State or Union territory shall be deemed to be one newspaper establishment.

2. For the purposes of paragraph 1 (1), two or more establishments shall be deemed to be under common control—

(a) (i) where the newspaper establishments are owned by a common individual or individuals;

(ii) where the newspaper establishments are owned by firms, if such firms have a substantial number of common partners;

(iii) where the newspaper establishments are owned by bodies corporate, if one body corporate is a subsidiary of the other body corporate, or both are subsidiaries of a common holding company or a substantial number of their equity shares are owned by the same person or group of persons, whether incorporated or not;

(iv) where one establishment is owned by a body corporate and the other is owned by a firm, if a substantial number of partners of the firm together hold a substantial number of equity shares of the body corporate;

(v) where one is owned by a body corporate and the other is owned by a firm having bodies corporate as its partners if a substantial number of equity shares of such bodies corporate are owned, directly or indirectly, by the same person or group of persons, whether incorporated or not, or

(b) where there is functional integrality between concerned newspaper establishments.”

THE HIGH COURT AND SUPREME COURT JUDGES
(CONDITIONS OF SERVICE) AMENDMENT ACT, 1989

No. 32 OF 1989

[30th August, 1989.]

An Act further to amend the High Court Judges (Conditions of Service) Act, 1954 and the Supreme Court Judges (Conditions of Service) Act, 1958.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

CHAPTER I
PRELIMINARY

Short title
and com-
mencement.

1. (1) This Act may be called the High Court and Supreme Court Judges (Conditions of Service) Amendment Act, 1989.

(2) The provisions of sections 2, 4 and 5 shall be deemed to have come into force on the 1st day of November, 1986 and the provisions of sections 3 and 6 shall be deemed to have come into force on the 1st day of April, 1986.

CHAPTER II
AMENDMENT OF THE HIGH COURT JUDGES (CONDITIONS OF SERVICE)
ACT, 1954

Amend-
ment of
section 4.

2. In section 4 of the High Court Judges (Conditions of Service) Act, 1954 (hereafter in this Chapter referred to as the High Court Judges Act), in sub-section (2), in clause (a), in sub-clause (iii), for the words "one hundred and eighty days", the words "two hundred and forty days" shall be substituted.

23 of 1954.

Amend-
ment of
section 9.

3. In section 9 of the High Court Judges Act,—

(a) in sub-section (1), for the words "and thereafter two thousand two hundred and twenty rupees", the words "and thereafter, in the case of the Chief Justice, fifty-five per cent. of the monthly rate of his salary and in the case of each of the other Judges, sixty per cent. of the monthly rate of his salary" shall be substituted;

(b) in sub-section (2), for the words "one thousand one hundred and ten rupees", the words "in the case of the Chief Justice, twenty-seven and a half per cent. of the monthly rate of his salary and in

the case of each of the other Judges, thirty per cent. of the monthly rate of his salary" shall be substituted.

4. In section 17A of the High Court Judges Act, in sub-section (1), for the words "family pension so admissible", the words "family pension so admissible subject to a minimum of three hundred and seventy-five rupees per month" shall be substituted.

Amend-
ment of
section
17A.

CHAPTER III

AMENDMENT OF THE SUPREME COURT JUDGES (CONDITIONS OF SERVICE) ACT, 1958

41 of 1958.

5. In section 4 of the Supreme Court Judges (Conditions of Service) Act, 1958 (hereafter in this Chapter referred to as the Supreme Court Judges Act), in sub-section (2), in clause (a), in sub-clause (iii), for the words "one hundred and eighty days", the words "two hundred and forty days" shall be substituted.

Amend-
ment of
section 4.

6. In section 9 of the Supreme Court Judges Act,—

(a) in sub-section (1), for the words "and thereafter two thousand two hundred and twenty rupees", the words "and thereafter, in the case of the Chief Justice, fifty per cent. of the monthly rate of his salary and in the case of each of the other Judges, fifty-five per cent. of the monthly rate of his salary" shall be substituted;

Amend-
ment of
section 9.

(b) in sub-section (2), for the words "one thousand one hundred and ten rupees", the words "in the case of the Chief Justice, twenty-five per cent. of the monthly rate of his salary, and in the case of each of the other Judges, twenty-seven and a half per cent. of the monthly rate of his salary" shall be substituted.

7. In section 16A of the Supreme Court Judges Act, in sub-section (1), for clause (b), the following clauses shall be substituted, namely:—

Amend-
ment of
section
16A.

"(b) dies after retirement on attaining the age of sixty-five years, family pension shall be twenty-five per cent. of the pension admissible and shall be payable to the person or persons entitled thereto;

(c) dies after retirement after seeking premature retirement and before attaining the age of sixty-five years, family pension shall be calculated at the rates specified in clause (a) and shall be payable to the person or persons entitled thereto."

THE SCHEDULED CASTES AND THE SCHEDULED TRIBES
(PREVENTION OF ATROCITIES) ACT, 1989

No. 33 OF 1989

[11th September, 1989.]

An Act to prevent the commission of offences of atrocities against the members of the Scheduled Castes and the Scheduled Tribes, to provide for Special Courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short
title,
extent and
com-
mence-
ment.

1. (1) This Act may be called the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

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

(a) "atrocitiy" means an offence punishable under section 3;

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

(c) "Scheduled Castes and Scheduled Tribes" shall have the meanings assigned to them respectively under clause (24) and clause (25) of article 366 of the Constitution;

(d) "Special Court" means a Court of Session specified as a Special Court in section 14;

(e) "Special Public Prosecutor" means a Public Prosecutor specified as a Special Public Prosecutor or an advocate referred to in section 15;

(f) words and expressions used but not defined in this Act and defined in the Code or the Indian Penal Code shall have the meanings

2 of 1974

45 of 1861

assigned to them respectively in the Code, or as the case may be, in the Indian Penal Code.

(2) Any reference in this Act to any enactment or any provision thereof shall, in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding law, if any, in force in that area.

CHAPTER II

OFFENCES OF ATROCITIES

3. (1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—

Punish-
ments for
offences of
atrocities.

(i) forces a member of a Scheduled Caste or a Scheduled Tribe to drink or eat any inedible or obnoxious substance;

(ii) acts with intent to cause injury, insult or annoyance to any member of a Scheduled Caste or a Scheduled Tribe by dumping excreta, waste matter, carcasses or any other obnoxious substance in his premises or neighbourhood;

(iii) forcibly removes clothes from the person of a member of a Scheduled Caste or a Scheduled Tribe or parades him naked or with painted face or body or commits any similar act which is derogatory to human dignity;

(iv) wrongfully occupies or cultivates any land owned by, or allotted to, or notified by any competent authority to be allotted to, a member of a Scheduled Caste or a Scheduled Tribe or gets the land allotted to him transferred;

(v) wrongfully dispossesses a member of a Scheduled Caste or a Scheduled Tribe from his land or premises or interferes with the enjoyment of his rights over any land, premises or water;

(vi) compels or entices a member of a Scheduled Caste or a Scheduled Tribe to do 'begar' or other similar forms of forced or bonded labour other than any compulsory service for public purposes imposed by Government;

(vii) forces or intimidates a member of a Scheduled Caste or a Scheduled Tribe not to vote or to vote to a particular candidate or to vote in a manner other than that provided by law;

(viii) institutes false, malicious or vexatious suit or criminal or other legal proceedings against a member of a Scheduled Caste or a Scheduled Tribe;

(ix) gives any false or frivolous information to any public servant and thereby causes such public servant to use his lawful power to the injury or annoyance of a member of a Scheduled Caste or a Scheduled Tribe;

(x) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

360

(xi) assaults or uses force to any woman belonging to a Scheduled Caste or a Scheduled Tribe with intent to dishonour or outrage her modesty;

(xii) being in a position to dominate the will of a woman belonging to a Scheduled Caste or a Scheduled Tribe and uses that position to exploit her sexually to which she would not have otherwise agreed;

(xiii) corrupts or fouls the water of any spring, reservoir or any other source ordinarily used by members of the Scheduled Castes or the Scheduled Tribes so as to render it less fit for the purpose for which it is ordinarily used;

(xiv) denies a member of a Scheduled Caste or a Scheduled Tribe any customary right of passage to a place of public resort or obstructs such member so as to prevent him from using or having access to a place of public resort to which other members of public or any section thereof have a right to use or access to;

(xv) forces or causes a member of a Scheduled Caste or a Scheduled Tribe to leave his house, village or other place of residence,

shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.

(2) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—

(i) gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any member of a Scheduled Caste or a Scheduled Tribe to be convicted of an offence which is capital by the law for the time being in force shall be punished with imprisonment for life and with fine; and if an innocent member of a Scheduled Caste or a Scheduled Tribe be convicted and executed in consequence of such false or fabricated evidence, the person who gives or fabricates such false evidence, shall be punished with death;

(ii) gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any member of a Scheduled Caste or a Scheduled Tribe to be convicted of an offence which is not capital but punishable with imprisonment for a term of seven years or upwards, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years or upwards and with fine;

(iii) commits mischief by fire or any explosive substance intending to cause or knowing it to be likely that he will thereby cause damage to any property belonging to a member of a Scheduled Caste or a Scheduled Tribe, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(iv) commits mischief by fire or any explosive substance intending to cause or knowing it to be likely that he will thereby cause destruction of any building which is ordinarily used as a place of worship or as a place for human dwelling or as a place for custody of the property by a member of a Scheduled Caste or a Scheduled Tribe, shall be punishable with imprisonment for life and with fine;

45 of 1860.

(v) commits any offence under the Indian Penal Code punishable with imprisonment for a term of ten years or more against a person or property on the ground that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with imprisonment for life and with fine;

(vi) knowingly or having reason to believe that an offence has been committed under this Chapter, causes any evidence of the commission of that offence to disappear with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false, shall be punishable with the punishment provided for that offence; or

(vii) being a public servant, commits any offence under this section, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to the punishment provided for that offence.

4. Whoever, being a public servant but not being a member of a Scheduled Caste or a Scheduled Tribe, wilfully neglects his duties required to be performed by him under this Act, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to one year.

Punishment for neglect of duties.

5. Whoever, having already been convicted of an offence under this Chapter is convicted for the second offence or any offence subsequent to the second offence, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to the punishment provided for that offence.

Enhanced punishment for subsequent conviction.

6. Subject to the other provisions of this Act, the provisions of section 34, Chapter III, Chapter IV, Chapter V, Chapter VA, section 149 and Chapter XXIII of the Indian Penal Code, shall, so far as may be, apply for the purposes of this Act as they apply for the purposes of the Indian Penal Code.

45 of 1860.

Application of certain provisions of the Indian Penal Code.

7. (1) Where a person has been convicted of any offence punishable under this Chapter, the Special Court may, in addition to awarding any punishment, by order in writing, declare that any property, movable or immovable or both, belonging to the person, which has been used for the commission of that offence, shall stand forfeited to Government.

Forfeiture of property of certain persons.

(2) Where any person is accused of any offence under this Chapter, it shall be open to the Special Court trying him to pass an order that all or

any of the properties, movable or immovable or both, belonging to him, shall, during the period of such trial, be attached, and where such trial ends in conviction, the property so attached shall be liable to forfeiture to the extent it is required for the purpose of realisation of any fine imposed under this Chapter.

Presump-
tion as to
offences.

8. In a prosecution for an offence under this Chapter, if it is proved that—

(a) the accused rendered any financial assistance to a person accused of, or reasonably suspected of, committing, an offence under this Chapter, the Special Court shall presume, unless the contrary is proved, that such person had abetted the offence;

(b) a group of persons committed an offence under this Chapter and if it is proved that the offence committed was a sequel to any existing dispute regarding land or any other matter, it shall be presumed that the offence was committed in furtherance of the common intention or in prosecution of the common object.

Confer-
ment of
powers.

9. (1) Notwithstanding anything contained in the Code or in any other provision of this Act, the State Government may, if it considers it necessary or expedient so to do,—

(a) for the prevention of and for coping with any offence under this Act, or

(b) for any case or class or group of cases under this Act,

in any district or part thereof, confer, by notification in the Official Gazette, on any officer of the State Government, the powers exercisable by a police officer under the Code in such district or part thereof or, as the case may be, for such case or class or group of cases, and in particular, the powers of arrest, investigation and prosecution of persons before any Special Court.

(2) All officers of police and all other officers of Government shall assist the officer referred to in sub-section (1) in the execution of the provisions of this Act or any rule, scheme or order made thereunder.

(3) The provisions of the Code shall, so far as may be, apply to the exercise of the powers by an officer under sub-section (1).

CHAPTER III

EXTERMENT

Removal
of person
likely to
commit
offence.

10. (1) Where the Special Court is satisfied, upon a complaint or a police report that a person is likely to commit an offence under Chapter II of this Act in any area included in 'Scheduled Areas' or 'tribal areas', as referred to in article 244 of the Constitution, it may, by order in writing, direct such person to remove himself beyond the limits of such area, by such route and within such time as may be specified in the order, and not to return to that area from which he was directed to remove himself for such period, not exceeding two years, as may be specified in the order.

(2) The Special Court shall, along with the order under sub-section (1), communicate to the person directed under that sub-section the grounds on which such order has been made.

(3) The Special Court may revoke or modify the order made under sub-section (1), for the reasons to be recorded in writing, on the representation made by the person against whom such order has been made or by any other person on his behalf within thirty days from the date of the order.

11. (1) If a person to whom a direction has been issued under section 10 to remove himself from any area—

(a) fails to remove himself as directed; or

(b) having so removed himself enters such area within the period specified in the order,

otherwise than with the permission in writing of the Special Court under sub-section (2), the Special Court may cause him to be arrested and removed in police custody to such place outside such area as the Special Court may specify.

Procedure on failure of person to remove himself from area and enter thereon after removal.

(2) The Special Court may, by order in writing, permit any person in respect of whom an order under section 10 has been made, to return to the area from which he was directed to remove himself for such temporary period and subject to such conditions as may be specified in such order and may require him to execute a bond with or without surety for the due observation of the conditions imposed.

(3) The Special Court may at any time revoke any such permission.

(4) Any person who, with such permission, returns to the area from which he was directed to remove himself shall observe the conditions imposed, and at the expiry of the temporary period for which he was permitted to return, or on the revocation of such permission before the expiry of such temporary period, shall remove himself outside such area and shall not return thereto within the unexpired portion specified under section 10 without a fresh permission.

(5) If a person fails to observe any of the conditions imposed or to remove himself accordingly or having so removed himself enters or returns to such area without fresh permission the Special Court may cause him to be arrested and removed in police custody to such place outside such area as the Special Court may specify.

12. (1) Every person against whom an order has been made under section 10 shall, if so required by the Special Court, allow his measurements and photographs to be taken by a police officer.

(2) If any person referred to in sub-section (1), when required to allow his measurements or photographs to be taken, resists or refuses to allow the taking of such measurements or photographs, it shall be lawful to use all necessary means to secure the taking thereof.

(3) Resistance to or refusal to allow the taking of measurements or photographs under sub-section (2) shall be deemed to be an offence under section 186 of the Indian Penal Code.

Taking measurements and photographs, etc., of persons against whom order under section 10 is made.

(4) Where an order under section 10 is revoked, all measurements and photographs (including negatives) taken under sub-section (2) shall be destroyed or made over to the person against whom such order is made.

Penalty for non-compliance of order under section 10.

13. Any person contravening an order of the Special Court made under section 10 shall be punishable with imprisonment for a term which may extend to one year and with fine.

CHAPTER IV

SPECIAL COURTS

Special Court.

14. For the purpose of providing for speedy trial, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the Official Gazette, specify for each district a Court of Session to be a Special Court to try the offences under this Act.

Special Public Prosecutor.

15. For every Special Court, the State Government shall, by notification in the Official Gazette, specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that Court.

CHAPTER V

MISCELLANEOUS

Power of State Government to impose collective fine.

16. The provisions of section 10A of the Protection of Civil Rights Act, 1955 shall, so far as may be, apply for the purposes of imposition and realisation of collective fine and for all other matters connected therewith under this Act.

22 of 195

Preventive action to be taken by the law and order machinery.

17. (1) A District Magistrate or a Sub-divisional Magistrate or any other Executive Magistrate or any police officer not below the rank of a Deputy Superintendent of Police may, on receiving information and after such inquiry as he may think necessary, has reason to believe that a person or a group of persons not belonging to the Scheduled Castes or the Scheduled Tribes, residing in or frequenting any place within the local limits of his jurisdiction is likely to commit an offence or has threatened to commit any offence under this Act and is of the opinion that there is sufficient ground for proceeding, declare such an area to be an area prone to atrocities and take necessary action for keeping the peace and good behaviour and maintenance of public order and tranquillity and may take preventive action.

(2) The provisions of Chapters VIII, X and XI of the Code shall, so far as may be, apply for the purposes of sub-section (1).

(3) The State Government may, by notification in the Official Gazette, make one or more schemes specifying the manner in which the officers referred to in sub-section (1) shall take appropriate action specified in such scheme or schemes to prevent atrocities and to restore the feeling

of security amongst the members of the Scheduled Castes and the Scheduled Tribes.

18. Nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act.

Section 438 of the Code not to apply to persons committing an offence under the Act.

20 of 1958.

19. The provisions of section 360 of the Code and the provisions of the Probation of Offenders Act, 1958 shall not apply to any person above the age of eighteen years who is found guilty of having committed an offence under this Act.

Section 360 of the Code or the provisions of the Probation of Offenders Act not to apply to persons guilty of an offence under the Act.

20. Save as otherwise provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom or usage or any instrument having effect by virtue of any such law.

Act to override other laws.

21. (1) Subject to such rules as the Central Government may make in this behalf, the State Government shall take such measures as may be necessary for the effective implementation of this Act.

Duty of Government to ensure effective implementation of the Act.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such measures may include,—

(i) the provision for adequate facilities, including legal aid, to the persons subjected to atrocities to enable them to avail themselves of justice;

(ii) the provision for travelling and maintenance expenses to witnesses, including the victims of atrocities, during investigation and trial of offences under this Act;

(iii) the provision for the economic and social rehabilitation of the victims of the atrocities;

(iv) the appointment of officers for initiating or exercising supervision over prosecutions for the contravention of the provisions of this Act;

(v) the setting up of committees at such appropriate levels as the State Government may think fit to assist that Government in formulation or implementation of such measures;

(vi) provision for a periodic survey of the working of the provisions of this Act with a view to suggesting measures for the better implementation of the provisions of this Act;

(vii) the identification of the areas where the members of the Scheduled Castes and the Scheduled Tribes are likely to be subjected to atrocities and adoption of such measures so as to ensure safety for such members.

(3) The Central Government shall take such steps as may be necessary to co-ordinate the measures taken by the State Governments under sub-section (1).

(4) The Central Government shall, every year, place on the table of each House of Parliament a report on the measures taken by itself and by the State Governments in pursuance of the provisions of this section.

Protection
of action
taken in
good
faith.

22. No suit, prosecution or other legal proceedings shall lie against the Central Government or against the State Government or any officer or authority of Government or any other person for anything which is in good faith done or intended to be done under this Act.

Power to
make
rules.

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

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

THE APPROPRIATION (No. 5) ACT, 1989

No. 34 of 1989

[18th October, 1989.]

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 1989-90.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. This Act may be called the Appropriation (No. 5) Act, 1989. Short title.
2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of three thousand and twenty-five crores and ninety-three lakh rupees towards defraying the several charges which will come in course of payment during the financial year 1989-90, in respect of the services specified in column 2 of the Schedule. Issue of Rs. 3025, 93,00,000 out of the Consolidated Fund of India for the year 1989-90.
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	2	3		
		Sums not exceeding		
No. of Vote	Services and purposes	Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Agriculture Revenue	90,00,00,000	..	90,00,00,000
4	Department of Rural Development Revenue	388,75,00,000	..	388,75,00,000
5	Department of Fertilizers Revenue	660,01,00,000	..	660,01,00,000
8	Department of Commerce Revenue	270,00,00,000	..	270,00,00,000
12	Telecommunication Services Capital	1,00,000	..	1,00,000
21	Department of Power Capital	301,00,00,000	..	301,00,00,000
24	Ministry of External Affairs Capital	1,00,000	..	1,00,000
26	Currency, Coinage and Stamps Revenue	..	12,00,000	12,00,000
30	Transfers to State Governments Capital	..	1000,00,00,000	1000,00,00,000
35	Department of Revenue Revenue	..	1,00,000	1,00,000
37	Indirect Taxes Revenue	..	23,00,000	23,00,000
46	Other Expenditure of the Ministry of Home Affairs Revenue	62,00,00,000	..	62,00,00,000
49	Department of Youth Affairs and Sports Revenue	10,00,00,000	..	10,00,00,000
56	Ministry of Information and Broadcasting Capital	70,00,000	..	70,00,000
62	Ministry of Petroleum and Natural Gas Capital	10,54,00,000	..	10,54,00,000
74	Ministry of Textiles Revenue	70,00,000	..	70,00,000
75	Urban Development and Housing Revenue	150,00,00,000	..	150,00,00,000
		10,00,00,000	..	10,00,00,000
76	Public Works Capital	2,00,000	..	2,00,000
79	Ministry of Welfare Revenue	50,12,00,000	19,88,00,000	70,00,00,000
		1,32,00,000	..	1,32,00,000
90	Delhi Revenue	51,00,000	..	51,00,000
	TOTAL	2005,69,00,000	1020,24,00,000	3025,93,00,000

THE NAGALAND UNIVERSITY ACT, 1989

ARRANGEMENT OF SECTIONS

SECTIONS

1. Short title and commencement.
2. Definitions.
3. The University.
4. Objects of the University.
5. Transfer of properties of North-Eastern Hill University.
6. Powers of the University.
7. Jurisdiction.
8. University open to all classes, castes and creed.
9. The Visitor.
10. The Chief Rector.
11. Officers of the University.
12. The Chancellor.
13. The Vice-Chancellor.
14. The Pro-Vice-Chancellor.
15. Deans of Schools.
16. The Registrar.
17. The Finance Officer.
18. Other officers.
19. Authorities of the University.
20. The Court.
21. The Executive Council.
22. The Academic Council.
23. The Planning Board.
24. The Boards of Schools.
25. The Finance Committee.
26. Other authorities of the University.
27. Power to make Statutes.
28. Statutes how to be made.
29. Power to make Ordinances.
30. Regulations.
31. Annual report.
32. Annual accounts.

SECTIONS

33. Transfer of services of certain employees of the North-Eastern Hill University.
34. Conditions of service of employees.
35. Procedure of appeal and arbitration in disciplinary cases against students.
36. Right to appeal.
37. Provident and pension funds.
38. Disputes as to constitution of University authorities and bodies.
39. Constitution of Committees.
40. Filling of casual vacancies.
41. Proceedings of University authorities or bodies not invalidated by vacancies.
42. Protection of action taken in good faith.
43. Mode of proof of University record.
44. Power to remove difficulties.
45. Transitional provisions.
46. Completion of courses of studies in Colleges or Institutions affiliated to the University.
47. Statutes, Ordinances and Regulations to be published in the Official Gazette and to be laid before Parliament.
48. Amendment of Act 24 of 1973.

THE SCHEDULE.

(i) "Executive Council" means the Executive Council of the University;

(ii) "Hall" means a unit of residence or of co-operation for the students of the University, or of a College or an Institution main-

THE NAGALAND UNIVERSITY ACT, 1989

(i) "Institution" means an academic institution, not being a College, maintained by or admitted to the privileges of the University;

No. 35 of 1989

(ii) "North-Eastern Hill University" means the University established under section 3 of the North-Eastern Hill University Act, 1973;

[20th October, 1989.]

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

Be it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Nagaland University Act, 1989.

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

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

Short title and commencement. Definitions.

(a) "Academic Council" means the Academic Council of the University;

(b) "academic staff" means such categories of staff as are designated as academic staff by the Ordinances;

(c) "Board of Studies" means the Board of Studies of the University;

(d) "Chancellor" "Vice-Chancellor" and "Pro-Vice-Chancellor" mean respectively, the Chancellor, Vice-Chancellor and Pro-Vice-Chancellor of the University;

(e) "College" means a College maintained by, or admitted to the privileges of, the University;

(f) "Court" means the Court of the University;

(g) "Department" means a Department of Studies; and includes a Centre of Studies;

(h) "distance education system" means the system of imparting education through any means of communication, such as broadcast- ing, telecasting, correspondence courses, seminars, contact programmes or the combination of any two or more such means;

(i) "employee" means any person appointed by the University, and includes teachers and other staff of the University;

The Uni- versity.

↓ 6.9.1994: Vide Notification No. S.O. 644 [E], dt. 6.9.1994.

(j) "Executive Council" means the Executive Council of the University;

(k) "Hall" means a unit of residence or of corporate life for the students of the University, or of a College or an Institution, maintained by the University;

(l) "Institution" means an academic institution, not being a College, maintained by, or admitted to the privileges of, the University;

(m) "North-Eastern Hill University" means the University established under section 3 of the North-Eastern Hill University Act, 1973; 24 of 1973.

(n) "Planning Board" means the Planning Board of the University;

(o) "Principal" means the Head of a College or an Institution maintained by the University and includes, where there is no Principal, the person for the time being duly appointed to act as Principal, and in the absence of the Principal or the acting Principal, a Vice-Principal duly appointed as such;

(p) "recognised Institution" means an institution of higher learning recognised by the University;

(q) "recognised teachers" means such persons as may be recognised by the University for the purpose of imparting instructions in a College or an Institution admitted to the privileges of the University;

(r) "Regulations" means the Regulations made by any authority of the University under this Act for the time being in force;

(s) "School" means a School of Studies of the University;

(t) "Statutes" and "Ordinances" mean, respectively, the Statutes and the Ordinances of the University for the time being in force;

(u) "teachers of the University" means Professors, Readers, Lecturers and such other persons as may be appointed for imparting instruction or conducting research in the University or in any College or Institution maintained by the University and are designated as teachers by the Ordinances;

(v) "University" means the Nagaland University established under this Act.

The Uni-
versity.

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

(2) The headquarters of the University shall be at Lumami and it may also establish campuses at such other places within its jurisdiction as it may deem fit.

(3) The first Chancellor and the first Vice-Chancellor and the first members of the Court, the Executive Council, the Academic Council and the Planning Board and all persons who may hereafter become such

officers or members, so long as they continue to hold such office or membership, are hereby constituted a body corporate by the name of "Nagaland University".

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

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

Objects of
the
University.

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

Transfer
of
properties
of North-
Eastern
Hill
University.

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

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

Powers
of the
Univer-
sity.

(ii) to grant, subject to such conditions as the University may determine, diplomas or certificates to, and confer degrees or other academic distinctions on the basis of examinations, evaluation or any other method of testing, on persons, and to withdraw any such diplomas, certificates, degrees or other academic distinctions for good and sufficient cause;

(iii) to organise and to undertake extra-mural studies, training and extension services;

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

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

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

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

- (viii) to recognise persons for imparting instructions in any College or Institution admitted to the privileges of the University;
- (ix) to appoint persons working in any other University or organisation as teachers of the University for a specified period;
- (x) to create administrative, ministerial and other posts and to make appointments thereto;
- (xi) to co-operate or collaborate or associate with any other University or authority or institution of higher learning in such manner and for such purposes as the University may determine;
- (xii) to establish such campuses, special centres, specialised laboratories or other units for research and instruction as are, in the opinion of the University, necessary for the furtherance of its objects;
- (xiii) to institute and award fellowships, scholarships, studentships, medals and prizes;
- (xiv) to establish and maintain Colleges, Institutions and Halls;
- (xv) to make provision for research and advisory services and for that purpose to enter into such arrangements with other institutions, industrial or other organisations, as the University may deem necessary;
- (xvi) to organise and conduct refresher courses, workshops, seminars and other programmes for teachers, evaluators and other academic staff;
- (xvii) to admit to its privileges colleges and institutions not maintained by the University; to withdraw all or any of those privileges in accordance with such conditions as may be prescribed by the Statutes; to recognise, guide, supervise, and control Halls not maintained by the University and other accommodation for students, and to withdraw any such recognition;
- (xviii) to appoint on contract or otherwise visiting Professors, Emeritus Professors, Consultants, Scholars and such other persons who may contribute to the advancement of the objects of the University;
- (xix) to confer autonomous status on a College or an Institution or a Department, as the case may be, in accordance with the Statutes;
- (xx) to determine standards of admission to the University, which may include examination, evaluation or any other method of testing;
- (xxi) to demand and receive payment of fees and other charges;
- (xxii) to supervise the residences of the students of the University and to make arrangements for promoting their health and general welfare;

(xxiii) to lay down conditions of service of all categories of employees, including their code of conduct;

(xxiv) to regulate and enforce discipline among the students and the employees, and to take such disciplinary measures in this regard as may be deemed by the University to be necessary;

(xxv) to make arrangements for promoting the health and general welfare of the employees;

(xxvi) to receive benefactions, donations and gifts and to acquire, hold, manage and dispose of any property, movable or immovable, including trust and endowment properties for the purposes of the University;

(xxvii) to borrow, with the approval of the Central Government, on the security of the property of the University, money for the purposes of the University;

(xxviii) to do all such other acts and things as may be necessary, incidental or conducive to the attainment of all or any of its objects.

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

Jurisdiction.

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

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

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

University open to all classes, castes and creed.

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

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

The Visitor.

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

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

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

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

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

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

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

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

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

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

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

(10) Where, the Executive Council or the management, does not, within a reasonable time, take action to the satisfaction of the Visitor, the Visitor may, after considering any explanation furnished or representation made by the Executive Council or the management, issue such

directions as he may think fit and the Executive Council or the management, as the case may be, shall comply with such directions.

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

Provided that before making any such order, he shall call upon the Registrar to show cause why such an order should not be made, and, if any cause is shown within a reasonable time, he shall consider the same.

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

10. The Governor of the State of Nagaland shall be the Chief Rector of the University.

The Chief
Rec-
tor.

11. The following shall be the officers of the University:—

Officers of
the Uni-
versity.

(1) the Chancellor;

(2) the Vice-Chancellor;

(3) the Pro-Vice-Chancellor;

(4) the Deans of Schools;

(5) the Registrar;

(6) the Finance Officer; and

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

12. (1) The Chancellor shall be appointed by the Visitor in such manner as may be prescribed by the Statutes.

The
Chan-
cellor.

(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.

13. (1) The Vice-Chancellor shall be appointed by the Visitor in such manner as may be prescribed by the Statutes.

The Vice-
Chan-
cellor.

(3) The Vice-Chancellor may, if he is of opinion that immediate officer of the University, and shall exercise general supervision and control over the affairs of the University and give effect to the decisions of all the authorities of the University.

(3) The Vice-Chancellor may, if he is of opinion that immediate action is necessary on any matter, exercise any power conferred on any authority of the University by or under this Act and shall report to such authority the action taken by him on such matter:

Provided that if the authority concerned is of opinion that such action ought not to have been taken, it may refer the matter to the Visitor whose decision thereon shall be final:

Provided further that any person in the service of the University who is aggrieved by the action taken by the Vice-Chancellor under this sub-section shall have the right to appeal against such action to the Executive

Council within three months from the date on which decision on such action is communicated to him and thereupon the Executive Council may confirm, modify or reverse the action taken by the Vice-Chancellor.

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

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

The Pro-
Vice-
Chan-
cellor.

14. 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.

Deans of
Schools.

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

The Re-
gistrar.

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

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

The Fi-
nance
Officer.

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

Other
officers.

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

Authori-
ties of
the Uni-
versity.

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

- (1) the Court;
- (2) the Executive Council;
- (3) the Academic Council;
- (4) the Planning Board;
- (5) the Boards of Schools;
- (6) the Finance Committee; and

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

The
Court.

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

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

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

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

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

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

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

The Executive Council.

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

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

The Academic Council.

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

23. (1) The Planning Board shall be the principal planning body of the University.

The Planning Board.

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

24. The constitution, powers and functions of the Boards of Schools shall be prescribed by the Statutes.

The Boards of Schools.

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

The Finance Committee.

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

Other authorities of the University.

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

Powers to make Statutes.

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

(b) the appointment and continuance in office of the members of the said authorities and bodies, the filling up of vacancies of members,

and all other matters relating to those authorities and other bodies for which it may be necessary or desirable to provide;

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

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

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

(f) the conditions of service of employees including provision for pension, insurance and provident fund, the manner of termination of service and disciplinary action;

(g) the principles governing the seniority of service of the employees of the University;

(h) the procedure for arbitration in cases of dispute between employees or students and the University;

(i) the procedure for appeal to the Executive Council by any employee or student against the action of any officer or authority of the University;

(j) the conferment of autonomous status on a College or an Institution or a Department;

(k) the establishment and abolition of Schools, Departments, Centres, Halls, Colleges and Institutions;

(l) the conferment of honorary degrees;

(m) the withdrawal of degrees, diplomas, certificates and other academic distinctions;

(n) the conditions under which Colleges and Institutions may be admitted to the privileges of the University and the withdrawal of such privileges;

(o) the institution of fellowships, scholarships, studentships, medals and prizes;

(p) the delegation of powers vested in the authorities or officers of the University;

(q) the maintenance of discipline among the employees and students;

(r) all other matters which by this Act are to be or may be provided for by the Statutes.

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

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

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

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

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

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

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

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

29. (1) Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

Power to
make
Ordi-
nances.

(a) the admission of students to the University and their enrolment as such;

(b) the courses of study to be laid down for all degrees, diplomas and certificates of the University;

(c) the medium of instruction and examination;

(d) the award of degrees, diplomas, certificates and other academic distinctions, the qualifications for the same and the means to be taken relating to the granting and obtaining of the same;

(e) the fees to be charged for courses of study in the University and for admission to the examinations, degrees and diplomas of the University;

(f) the conditions for award of fellowships, scholarships, studentships, medals and prizes;

(g) the conduct of examinations, including the term of office and manner of appointment and the duties of examining bodies, examiners and moderators;

(h) the conditions of residence of the students of the University;

(i) the special arrangements, if any, which may be made for the residence, discipline and teaching of women students and the prescribing of special courses of studies for them;

(j) the appointment and emoluments of employees other than those for whom provision has been made in the Statutes;

(k) the establishment of Centres of Studies, Boards of Studies, Special Centres, Specialised Laboratories and other Committees;

(l) the manner of co-operation and collaboration with other Universities and authorities including learned bodies or associations;

(m) the creation, composition and functions of any other body which is considered necessary for improving the academic life of the University;

(n) such other terms and conditions of service of teachers and other academic staff as are not prescribed by the Statutes;

(o) the management of Colleges and Institutions established by the University;

(p) the supervision and management of Colleges and Institutions admitted to the privileges of the University;

(q) the setting up of a machinery for redressal of grievances of employees; and

(r) all other matters which by this Act or the Statutes may be provided for by the Ordinances.

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

Regulations.

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

Annual report.

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

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

(3) A copy of the annual report, as prepared under sub-section (1), shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both Houses of Parliament.

Annual accounts.

32. (1) The annual accounts and balance-sheet of the University shall be prepared under the directions of the Executive Council and shall, once at least every year and at intervals of not more than fifteen months, be audited by the Comptroller and Auditor-General of India or by such persons as he may authorise in this behalf.

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

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

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

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

33. (1) Subject to the provisions of this Act, every person employed immediately before the commencement of this Act by the North-Eastern Hill University in the State of Nagaland shall be given an option, to be exercised in such manner and within such time as may be prescribed by the Statutes, to join the University on the same terms and conditions and to the same rights and privileges as to pension, gratuity, provident fund and other matters, as he would have had under the North-Eastern Hill University Act, 1973.

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

(2) The option once exercised by the person under sub-section (1) shall be final.

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

Conditions of service of employees.

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

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

(4) Every request made by the employee under sub-section (2), shall be deemed to be a submission to arbitration upon the terms of this section within the meaning of the Arbitration Act, 1940.

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

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

Procedure of appeal and arbitration in disciplinary cases against students.

(2) Any dispute arising out of any disciplinary action taken by the University against a student shall, at the request of such student, be

referred to a Tribunal of Arbitration and the provisions of sub-sections (2), (3), (4) and (5) of section 34 shall, as far as may be, apply to a reference made under this sub-section.

Right to
appeal.

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

Provi-
dent and
pension
funds.

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

(2) Where such provident fund or pension fund has been so constituted, the Central Government may declare that the provision of the Provident Funds Act, 1925, shall apply to such fund, as if it were a Government provident fund.

19 of 1925.

Disputes
as to cons-
titution of
University
authorities
and bodies.

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

Constitu-
tion of
Commit-
tees.

39. Where any authority of the University is given power by this Act or the Statutes to appoint Committees, such Committees shall, save as otherwise provided, consist of the members of the authority concerned and of such other person, if any, as the authority in each case may think fit.

Filling of
casual
vacancies.

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

Proceed-
ings of
University
authori-
ties or
bodies not
invalida-
ted by
vacancies.

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

Protection
of action
taken in
good
faith.

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

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

Mode of proof of University record.

1 of 1872.

44. (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 three years from the commencement of this Act.

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

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

Transitional provisions.

(a) the first Chancellor and the first Vice-Chancellor shall be appointed by the Visitor and each of the said officers shall hold office for a term of five years;

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

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

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

(e) the first Academic Council shall be constituted on the expiry of a period of six months from the commencement of this Act and during the said period of six months, the powers of the Academic Council shall be performed by the Planning Board constituted under section 23;

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

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

Comple-
tion of
courses
of
studies
in Col-
leges or
Institu-
tions
affi-
liated to
the Uni-
versity.

Statutes,
Ordi-
nances
and
Regula-
tions to
be pub-
lished in
the
Official
Gazette
and to
be laid
before
Parlia-
ment.

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

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

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

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

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

(i) in section 1, in sub-section (2), for the words "States of Meghalaya and Nagaland", the words "State of Meghalaya" shall be substituted;

(ii) in section 2, in clause (1), for the words "States of Meghalaya and Nagaland", the words "State of Meghalaya" shall be substituted;

(iii) in section 3, in sub-section (2), for the words "States of Meghalaya and Nagaland", the words "State of Meghalaya" shall be substituted;

(iv) in section 6, in sub-section (1), for the words "States of Meghalaya and Nagaland", the words "State of Meghalaya" shall be substituted;

(v) in section 9, for the words "States of Meghalaya and Nagaland", the words "State of Meghalaya" shall be substituted.

Amend-
ment
of Act
24 of
1973.

THE SCHEDULE

(See section 28)

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 from amongst persons of eminence in the academic or public life of the country:

Provided that if the Visitor does not approve of any 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 not be eligible for re-appointment:

Provided that notwithstanding the expiry of his term of office, the Chancellor shall continue to hold office until his successor enters upon his office.

The Vice-Chancellor

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

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

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

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

(4) The Vice-Chancellor shall hold office for a term of five years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier, and he shall not be eligible for re-appointment:

Provided that notwithstanding the expiry of the said period of five years, he shall continue in office until his successor is appointed and enters upon his office:

Provided further that the Visitor may direct any Vice-Chancellor after his term has expired, to continue in office for such period, not exceeding a total period of one year, as may be specified by him.

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

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

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

Provided that where an employee of the University or a College or an Institution maintained by or affiliated to it, or of any other University or any Institution maintained by or affiliated to such other University, is appointed as the Vice-Chancellor, he may be allowed to continue to contribute to any provident fund of which he is a member and the University shall contribute to the account of such person in that provident fund at the same rate at which the person had been contributing immediately before his appointment as the Vice-Chancellor:

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

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

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

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

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

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

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

Powers and duties of the Vice-Chancellor

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

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

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

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

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

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

Pro-Vice-Chancellor

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

Provided that where the recommendation of the Vice-Chancellor is not accepted by the Executive Council, the matter shall be referred to the Visitor who may either appoint the person recommended by the Vice-Chancellor or ask the Vice-Chancellor to recommend another person to the Executive Council:

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

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

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

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

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

Provided also that when the office of the Vice-Chancellor becomes vacant and there is no Pro-Vice-Chancellor to perform the functions of the Vice-Chancellor, the Executive Council may appoint a Pro-Vice-Chancellor and the Pro-Vice-Chancellor so appointed shall cease to hold office as such as soon as a Vice-Chancellor is appointed and enters upon his office.

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

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

Registrar

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

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

(3) The emoluments and other terms and conditions of service of the Registrar shall be such as may be prescribed by the Ordinances:

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

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

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

(5) (a) The Registrar shall have power to take disciplinary action against such of the employees, excluding teachers and academic staff, as may be specified in the order of the Executive Council and to suspend them pending inquiry, to administer warnings to them or to impose on them the penalty of censure or the withholding of increment:

Provided that no such penalty shall be imposed unless the person concerned has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(b) An appeal shall lie to the Vice-Chancellor against any order of the Registrar imposing any of the penalties specified in sub-clause (a).

(c) In a case where the inquiry discloses that a punishment beyond the power 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.

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

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

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

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

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

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

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

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

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

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

The Finance Officer

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

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

(3) The emoluments and other terms and conditions of service of the Finance Officer shall be such as may be prescribed by the Ordinances:

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

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

(4) When the office of the Finance Officer is vacant or when the Finance Officer is, by reason of illness, absence or any other cause, unable

to perform the duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

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

(6) The Finance Officer shall—

(a) exercise general supervision over the funds of the University and shall advise it as regards its financial policy; and

(b) perform such other financial functions as may be assigned to him by the Executive Council or as may be prescribed by the Statutes or the Ordinances.

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

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

(b) ensure that the limits fixed by the Executive Council for recurring and non-recurring expenditure for a year are not exceeded and that all moneys are expended on the purpose for which they are granted or allotted;

(c) be responsible for the preparation of annual accounts and the budget of the University and for their presentation to the Executive Council;

(d) keep a constant watch on the state of the cash and bank balances and on the state of investments;

(e) watch the progress of the collection of revenue and advise on the methods of collection employed;

(f) ensure that the registers of buildings, land, furniture and equipment are maintained up-to-date and that stock-checking is conducted, of equipment and other consumable materials in all offices, Special Centres, Specialised Laboratories, Colleges and Institutions maintained by the University;

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

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

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

Deans of Schools of Studies

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

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

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

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

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

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

Heads of Departments

8. (1) Each Department shall have a Head who shall be a Professor and whose duties and functions and terms and conditions of appointments shall be prescribed by the Ordinances:

Provided that if there is more than one Professor in any Department, the Head of the Department shall be appointed by the Executive Council on the recommendation of the Vice-Chancellor from among the Professors:

Provided further that in the case of Departments where there is only one Professor, the Executive Council shall have the option to appoint, on the recommendation of the Vice-Chancellor, either the Professor or a Reader as the Head of the Department:

Provided further that in a Department where there is no Professor, a Reader may be appointed as the Head of the Department by the Executive Council on the recommendation of the Vice-Chancellor:

Provided also that if there is no Professor or Reader, in a Department, the Dean of School of Studies concerned shall act as the Head of the Department.

(2) It shall be open to a Professor or a Reader to decline the offer of appointment as the Head of the Department.

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

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

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

Proctors

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

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

Librarian

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

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

Meetings of the Court

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

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

(3) A copy of the statement of receipts and expenditure, the balance-sheet and the financial estimates referred to in clause (2), shall be sent to every member of the Court at least seven days before the date of the annual meeting.

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

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

Quorum for meetings of the Executive Council

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

Powers and functions of the Executive Council

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

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

(i) to create teaching and academic posts, to determine the number and emoluments of such posts and to define the duties and

conditions of service of Professors, Readers, Lecturers and other academic staff and Principals of Colleges and Institutions maintained by the University:

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

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

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

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

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

(vi) to manage and regulate the finances, accounts, investments, property, business and all other administrative affairs of the University, and for that purpose to appoint such agents as it may think fit;

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

(viii) to invest any money belonging to the University, including any unapplied income, in such stocks, funds, shares or securities, from time to time, as it may think fit or in the purchase of immovable property in India, with the like powers of varying such investment from time to time;

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

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

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

(xii) to entertain, adjudicate upon, and, if though fit, to redress any grievances of the employees and students of the University who may, for any reason, feel aggrieved;

(xiii) to appoint examiners and moderators and, if necessary, to remove them, and to fix their fees, emoluments and travelling and other allowances, after consulting the Academic Council;

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

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

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

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

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

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

Quorum for meetings of the Academic Council

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

Powers of the Academic Council

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

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

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

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

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

The Planning Board

16. (1) The Planning Board shall be the principal planning body of the University and shall be responsible for—

(a) reviewing the educational programmes offered by the University;

(b) organising the structure of education in the University so as to provide opportunities to students to offer different combinations of subjects appropriate for the development of personality and skills for useful work in society;

(c) creating an atmosphere and environment conducive to value-oriented education; and

(d) developing new teaching-learning processes which will combine the lectures, tutorials, seminars, demonstrations, self-studies and collective practical projects.

(2) The Planning Board shall have the power to advise on the development of the University and review the progress implementation of programmes so as to ascertain whether they are on the lines recommended by it and shall also have the power to advise the Executive Council and the Academic Council on any matter in connection therewith.

(3) The Academic Council and the Executive Council shall be bound to consider the recommendations of the Planning Board and shall implement such of the recommendations as are accepted by it.

(4) Such of those recommendations of the Planning Board as have not been accepted by the Executive Council or the Academic Council under clause (3) shall be submitted by the Vice-Chancellor along with the recommendations of the Executive Council or the Academic Council, to the Visitor for advice and the advice of the Visitor shall be implemented by the Executive Council or the Academic Council, as the case may be.

(5) The Planning Board may constitute such committees as may be necessary for planning and monitoring the programmes of the University.

Schools of Studies and Departments

17. (1) The University shall have such Schools of Studies as may be specified by the Ordinances.

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

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

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

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

(b) No Department shall be established or abolished except by the Statutes:

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

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

(i) Teachers of the Department;

(ii) Persons conducting research in the Department;

(iii) Dean of the School;

- (iv) Honorary Professors, if any, attached to the Department; and
- (v) such other persons as may be members of the Department in accordance with the provisions of the Ordinances.

Board of Studies

18. (1) Each Department shall have a Board of Studies.
- (2) The constitution of a Board of Studies and the term of office of its members shall be prescribed by the Ordinances.
- (3) The functions of a Board of Studies shall be to approve subjects for research for various degrees and other requirements of research degrees and to recommend to the concerned School Board in the manner prescribed by the Ordinances—
- (a) courses of studies and appointment of examiners for courses, but excluding research degrees;
 - (b) appointment of supervisors of research; and
 - (c) measures for the improvement of the standard of teaching and research:

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

Finance Committee

19. (1) The Finance Committee shall consist of the following members, namely:—
- (i) the Vice-Chancellor;
 - (ii) the Pro-Vice-Chancellor;
 - (iii) three persons nominated by the Executive Council, out of whom at least one shall be a member of the Executive Council; and
 - (iv) three persons nominated by the Visitor.
- (2) Five members of the Finance Committee shall form a quorum for a meeting of the Finance Committee.
- (3) All the members of the Finance Committee, other than *ex officio* members, shall hold office for a term of three years.
- (4) A member of the Finance Committee shall have the right to record a minute of dissent if he does not agree with any decision of the Finance Committee.
- (5) The Finance Committee shall meet at least thrice every year to examine the accounts and to scrutinise proposals for expenditure.
- (6) All proposals relating to creation of posts, and those items which have not been included in the Budget, should be examined by the Finance Committee before they are considered by the Executive Council.
- (7) The annual accounts and the financial estimates of the University prepared by the Finance Officer shall be laid before the Finance Committee for consideration and comments and thereafter submitted to the Executive Council for approval.

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

Selection Committees

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

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

TABLE

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

1	2
Principal of College or Institution maintained by the University	<p>(ii) One person not in the service of the University, nominated by the Executive Council.</p> <p>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.</p>

- NOTE: 1. Where the appointment is being made for an inter-disciplinary project, the head of the project shall be deemed to be the Head of the Department concerned.
2. The Professor to be nominated shall be Professor concerned with the speciality for which the selection is being made and that the Vice-Chancellor shall consult the Head of the Department and the Dean of School before nominating the Professor.

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

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

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

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

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

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

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

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

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

(i) If the temporary vacancy is for a duration longer than one academic session, it shall be filled on the advice of the Selection Committee in accordance with the procedure indicated in the foregoing clauses:

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

(ii) If the temporary vacancy is for a period less than a year, an appointment to such vacancy shall be made on the recommendation of a local Selection Committee consisting of the Dean of the School concerned, the Head of the Department and a nominee of the Vice-Chancellor:

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

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

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

Special mode of appointment

21. (1) Notwithstanding anything contained in Statute 20, the Executive Council may invite a person of high academic distinction and professional attainments to accept a post of Professor or Reader or any other academic post in the University, as the case may be, on such terms and conditions as it deems fit, and on the person agreeing to do so appoint him to the post.

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

Appointment for a fixed tenure

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

Recognised teachers

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

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

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

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

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

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

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

Committees

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

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

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

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

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

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

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

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

Seniority list

27. (1) Whenever, in accordance with the Statutes, any person is to hold an office or be a member of an authority of the University by rotation according to seniority, such seniority shall be determined according to the length of continuous service of such person in his grade, and in accordance with such other principles as the Executive Council may, from time to time, prescribe.

(2) It shall be the duty of the Registrar to prepare and maintain, in respect of each class of persons to whom the provisions of these Statutes apply, a complete and up-to-date seniority list in accordance with the provisions of clause (1).

(3) If two or more persons have equal length of continuous service in a particular grade or the relative seniority of any person or persons is otherwise in doubt, the Registrar may, on his own motion and shall, at the request of any such person, submit the matter to the Executive Council whose decision thereon shall be final.

Removal of employees of the University

28. (1) Where there is an allegation of misconduct against a teacher, a member of the academic staff or other, employee of the University, the Vice-Chancellor, in the case of the teacher or member of the academic staff, and the authority competent to appoint (hereinafter referred to as the appointing authority) in the case of other employee, may, by order in writing place such teacher, member of the academic staff or other employee, as the case may be, under suspension and shall forthwith report to the Executive Council the circumstances in which the order was made:

Provided that the Executive Council may, if it is of the opinion, that the circumstances of the case do not warrant the suspension of the teacher or a member of the academic staff, revoke such order.

(2) Notwithstanding anything contained in the terms of the contract of appointment or of any other terms and conditions of service of the employees, the Executive Council in respect of teachers and other academic staff, and the appointing authority, in respect of other employees, shall have the power to remove a teacher or a member of the academic staff, or as the case may be, other employee on grounds of misconduct.

(3) Save as aforesaid, the Executive Council, or as the case may be, the appointing authority, shall not be entitled to remove any teacher, member of the academic staff or other employee except for a good cause and after giving three months' notice or on payment of three months' salary in lieu thereof.

(4) No teacher, member of the academic staff or other employee shall be removed under clause (2) or clause (3) unless he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(5) The removal of a teacher, member of the academic staff or other employee shall take effect from the date on which the order of removal is made:

Provided that where the teacher, member of the academic staff or other employee is under suspension at the time of his removal, such removal shall take effect from the date on which he was placed under suspension.

(6) Notwithstanding anything contained in the foregoing provisions of this Statute, a teacher, member of the academic staff or other employee may resign,—

(a) if he is a permanent employee, only after giving three months' notice in writing to the Executive Council or the appointing authority, as the case may be, or by paying three months' salary in lieu thereof;

(b) if he is not a permanent employee, only after giving one month's notice in writing to the Executive Council or, as the case may be, the appointing authority or by paying one month's salary in lieu thereof:

Provided that such resignation shall take effect only on the date on which the resignation is accepted by the Executive Council or the appointing authority, as the case may be.

Honorary degrees

29. (1) The Executive Council may, on the recommendation of the Academic Council and by a resolution passed by a majority of not less than two-thirds of the members present and voting, make proposals to the Visitor for the conferment of honorary degrees:

Provided that in case of emergency, the Executive Council may, on its own motion, make such proposals.

(2) The Executive Council may, by a resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw, with the previous sanction of the Visitor, any honorary degree conferred by the University.

Withdrawal of degrees, etc.

30. The Executive Council may, by a special resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw any degree or academic distinction conferred on, or any certificate or diploma granted to, any person by the University for good and sufficient cause:

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

Maintenance of discipline among students of the University

31. (1) All powers relating to discipline and disciplinary action in relation to students of the University shall vest in the Vice-Chancellor.

(2) The Vice-Chancellor may delegate all or any of his powers as he deems proper to a Proctor and to such other officers as he may specify in this behalf.

(3) Without prejudice to the generality of his powers relating to the maintenance of discipline and taking such action, as may seem to him appropriate for the maintenance of discipline, the Vice-Chancellor may, in exercise of his powers, by order, direct that any student or students be expelled, or rusticated, for a specified period, or be not admitted to a course or courses of study in a College, Institution or Department or a School of the University for a stated period, or be punished with fine for an amount to be specified in the order, or be debarred from taking an examination or examinations conducted by the University, College, Institution or Department or a School for one or more years, or that the results of the student or students concerned in the examination or examinations in which he or they have appeared be cancelled.

(4) The Principals of Colleges, Institutions, Deans of Schools of Studies and Heads of teaching Departments in the University shall have the authority to exercise all such disciplinary powers over the students in their respective Colleges, Institutions, Schools and teaching Departments in the University as may be necessary for the proper conduct of such Colleges, Institutions, Schools and teaching in the Departments.

(5) Without prejudice to the powers of the Vice-Chancellor, the Principals and other persons specified in clause (4), detailed rules of discipline and proper conduct shall be made by the University. The Principals of Colleges, Institutions, Deans of Schools of Studies and Heads of teaching Departments in the University may also make the supplementary rules as they deem necessary for the aforesaid purposes.

(6) At the time of admission, every student shall be required to sign a declaration to the effect that he submits himself to the disciplinary jurisdiction of the Vice-Chancellor and other authorities of the University.

Maintenance of discipline among Students of Colleges, etc.

32. All powers relating to discipline and disciplinary action in relation to Students of a College or an Institution, not maintained by the University, shall vest in the Principal of the College or Institution, as the case may be, in accordance with the procedure prescribed by the Ordinances.

Admission of Colleges, etc., to the privileges of the University

33. (1) Colleges and other Institutions situated within the jurisdiction of the University may be admitted to such privileges of the University as the Executive Council may decide on the following conditions, namely:—

(i) Every such College or Institution shall have a regularly constituted Governing Body, consisting of not more than fifteen persons approved by the Executive Council and including among others, two teachers of the University to be nominated by the Executive Council and three representatives of the teaching staff of whom the Principal of the College or Institution shall be one. The procedure for appointment of members of the Governing Body and other matters affecting the management of a College or an Institution shall be prescribed by the Ordinances:

Provided that the said condition shall not apply in the case of Colleges and Institutions maintained by Government which shall, however, have an Advisory Committee consisting of not more than fifteen persons which shall consist of among others, three teachers including the Principal of the College or Institution, and two teachers of the University nominated by the Executive Council.

(ii) Every such College or Institution shall satisfy the Executive Council on the following matters, namely:—

(a) the suitability and adequacy of its accommodation and equipment for teaching;

(b) the qualifications and adequacy of its teaching staff and the conditions of their service;

(c) the arrangements for the residence, welfare, discipline and supervision of students;

(d) the adequacy of financial provision made for the continued maintenance of the College or Institution; and

(e) such other matters as are essential for the maintenance of the standards of University education.

(iii) No College or Institution shall be admitted to any privileges of the University except on the recommendation of the Academic Council made after considering the report of a Committee of Inspection appointed for the purpose by the Academic Council.

(iv) Colleges and Institutions desirous of admission to any privileges of the University shall be required to intimate their intention to do so in writing so as to reach the Registrar not later than the 15th August, preceding the year from which permission applied for is to have effect.

(v) A College or an Institution shall not, without the previous permission of the Executive Council and the Academic Council, suspend instruction in any subject or course of study which it is authorised to teach and teaches.

(2) Appointment to the teaching staff and Principals of Colleges or Institutions admitted to the privileges of the University shall be made in the manner prescribed by the Ordinances:

Provided that nothing in this clause shall apply to Colleges and Institutions maintained by Government.

(3) The Service conditions of the administrative and other non-academic staff of every College or Institution referred to in clause (2) shall be such as may be laid down in the Ordinances:

Provided that nothing in this clause shall apply to Colleges and Institutions maintained by Government.

(4) Every College or Institution admitted to the privilege of the University shall be inspected at least once in every two academic years by a Committee appointed by the Academic Council, and the report of the Committee shall be submitted to the Academic Council, which shall forward the same to the Executive Council with such recommendations as it may deem fit to make.

(5) The Executive Council, after considering the report and the recommendations, if any, of the Academic Council, shall forward a copy of the report of the Governing Body of the College or Institution with such remarks, if any, as it may deem fit for suitable action.

(6) The Executive Council may, after consulting the Academic Council, withdraw any privileges granted to a College or an Institution, at any time it considers that the College or Institution does not satisfy any,

of the conditions on the fulfilment of which the College or Institution was admitted to such privileges:

Provided that before any privileges are so withdrawn, the Governing Body of the College or Institution concerned shall be given an opportunity to represent to the Executive Council why such action should not be taken.

(7) Subject to the conditions set forth in clause (1), the Ordinances may prescribe—

(i) such other conditions as may be considered necessary;

(ii) the procedure for the admission of Colleges and Institutions to the privileges of the University and for the withdrawal of those privileges.

Convocations

34. 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

35. Where no provision is made for a President or Chairman to preside over a meeting of any authority of the University or any committee of such authority or when the President or Chairman so provided for is absent, the members present shall elect one from among themselves to preside at such meeting.

Resignation

36. Any member, other than an *ex officio* member of the Court, the Executive Council, the Academic Council or any other authority of the University or any Committee of such authority may resign by letter addressed to the Registrar and the resignation shall take effect as soon as such letter is received by the Registrar.

Disqualifications

37. (1) A person shall be disqualified for being chosen as, and for being, a member of any of the authorities of the University,—

(i) if he is of unsound mind;

(ii) if he is an undischarged insolvent;

(iii) if he has been convicted by a court of law of an offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months.

(2) If any question arises as to whether a person is or had been subjected to any of the disqualifications mentioned in clause (1), the question shall be referred to the Visitor and his decision shall be final and no suit or other proceeding shall lie in any civil court against such decision.

Residence condition for membership and office

38. Notwithstanding anything contained in the Statutes, a 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

39. Notwithstanding anything contained in the Statutes, a person who holds any post in the University or is a member of any authority or body of the University in his capacity as a member of a particular authority or body or as the holder of a particular appointment shall hold such office or membership only for so long as he continues to be a member of that particular authority or body or the holder of that particular appointment, as the case may be.

Alumni Association

40. (1) There shall be an Alumni Association for the University.

(2) The subscription for membership of the Alumni Association shall be prescribed by the Ordinances.

(3) No member of the Alumni Association shall be entitled to vote or stand for election unless he has been a member of the Association for at least one year prior to the date of the election and is a degree holder of the University of at least five years standing:

Provided that the condition relating to the completion of one year's membership shall not apply in the case of the first election.

Students' Council

41. (1) There shall be constituted in the University, a Students' Council for every academic year, consisting of:

(i) the Dean of Students' Welfare who shall be the Chairman of the Students' Council;

(ii) all students who have won prizes in the previous academic year in the fields of studies, fine arts, sports and extension work;

(iii) twenty students to be nominated by the Academic Council on the basis of merit in studies, sports, activities and all-round development of personality:

Provided that any student of the University shall have the right to bring up any matter concerning the University before the Students' Council if so permitted by the Chairman, and he shall have the right to participate in the discussions at any meeting when the matter is taken up for consideration.

(2) The functions of the Students' Council shall be to make suggestions to the appropriate authorities of the University in regard to the programmes of studies, students' welfare and other matters of importance in regard to the working of the University in general and such suggestions shall be made on the basis of consensus of opinion.

(3) The Students' Council shall meet at least once in an academic year preferably in the beginning of that year.

Ordinances, how made

42. (1) The first Ordinances made under sub-section (2) of section 29 may be amended, repealed or added to at any time by the Executive Council in the manner specified below.

(2) No Ordinance in respect of the matters enumerated in section 29, other than those enumerated in clause (n) of sub-section (1) thereof, shall be made by the Executive Council unless a draft of such Ordinance has been proposed by the Academic Council.

(3) The Executive Council shall not have power to amend any draft of any Ordinance proposed by the Academic Council under clause (2), but may reject the proposal or return the draft to the Academic Council for re-consideration, either in whole or in part, together with any amendment which the Executive Council may suggest.

(4) Where the Executive Council has rejected or returned the draft of an Ordinance proposed by the Academic Council, the Academic Council may consider the question afresh and in case the original draft is reaffirmed by a majority of not less than two-thirds of the members present and voting and more than half the total number of members of the Academic Council, the draft may be sent back to the Executive Council which shall either adopt it or refer it to the Visitor whose decision shall be final.

(5) Every Ordinance made by the Executive Council shall come into effect immediately.

(6) Every Ordinance made by the Executive Council shall be submitted to the Visitor within two weeks from the date of its adoption. The Visitor shall have the power to direct the University within four weeks of the receipt of the Ordinance to suspend the operation of any such Ordinance and he shall, as soon as possible, inform the Executive Council about his objection to the proposed Ordinance. The Visitor may, after receiving the comments of the University, either withdraw the order suspending the Ordinance or disallow the Ordinance, and his decision shall be final.

Regulations

43. (1) The authorities of the University may make Regulations consistent with the Act, the Statutes and the Ordinances for the following matters, namely:—

(i) laying down the procedure to be observed at their meetings and the number of members required to form a quorum;

(ii) providing for all matters which are required by the Act, the Statutes or the Ordinances to be prescribed by Regulations;

(iii) providing for all other matters solely concerning such authorities or committees appointed by them and not provided for by the Act, the Statutes or the Ordinances.

(2) Every authority of the University shall make Regulations providing for the giving of notice to the members of such authority of the dates of meeting and of the business to be considered at meetings and for the keeping of a record of the proceedings of meetings.

(3) The Executive Council may direct the amendment in such manner as it may specify, of any Regulation made under the Statutes or the annulment of any such Regulation.

Delegation of Powers

44. Subject to the provisions of the Act and the Statutes, any officer or authority of the University may delegate his or its powers to any other officer or authority or person under his or its respective control and subject to the condition that overall responsibility for the exercise of the powers so delegated shall continue to vest in the officer or authority delegating such powers.

THE DIRECT TAX LAWS (SECOND AMENDMENT)
ACT, 1989

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title and commencement.

CHAPTER II

AMENDMENTS TO THE INCOME-TAX ACT, 1961

2. Amendment of section 2.
3. Amendment of section 6.
4. Amendment of section 10.
5. Insertion of new section 33AC.
6. Amendment of section 48.
7. Amendment of section 80C.
8. Amendment of section 80CC.
9. Amendment of section 80L.
10. Insertion of new section 115BBA.
11. Amendment of section 115D.
12. Amendment of section 115J.
13. Amendment of section 139.
14. Amendment of section 140A.
15. Amendment of section 142.
16. Amendment of section 143.
17. Amendment of section 144.
18. Amendment of section 149.
19. Amendment of section 184.
20. Amendment of section 185.
21. Amendment of section 186.
22. Insertion of new section 194E.
23. Amendment of section 195.

SECTIONS

24. Amendment of sections 198 to 200 and 202 to 205.
25. Substitution of new section for section 241.
26. Amendment of section 275.

CHAPTER III

AMENDMENTS TO THE WEALTH-TAX ACT, 1957

27. Amendment of section 15B.
28. Amendment of section 16.
29. Amendment of section 34A.
30. Amendment of Schedule III.

CHAPTER IV

AMENDMENTS TO THE GIFT-TAX ACT, 1958

31. Amendment of section 14B.
32. Amendment of section 15.
33. Amendment of section 33A.

THE DIRECT TAX LAWS (SECOND AMENDMENT) ACT, 1989

No. 36 OF 1989

[20th October, 1989.]

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 Fortieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Direct Tax Laws (Second Amendment) Act, 1989.

Short
title and
commence-
ment.

(2) Save as otherwise provided in this Act, it shall come into force on the 1st day of April, 1990.

CHAPTER II

AMENDMENTS TO THE INCOME-TAX ACT, 1961

28 of 1961.

2. In section 2 of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act),—

Amend-
ment of
section 2.

(i) for clause (39), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1989, namely:—

‘(39) “registered firm” means a firm registered under the provisions of clause (a) of sub-section (1) of section 185 or deemed to be registered under the provisions of sub-section (6) of that section or under those provisions read with sub-section (7) of section 184;’

(ii) after clause (42B), the following clause shall be inserted, namely:—

18 of 1944.

‘(42C) “security” means a Government security as defined in clause (2) of section 2 of the Public Debt Act, 1944;’

Amend-
ment of
section 6.

3. In section 6 of the Income-tax Act, in clause (1), in sub-clause (c), for the *Explanation*, the following *Explanation* shall be substituted, namely:—

Explanation.—In the case of an individual,—

(a) being a citizen of India, who leaves India in any previous year for the purposes of employment outside India, the provisions of sub-clause (c) shall apply in relation to that year as if for the words “sixty days”, occurring therein, the words “one hundred and eighty-two days” had been substituted;

(b) being a citizen of India, or a person of Indian origin within the meaning of *Explanation* to clause (e) of section 115C, who, being outside India, comes on a visit to India in any previous year, the provisions of sub-clause (c) shall apply in relation to that year as if for the words “sixty days”, occurring therein, the words “one hundred and fifty days” had been substituted.

Amend-
ment of
section 10.

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

(a) for clause (5), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1989, namely:—

(5) in the case of an individual, the value of any travel concession or assistance received by, or due to, him,—

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

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

subject to such conditions as may be prescribed (including conditions as to number of journeys and the amount which shall be exempt per head) having regard to the travel concession or assistance granted to the employees of the Central Government:

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

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

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

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

(b) in clause (14), to sub-clause (ii), the following proviso shall be added and shall be deemed to have been added with effect from the 1st day of April, 1989, namely:—

“Provided that nothing in sub-clause (ii) shall apply to any allowance in the nature of personal allowance granted to

the assessee to remunerate or compensate him for performing duties of a special nature relating to his office or employment unless such allowance is related to the place of his posting or residence.”.

5. After section 33AB of the Income-tax Act, the following section shall be inserted, namely:—

Insertion
of new
section
33AC.

‘33AC. (1) In the case of an assessee, being a public company formed and registered in India with the main object of carrying on the business of operation of ships, there shall, in accordance with and subject to the provisions of this section, be allowed a deduction of an amount, not exceeding the total income (computed before making any deduction under this section and Chapter VIA), as is debited to the profit and loss account of the previous year in respect of which the deduction is to be allowed and credited to a reserve account to be utilised in the manner laid down in sub-section (2):

Reserves
for
shipping
business.

Provided that where the aggregate of the amounts carried to such reserve account from time to time exceeds twice the amount of the paid-up share capital (excluding the amounts capitalised from reserves) of the assessee, no allowance under this sub-section shall be made in respect of such excess.

(2) The amount credited to the reserve account under sub-section (1) shall be utilised by the assessee before the expiry of a period of eight years next following the previous year in which the amount was credited—

(a) for acquiring a new ship for the purposes of the business of the assessee; and

(b) until the acquisition of a new ship, for the purposes of the business of the assessee other than for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any asset outside India.

(3) Where any amount credited to the reserve account under sub-section (1),—

(a) has been utilised for any purpose other than that referred to in clause (a) or clause (b) of sub-section (2), the amount so utilised; or

(b) has not been utilised for the purpose specified in clause (a) of sub-section (2), the amount not so utilised; or

(c) has been utilised for the purpose of acquiring a new ship as specified in clause (a) of sub-section (2), but such ship is sold or otherwise transferred by the assessee to any person at any time before the expiry of eight years from the end of the previous year in which it was acquired, the amount so utilised in acquiring the ship,

shall be deemed to be the profits,—

(i) in a case referred to in clause (a), in the year in which the amount was so utilised; or

(ii) in a case referred to in clause (b), in the year immediately following the period of eight years specified in sub-section (2); or

(iii) in a case referred to in clause (c), in the year in which the sale or transfer took place,

and shall be charged to tax accordingly.

Explanation.—For the purposes of this section,—

(a) “public company” shall have the meaning assigned to it in section 3 of the Companies Act, 1956;

1 of 1956.

(b) “new ship” shall have the same meaning as in clause (ii) of sub-section (2) of section 32AB.’

Amend-
ment of
section 48.

6. In section 48 of the Income-tax Act, in sub-section (1), to clause (a), the following proviso and the *Explanation* thereto shall be added, namely:—

‘Provided that in the case of an assessee, who is a non-resident Indian, capital gains arising from the transfer of a capital asset being shares in, or debentures of, an Indian company shall be computed by converting the cost of acquisition, expenditure incurred wholly and exclusively in connection with such transfer and the full value of the consideration received or accruing as a result of the transfer of the capital asset into the same foreign currency as was initially utilised in the purchase of the shares or debentures, and the capital gains so computed in such foreign currency shall be reconverted into Indian currency, so however, that the aforesaid manner of computation of capital gains shall be applicable in respect of capital gains accruing or arising from every re-investment thereafter in, and sale of, shares in, or debentures of, an Indian company.

Explanation.—For the purposes of this clause,—

(i) “non-resident Indian” shall have the same meaning as in clause (e) of section 115C;

(ii) “foreign currency” and “Indian currency” shall have the meanings respectively assigned to them in section 2 of the Foreign Exchange Regulation Act, 1973;

46 of 1973.

(iii) the conversion of Indian currency into foreign currency and the reversion of foreign currency into Indian currency shall be at the rate of exchange prescribed in this behalf.’

Amend-
ment of
section
80C.

7. In section 80C of the Income-tax Act,—

(a) in sub-section (2),—

(i) in clause (a),—

(A) in sub-clause (ii), after the words “deferred annuity”, the words, brackets, figures and letters “, not being an annuity plan referred to in clause (ii) of sub-section 1 of section 80CCA,” shall be inserted;

(B) in sub-clause (v),—

(1) the brackets and words “(hereafter in this section referred to as the Unit-linked Insurance Plan)” shall be omitted;

(2) the word “or” shall be inserted at the end;

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

“(vi) as a contribution for participation in any such unit-linked insurance plan of the LIC Mutual Fund notified under clause (23D) of section 10, as the Central Government may, by notification in the Official Gazette, specify in this behalf;”;

(ii) in clause (h), after sub-clause (ia) [as inserted by the Finance Act, 1989], the following sub-clause shall be inserted, namely:—

“(ib) as subscription to any such savings certificate as defined in clause (c) of section 2 of the Government Savings Certificates Act, 1959, as the Central Government may, by notification in the Official Gazette, specify in this behalf;”;

(iii) in clauses (g) and (h), for the words “Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu”, wherever they occur, the words “State of Goa and the Union territories of Dadra and Nagar Haveli and Daman and Diu” shall be substituted;

(iv) after clause (h), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1984, namely:—

“(i) where the assessee is an individual or a Hindu undivided family or where the assessee is an association of persons or a body of individuals consisting, in either case, only of husband and wife governed by the system of community of property in force in the State of Goa and the Union territories of Dadra and Nagar Haveli and Daman and Diu, any sums paid in the previous year by such assessee out of his or its income chargeable to tax as subscription to the National Savings Certificates (VI Issue) and National Savings Certificates (VII Issue) issued under the Government Savings Certificates Act, 1959;”;

(b) in sub-section (5),—

(i) for the words “the Unit-linked Insurance Plan”, the words, brackets, figures and letters “any unit-linked insurance plan referred to in sub-clause (v) or sub-clause (vi) of clause (a) of sub-section (2)” shall be substituted;

(ii) for the words “participating in the plan, terminates his participation in the plan”, the words “participating in any such

plan, terminates his participation in that plan" shall be substituted;

(c) in sub-section (6), in *Explanation 2*, for the words "the Unit-linked Insurance Plan", the words, brackets, figures and letters "any unit-linked insurance plan referred to in sub-clause (v) or sub-clause (vi) of clause (a) of sub-section (2)" shall be substituted.

Amendment of section 80CC.

8. In section 80CC of the Income-tax Act, in sub-section (3),—

(i) in clause (a),—

(a) in sub-clause (iii), for the word "authority", the words "authority; or" shall be substituted;

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

"(iv) operation of ships;"

(ii) to clause (b), the following proviso shall be added, namely:—

"Provided that this clause shall not apply in the case of an issue of equity shares made by a public company formed and registered in India with the main object of carrying on the business of operation of ships;"

Amendment of section 80L.

9. In section 80L of the Income-tax Act, in sub-section (1), after clause (i), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1984, namely:—

"(ia) interest on National Savings Certificates (VI Issue) and National Savings Certificates (VII Issue) issued under the Government Savings Certificates Act, 1959;"

46 of 1959.

Insertion of new section 115BBA.

Tax on non-resident sportsmen or sports associations.

10. After section 115BB of the Income-tax Act, the following section shall be inserted, namely:—

"115BBA. (1) Where the total income of an assessee,—

(a) being a sportsman (including an athlete), who is not a citizen of India and is a non-resident, includes any income received or receivable by way of—

(i) participation in India in any game (other than a game the winnings wherefrom are taxable under section 115BB) or sport; or

(ii) advertisement; or

(iii) contribution of articles relating to any game or sport in India in newspapers, magazines or journals; or

(b) being a non-resident sports association or institution, includes any amount guaranteed to be paid or payable to such association or institution in relation to any game (other than a game the winnings wherefrom are taxable under section 115BB) or sport played in India,

the income-tax payable by the assessee shall be the aggregate of—

(i) the amount of income-tax calculated on income referred to in clause (a) or clause (b) at the rate of ten per cent.; and

(ii) the amount of income-tax with which the assessee would have been chargeable had the total income of the assessee been reduced by the amount of income referred to in clause (a) or clause (b):

Provided that no deduction in respect of any expenditure or allowance shall be allowed under any provision of this Act in computing the income referred to in clause (a) or clause (b).

(2) It shall not be necessary for the assessee to furnish under sub-section (1) of section 139 a return of his income if—

(a) his total income in respect of which he is assessable under this Act during the previous year consisted only of income referred to in clause (a) or clause (b) of sub-section (1); and

(b) the tax deductible at source under the provisions of Chapter XVII-B has been deducted from such income.”.

11. In section 115D of the Income-tax Act, in sub-section (2), in clause (a), for the words, figures and letter “under Chapter VI-A”, the words, brackets, figures and letters “under sub-section (2) of section 48 or under Chapter VI-A” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1988.

Amend-
ment of
section
115D.

12. In section 115J of the Income-tax Act, in the *Explanation*,—

(i) in clause (b), after the words, figures and letters “reserves specified in section 80HHD”, the words, brackets, figures and letters “or sub-section (1) of section 33AC” shall be inserted;

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

“(ha) the amount deemed to be the profits under sub-section (3) of section 33AC;”.

Amend-
ment of
section
115J.

13. In section 139 of the Income-tax Act, in sub-section (1), in the *Explanation*, in clause (b), in sub-clause (i), after the words “to be audited”, the words “or in the case of a partner of a firm where the accounts of the firm are required to be so audited” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1989.

Amend-
ment of
section
139.

14. In section 140A of the Income-tax Act, after sub-section (3), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1989, namely:—

Amend-
ment of
section
140A.

“(4) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1987, shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year and references in this section to the other provisions

of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.”.

Amend-
ment of
section
142.

15. In section 142 of the Income-tax Act, after sub-section (3), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1989, namely:—

“(4) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1987, shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.”.

4 of 1988.

Amend-
ment of
section
143.

16. In section 143 of the Income-tax Act, the following amendments shall be made and shall be deemed to have been made with effect from the 1st day of April, 1989, namely:—

(a) in sub-section (1),—

(i) in clause (a),—

(1) after the first proviso, the following proviso shall be inserted, namely:—

“Provided further that where adjustments are made under the first proviso, an intimation shall be sent to the assessee, notwithstanding that no tax or interest is found due from him after making the said adjustments:”;

(2) in the existing second proviso, for the words “Provided further”, the words “Provided also” shall be substituted;

(ii) in clause (b), after the words “an order made under”, the words, brackets and figures “sub-section (3) of this section or section 144 or” shall be inserted;

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

“(c) Where the assessee is a partner of a firm or a member of an association of persons or body of individuals and as a result of the adjustments made under the first proviso to clause (a) of sub-section (1) in the income or loss declared in the return made by the firm, association or body, as the case may be, or as a result of an order made under sub-section (3) of this section or section 144 or section 147 or section 154 or section 155 or sub-section (1) or sub-section (2) or sub-section (3) or sub-section (5) of section 185 or sub-section (1) or sub-section (2) of section 186 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264, or any order of settlement made under sub-section (4) of section 245D, passed subsequent to the filing of the return referred to in clause (a), there is any variation in his share in

the income or loss of the firm, association or body, as the case may be, or in the manner of inclusion of his share in the returned income, then,—

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

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

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

(b) in sub-section (1A),—

(i) in clause (a), for the words “the proviso”, the words “the first proviso” shall be substituted;

(ii) in the *Explanation*, in clause (i), for the words “the proviso”, the words “the first proviso” shall be substituted;

(c) in sub-section (2),—

(i) in the opening portion, for the words, brackets and figure “In a case referred to in sub-section (1), if the Assessing Officer”, the words, figures and brackets “Where a return has been made under section 139, or in response to a notice under sub-section (1) of section 142, the Assessing Officer shall, if he” shall be substituted;

(ii) for the words “he shall serve on the assessee”, the words “serve on the assessee” shall be substituted;

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

“(4) Where a regular assessment under sub-section (3) of this section or section 144 is made,—

(a) any tax or interest paid by the assessee under sub-section (1) shall be deemed to have been paid towards such regular assessment;

(b) if no refund is due on regular assessment or the amount refunded under sub-section (1) exceeds the amount refundable on regular assessment, the whole or the excess amount so refunded shall be deemed to be tax payable by the assessee and the provisions of this Act shall apply accordingly.

(5) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1987, shall apply to and in relation to any assessment for the

assessment year commencing on the 1st day of April, 1988, or any earlier assessment year and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.”.

Amend-
ment of
section
144.

17. Section 144 of the Income-tax Act shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1989, namely:—

“(2) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1987, shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.”.

4 of 1988.

Amend-
ment of
section
149.

18. In section 149 of the Income-tax Act, in sub-section (1), in clause (a), in sub-clause (iii), for the words “more than rupees one lakh”, the words “rupees one lakh” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1989.

Amend-
ment of
section
184.

19. In section 184 of the Income-tax Act, in sub-section (7), after the words “is granted”, the words “or is deemed to have been granted” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1989.

Amend-
ment of
section
185.

20. In section 185 of the Income-tax Act, after sub-section (5), the following sub-sections shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1989, namely:—

“(6) Notwithstanding anything contained in sub-sections (1) to (4), where a firm has made an application for registration in relation to an assessment year and has furnished the return for that assessment year, such firm shall be deemed to have been registered under this section on the expiry of the period for serving notice as specified in the proviso to sub-section (2) of section 143 in respect of such return:

Provided that nothing in this sub-section shall affect the power of the Assessing Officer to intimate the defect to the firm under sub-section (2) and where any such intimation is sent, all the provisions of sub-section (2) shall apply.

(7) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Second Amendment) Act, 1989 shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.”.

21. In section 186 of the Income-tax Act, the following amendments shall be made and shall be deemed to have been made with effect from the 1st day of April, 1989, namely:—

Amend-
ment of
section
186.

(a) in sub-section (1),—

(i) after the words “firm has been registered”, the words “or is deemed to have been registered” shall be inserted;

(ii) the words “and with the previous approval of the Deputy Commissioner,” shall be omitted;

(iii) in the proviso, after the words “registration has been granted”, the words “or is deemed to have been granted” shall be inserted;

(iv) after the existing proviso, the following proviso shall be inserted, namely:—

“Provided further that the Assessing Officer shall not cancel the registration granted under sub-section (1) of section 185 except with the previous approval of the Deputy Commissioner.”;

(b) in sub-section (2), after the words “firm has been registered”, the words “or is deemed to have been registered” shall be inserted.

22. After section 194D of the Income-tax Act, the following section shall be inserted with effect from the 1st day of November, 1989, namely:—

Insertion
of new
section
194E.

“194E. Where any income referred to in section 115BBA is payable to a non-resident sportsman (including an athlete) who is not a citizen of India or a non-resident sports association or institution, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of ten per cent.”.

Payments
to non-
resident
sportsmen
or sports
associa-
tions.

23. In section 195 of the Income-tax Act, in sub-section (1), before the *Explanation*, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1987, namely:—

Amend-
ment of
section
195.

“Provided that in the case of interest payable by the Government or a public sector bank within the meaning of clause (23D) of section 10 or a public financial institution within the meaning of that clause, deduction of tax shall be made only at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode.”.

24. In sections 198, 199, 200, 202, 203, 203A, 204 and 205 of the Income-tax Act, after the word, figures and letter “section 194D,” the word, figures and letter “section 194E,” shall be inserted with effect from the 1st day of November, 1989.

Amend-
ment of
sections
198 to 200
and 202 to
205.

Substitution of new section for section 241.

25. For section 241 of the Income-tax Act, the following section shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1989, namely:—

Power to with hold refund in certain cases.

“241. Where refund of any amount becomes due to the assessee as a result of an order under this Act or under the provisions of sub-section (1) of section 143 after a return has been made under section 139 or in response to a notice under sub-section (1) of section 142 and the Assessing Officer is of the opinion, having regard to the fact that—

(i) a notice has been issued, or is likely to be issued, under sub-section (2) of section 143 in respect of the said return; or

(ii) the order is the subject-matter of an appeal or further proceeding; or

(iii) any other proceeding under this Act is pending,

that the grant of the refund is likely to adversely affect the revenue, the Assessing Officer may, with the previous approval of the Chief Commissioner or Commissioner, withhold the refund till such time as the Chief Commissioner or Commissioner may determine.”.

Amendment of section 275.

26. Section 275 of the Income-tax Act shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1989, namely:—

“(2) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1987, shall apply to and in relation to any action initiated for the imposition of penalty on or before the 31st day of March, 1989.”.

4 of 1988.

CHAPTER III

AMENDMENTS TO THE WEALTH-TAX ACT, 1957

Amendment of section 15B.

27. In section 15B of the Wealth-tax Act, 1957 (hereinafter referred to as the Wealth-tax Act), after sub-section (3), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1989, namely:—

27 of 1957.

“(4) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1987, shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.”.

4 of 1988.

28. In section 16 of the Wealth-tax Act, the following amendments shall be made and shall be deemed to have been made with effect from the 1st day of April, 1989, namely:—

Amend-
ment of
section 16.

(a) in sub-section (1),—

(i) in clause (a),—

(1) after the first proviso, the following proviso shall be inserted, namely:—

“Provided further that where adjustments are made under the first proviso, an intimation shall be sent to the assessee, notwithstanding that no tax or interest is found due from him after making the said adjustments:”;

(2) in the existing second proviso, for the words “Provided further”, the words “Provided also” shall be substituted;

(ii) in clause (b), after the words “an order made under”, the words, brackets and figures “sub-section (3) or sub-section (5) of this section or” shall be inserted;

(b) in sub-section (1A), in clause (a), for the words “the proviso”, the words “the first proviso” shall be substituted;

(c) in sub-section (2),—

(i) in the opening portion, for the words, brackets and figure “In a case referred to in sub-section (1), if the Assessing Officer”, the words, figures and brackets “Where a return has been made under section 14 or section 15, or in response to a notice under clause (i) of sub-section (4) of this section, the Assessing Officer shall, if he” shall be substituted;

(ii) for the words “he shall serve or the assessee”, the words “serve on the assessee” shall be substituted;

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

“(6) Where a regular assessment under sub-section (3) or sub-section (5) is made,—

(a) any tax or interest paid by the assessee under sub-section (1) shall be deemed to have been paid towards such regular assessment;

(b) if no refund is due on regular assessment or the amount refunded under sub-section (1) exceeds the amount refundable on regular assessment, the whole or the excess amount so refunded shall be deemed to be tax payable by the assessee and the provisions of this Act shall apply accordingly.

(7) The provisions of this section as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1987, shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year and references in this section to the other

provisions of this Act shall be construed as references to those provisions for the time being in force and applicable to the relevant assessment year.”.

Amend-
ment of
section
34A.

29. In section 34A of the Wealth-tax Act, for sub-section (2), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1989, namely:—

“(2) Where refund of any amount becomes due to the assessee as a result of an order under this Act or under the provisions of sub-section (1) of section 16 after a return has been made under section 14 or section 15 or in response to a notice under clause (i) of sub-section (4) of section 16 and the Assessing Officer is of the opinion, having regard to the fact that—

(i) a notice has been issued, or is likely to be issued, under sub-section (2) of section 16 in respect of the said return; or

(ii) the order is the subject-matter of an appeal or further proceeding; or

(iii) any other proceeding under this Act is pending, that the grant of the refund is likely to adversely affect the revenue, the Assessing Officer may, with the previous approval of the Chief Commissioner or Commissioner, withhold the refund till such time as the Chief Commissioner or Commissioner may determine.”.

Amend-
ment of
Schedule
III.

Special
provision
for quoted
shares of
companies.

30. In Schedule III to the Wealth-tax Act,—

(a) after rule 9, the following rule shall be inserted, namely:—

‘9A. Notwithstanding anything in rule 9, the value of an equity share in any company which is a quoted share may, at the option of the assessee, be taken on the basis of the average of the value quoted on the 31st day of March immediately preceding the assessment year and the values quoted in respect of such share on the said dates in relation to each of the immediately preceding four assessment years, or where there is no such quotation on any of the aforesaid dates, the quotation on the date closest to the said date and immediately preceding such date:

Provided that where for any reason the value of such share is quoted in relation to lesser number of assessment years than the said four assessment years, then the value or values so quoted shall be taken into account for the purposes of the aforesaid average:

Provided further that where the assessee opts for the average of the values so quoted, he shall get such values certified by an accountant and attach the certificate to the return of wealth in respect of the relevant assessment year.

Explanation.—For the purposes of this rule, “accountant” shall have the same meaning as in the *Explanation* below sub-section (2) of section 288 of the Income-tax Act.’;

(b) in rule 12, sub-rules (3) and (5) shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1989.

CHAPTER IV

AMENDMENTS TO THE GIFT-TAX ACT, 1958

18 of 1958.

31. In section 14B of the Gift-tax Act, 1958 (hereinafter referred to as the Gift-tax Act), after sub-section (3), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1989, namely:—

Amend-
ment of
section
14B.

“(4) The provisions of this section shall apply in respect of assessment for the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years.”

32. In section 15 of the Gift-tax Act, the following amendments shall be made and shall be deemed to have been made with effect from the 1st day of April, 1989, namely:—

Amend-
ment of
section 15.

(a) in sub-section (1),—

(i) in clause (a),—

(1) after the first proviso, the following proviso shall be inserted, namely:—

“Provided further that where adjustments are made under the first proviso, an intimation shall be sent to the assessee, notwithstanding that no tax or interest is found due from him after making the said adjustments.”;

(2) in the existing second proviso, for the words “Provided further”, the words “Provided also” shall be substituted;

(ii) in clause (b), after the words “an order made under”, the words, brackets and figures “sub-section (3) or sub-section (5) of this section or” shall be inserted;

(b) in sub-section (1A), in clause (a), for the words “the proviso”, the words “the first proviso” shall be substituted;

(c) in sub-section (2),—

(i) in the opening portion, for the words, brackets and figure “in a case referred to in sub-section (1), if the Assessing Officer”, the words, figures and brackets “Where a return has been made under section 13 or section 14 or in response to a notice under clause (i) of sub-section (4) of this section, the Assessing Officer shall, if he” shall be substituted;

(ii) for the words “he shall serve on the assessee”, the words “serve on the assessee” shall be substituted;

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

“(7) Where a regular assessment under sub-section (3) or sub-section (5) is made,—

(a) any tax or interest paid by the assessee under sub-section (1) shall be deemed to have been paid towards such regular assessment;

(b) if no refund is due on regular assessment or the amount refunded under sub-section (1) exceeds the amount refundable on regular assessment, the whole or the excess amount so refunded shall be deemed to be tax payable by the assessee and the provisions of this Act shall apply accordingly.

(8) The provisions of this section, except those of sub-section (6), as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1987, shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year."

4 of 1988.

Amend-
ment of
section
33A.

33. In section 33A of the Gift-tax Act, for sub-section (2), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1989, namely:—

"(2) Where refund of any amount becomes due to the assessee as a result of an order under this Act or under the provisions of sub-section (1) of section 15 after a return has been made under section 13 or section 14 or in response to a notice under clause (i) of sub-section (4) of section 15 and the Assessing Officer is of the opinion, having regard to the fact that,—

(i) a notice has been issued, or is likely to be issued, under sub-section (2) of section 15 in respect of the said return; or

(ii) the order is the subject-matter of an appeal or further proceeding; or

(iii) any other proceeding under this Act is pending,

that the grant of the refund is likely to adversely affect the revenue, the Assessing Officer may, with the previous approval of the Chief Commissioner or Commissioner, withhold the refund till such time as the Chief Commissioner or Commissioner may determine."

**THE WAREHOUSING CORPORATIONS (AMENDMENT)
ACT, 1989**

No. 37 OF 1989

[22nd October, 1989.]

An Act further to amend the Warehousing Corporations Act, 1962

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. This Act may be called the Warehousing Corporations (Amendment) Act, 1989.

Short
title.

58 of 1962

2. In section 1 of the Warehousing Corporations Act, 1962 (herein-after referred to as the principal Act), in sub-section (2), the words "except the State of Jammu and Kashmir" shall be omitted.

Amend-
ment of
section 1.

3. In section 2 of the principal Act, in clause (dd), the following shall be added at the end, namely:—

Amend-
ment of
section 2.

"or a corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980."

40 of 1980

4. In Chapter I of the principal Act, after section 2, the following section shall be inserted, namely:—

Inser-
tion of
new
section
2A.

"2A. Any reference in this Act to any law which is not in force, or any functionary not in existence, in any State, shall, in relation to that State, be construed as a reference to the corresponding law in force, or the corresponding functionary in existence, in that State."

Cons-
truc-
tion of
referen-
ces to
any
law not
in force
or any
func-
tionary
not in
exis-
tence in
any
State.

**THE GENERAL INSURANCE BUSINESS (NATIONALISA-
TION) AMENDMENT ACT, 1989**

No 38 OF 1989

[22nd October, 1989.]

**An Act further to amend the General Insurance Business
(Nationalisation) Act, 1972.**

BE it enacted by Parliament in the Fortieth Year of the Republic
of India as follows:—

Short
title.

1. This Act may be called the General Insurance Business (Nationalisation) Amendment Act, 1989.

Amend-
ment of
section
9 of
Act 57
of 1972

2. In section 9 of the General Insurance Business (Nationalisation) Act, 1972, in sub-section (2), for the words "rupees seventy-five crores, divided into seventy-five lakhs fully paid-up shares", the words "rupees two hundred and fifty crores, divided into two hundred and fifty lakhs fully paid-up shares" shall be substituted.

THE SMALL INDUSTRIES DEVELOPMENT BANK OF INDIA ACT, 1989

ARRANGEMENT OF SECTIONS

CHAPTER I PRELIMINARY

SECTIONS

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

CHAPTER II

ESTABLISHMENT OF THE SMALL INDUSTRIES DEVELOPMENT BANK OF INDIA AND CAPITAL THEREOF

3. Establishment and incorporation of Small Industries Development Bank of India
4. Authorised capital.

CHAPTER III

MANAGEMENT OF THE SMALL INDUSTRIES BANK

5. Management.
6. Constitution of Board.
7. Managing Director.
8. Disqualifications.
9. Vacation and resignation of office by Directors.
10. Casual vacancies in office of Managing Director.
11. Meetings of the Board.
12. Committees.

CHAPTER IV

BUSINESS OF THE SMALL INDUSTRIES BANK

13. Business of Small Industries Bank.
14. Loans by Central Government.
15. Borrowings and acceptance of deposits by the Small Industries Bank.
16. Investment.
17. Power to transfer rights.
18. Power to acquire rights.
19. Loans in foreign currency.
20. Grants, donations, etc., to the Small Industries Bank.

CHAPTER V

SMALL INDUSTRIES DEVELOPMENT ASSISTANCE FUND

21. Small Industries Development Assistance Fund.
22. Credits to Small Industries Development Assistance Fund.

SECTIONS

23. Utilisation of Small Industries Development Assistance Fund.
24. Debits to Small Industries Development Assistance Fund.
25. Accounts and audit of Small Industries Development Assistance Fund.
26. Liquidation of Small Industries Development Assistance Fund.

CHAPTER VI

SMALL INDUSTRIES GENERAL FUND, ACCOUNTS AND AUDIT

27. Small Industries General Fund.
28. Preparation of accounts and balance sheet.
29. Disposal of profits accruing to Small Industries General Fund.
30. Audit.
31. Saving.

CHAPTER VII

TRANSFER OF PART OF BUSINESS OF DEVELOPMENT BANK

32. Transfer of part of business of Development Bank.

CHAPTER VIII

MISCELLANEOUS

33. Staff of Small Industries Bank.
34. Delegation of powers.
35. Returns.
36. Obligations as to fidelity and secrecy.
37. Defects in appointment not to invalidate acts, etc.
38. Rights of Small Industries Bank in case of default.
39. Power to seek assistance of Chief Metropolitan Magistrate or District Magistrate.
40. Power to call for repayment before agreed period.
41. Special provisions for enforcement of claims by Small Industries Bank.
42. Small Industries Bank to have access to records.
43. Validity of loans or advance not to be questioned.
44. Indemnity of Directors.
45. Protection of action taken under this Act.
46. Nomination by depositors or holders of bonds or other securities.
47. Arrangement with Small Industries Bank on appointment of Directors to prevail.
48. Act 18 of 1891 to apply in relation to Small Industries Bank.
49. Act 10 of 1949 not to apply to Small Industries Bank.
50. Act 43 of 1961 not to apply to Small Industries Bank.
51. Liquidation of Small Industries Bank.
52. Power to make regulations.
53. Amendment of certain enactments.
54. Power to remove difficulties.

THE FIRST SCHEDULE.

THE SECOND SCHEDULE.

THE SMALL INDUSTRIES DEVELOPMENT
BANK OF INDIA ACT, 1989

No. 39 OF 1989

[25th October, 1989.]

An Act to establish the Small Industries Development Bank of India as the principal financial institution for the promotion, financing and development of industry in the small-scale sector and to co-ordinate the functions of the institutions engaged in the promotion, financing or developing industry in the small-scale sector and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Small Industries Development Bank of India Act, 1989.

(2) It extends to the whole of India.

(3) It shall come into force on such ¹date as the Central Government may, by notification, appoint and different dates may be appointed for different provisions of this Act.

Short
title,
extent
and
commence-
ment.

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

Defini-
tions.

(a) "Board" means the Board of Directors of the Small Industries Development Bank of India referred to in section 5;

(b) "Chairman" means the Chairman referred to in clause (a) of sub-section (1) of section 6;

(c) "Court" means the High Court within the local limits of whose jurisdiction,—

(i) the defendant or respondent or, where there is more than one defendant or respondent, any one of them—

(1) has his registered office, or

(2) carries on the whole or part of his business,

at the time of commencement of any legal proceedings against him under this Act, or

(ii) the cause of action for such legal proceedings, wholly or in part, arises;

(d) "Development Bank" means the Industrial Development Bank of India established under section 3 of the Industrial Development Bank of India Act, 1964;

18 of 1964.

(e) "Director" means a Director nominated under sub-section (1) of section 6 and includes the Managing Director;

(f) "export" means export from India of products or services of any industrial concern in small-scale sector;

(g) "import" means import into India of services or goods including all materials, commodities and articles in a solid, liquid or gaseous state and all forms of energy for the use of any industrial concern in the small-scale sector;

(h) "industrial concern in the small-scale sector" means an industrial concern as defined in clause (c) of section 2 of the Industrial Development Bank of India Act, 1964, and which is regarded as a small-scale undertaking under section 11B of the Industries (Development and Regulation) Act, 1951;

18 of 1964.

65 of 1951.

(i) "Managing Director" means the Managing Director appointed under sub-section (1) of section 7;

(j) "National Small Industries Corporation" means the National Small Industries Corporation Limited registered under the Companies Act, 1956;

1 of 1956.

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

(l) "prescribed" means prescribed by regulations made under this Act;

(m) "Small Industries Bank" means the Small Industries Development Bank of India established under sub-section (1) of section 3;

(n) "State Small Industries Corporation" means a State Corporation, registered under the Companies Act, 1956, for small industries in a State;

1 of 1956.

(o) "State Financial Corporation" means a financial corporation established under section 3 or section 3A or an institution notified under section 46 of the State Financial Corporations Act, 1951;

63 of 1951.

(p) "State Industrial Development Corporation" means a State Corporation registered under the Companies Act, 1956, for the development of industries in a State;

1 of 1956

(q) words and expressions used herein and not defined but defined in the Industrial Development Bank of India Act, 1964, shall have the meanings respectively assigned to them in that Act.

18 of 1964.

CHAPTER II

ESTABLISHMENT OF THE SMALL INDUSTRIES DEVELOPMENT BANK OF INDIA AND CAPITAL THEREOF

3. (1) With effect from such date as the Central Government may, by notification, appoint, there shall be established, for the purposes of this Act, a corporation to be known as the Small Industries Development Bank of India.

Estab-
lish-
ment
and in-
corpora-
tion of
Small In-
dustries
Develop-
ment
Bank of
India.

(2) The Small Industries Bank shall be a body corporate with the name aforesaid having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract, and may, by that name, sue or be sued.

(3) The head office of the Small Industries Bank shall be at Lucknow or at such other place as the Central Government may, by notification, specify.

(4) The Small Industries Bank shall establish offices, branches or agencies at any place in or outside India.

4. (1) The authorised capital of the Small Industries Bank shall be two hundred and fifty crores of rupees:

Autho-
rised
capital.

Provided that the Development Bank may increase the said capital up to one thousand crores of rupees.

(2) The issued capital of the Small Industries Bank shall be wholly subscribed by the Development Bank.

CHAPTER III

MANAGEMENT OF THE SMALL INDUSTRIES BANK

5. (1) The general superintendence, direction and management of the affairs and business of the Small Industries Bank shall vest in a Board of Directors, which may exercise all powers and do all acts and things which may be exercised or done by the Small Industries Bank.

Manage-
ment.

(2) In the discharge of its functions under this Act, the Small Industries Bank shall be guided by such directions in matters of policy involving public interest as the Central Government, in consultation with the Development Bank, or the Development Bank, may give in writing.

(3) Save as otherwise provided in regulations made under this Act, the Chairman shall also have powers of general superintendence and direction of the affairs and business of the Small Industries Bank and may also exercise all powers and do all acts and things which may be exercised or done by that Bank.

(4) Subject to the provisions of this Act, the Board in discharging its functions shall act on business principles with due regard to public interest.

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

(a) the Chairman of the Development Bank, if he is a whole-time Chairman, and if he is not a whole-time Chairman, the Managing

Constitu-
tion of
Board.

↳ 17.3.1990: Vide Notification No. S.O. 198[E], dt. 7.3.1990.

Director of that Bank, shall be the *ex officio* Chairman of the Small Industries Bank;

(b) two Directors to be nominated by the Central Government from amongst its officials;

(c) one Director to be nominated by the Reserve Bank from amongst its officials of, or above, the rank of the Executive Director;

(d) ten Directors to be nominated by the Development Bank, of whom—

(i) one shall be from amongst its officials;

(ii) one representing the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981;

61 of 1981.

(iii) one representing the Khadi and Village Industries Commission established under section 4 of the Khadi and Village Industries Commission Act, 1956;

61 of 1956.

(iv) seven from amongst the experts in industry in small-scale sector or cooperative sector, or persons having such special knowledge or professional experience as the Development Bank may consider desirable or useful to the Small Industries Bank, or persons representing scheduled banks, State Financial Corporations, State Small Industries Corporations or the National Small Industries Corporation;

(e) the Managing Director, *ex officio* Director.

(2) Every Director referred to in clause (b), clause (c) or sub-clause (i) of clause (d) shall hold office during the pleasure of the authority nominating him.

(3) Every Director, other than those referred to in sub-section (2), shall hold office for such term not exceeding three years as the Development Bank may specify in this behalf and shall be eligible for reappointment:

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

(4) The Directors shall be paid such fees and allowances as may be prescribed for attending the meetings of the Board or any of its committees and for attending to any other work of the Small Industries Bank.

Managing
Director.

7. (1) The Development Bank shall appoint a Managing Director of the Small Industries Bank who shall be the whole-time chief executive of that Bank.

(2) Subject to the provisions of section 5 and, save as otherwise provided in regulations made under this Act, the power of general superintendence, directions and management of the affairs and business of the Small Industries Bank shall vest in the Managing Director who shall also exercise such powers and perform such duties as may be delegated to him by the Board or the Chairman.

(3) The Managing Director shall, in exercise of his powers and performance of his duties under this Act, follow such directions as the Board or the Chairman may give.

(4) The salary, allowances and other conditions of service of the Managing Director shall be such as may be determined by the Development Bank.

(5) The Managing Director shall hold office for such term not exceeding five years as the Development Bank may specify in this behalf and shall be eligible for reappointment.

(6) The Development Bank may remove the Managing Director at any time after giving him a reasonable opportunity of showing cause against the proposed removal.

(7) Notwithstanding anything contained in sub-sections (5) and (6), the Development Bank shall have the right to terminate the term of office of the Managing Director at any time by giving him notice, in writing, of not less than three months or three months' salary and allowances in lieu thereof, and the Managing Director shall also have the right to relinquish his office at any time by giving to the Development Bank notice, in writing, of not less than three months.

8. No person shall be a Director if he—

Disqualifications.

(a) is, or becomes, of unsound mind or is so declared by a competent court; or

(b) is, or has been, convicted of any offence which, in the opinion of the Development Bank, involves moral turpitude; or

(c) is, or at any time has been, adjudicated as insolvent or has suspended payment of his debts or has compounded with his creditors.

9. (1) If a Director—

Vacation and resignation of office by Directors.

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

(b) is absent without leave of the Board for three or more consecutive meetings thereof,

his seat shall thereupon become vacant.

(2) Any Director may resign his office by giving notice thereof in writing to the authority that nominated him and on his resignation being accepted by such authority or if his resignation is not sooner accepted, on the expiry of three months from the receipt thereof by such nominating authority, he shall be deemed to have vacated his office.

10. If the Managing Director is, by infirmity, or otherwise rendered incapable of carrying out his duties or absent on leave or otherwise in circumstances not involving the vacation of his office, the Development Bank may appoint another person to act in his place during his absence.

Casual vacancies in office of Managing Director.

11. (1) The Board shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

Meetings of the Board.

(2) The Chairman or, if for any reason he is unable to attend a meeting of the Board, any Director nominated by the Chairman in this behalf and in the absence of such nomination, any other Director, elected by the Directors present from amongst themselves at the meeting, shall preside at the meeting.

(3) All questions which come up before any meeting of the Board shall be decided by a majority of votes of the Directors present and voting, and in the event of an equality of votes, the Chairman, or in his absence, the person presiding, shall have a second or casting vote.

Com-
mittees.

12. (1) The Board may constitute such committees whether consisting wholly of Directors or wholly of other persons or partly of Directors and partly of other persons for such purposes as it may think fit.

(2) The members of a committee shall be paid such fees and allowances as may be determined by the Board for attending the meetings of any committee constituted under sub-section (1) and for attending to any other work of the Small Industries Bank.

CHAPTER IV

BUSINESS OF THE SMALL INDUSTRIES BANK

Busi-
ness of
Small
Indus-
tries
Bank.

13. (1) The Small Industries Bank shall function as the principal financial institution for the promotion, financing and development of industrial concerns in the small-scale sector and shall also coordinate the functions of institutions engaged in promoting, financing and developing the industrial concerns in the small-scale sector and may carry on and transact any of the following business, namely:—

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

(ii) accepting, discounting or rediscounting bills of exchange and promissory notes made, drawn, accepted or endorsed by industrial concerns in the small-scale sector or by any person selling products manufactured by an industrial concern in the small-scale sector;

(iii) subscribing to, or purchasing stocks, shares bonds or debentures of, any State Financial Corporation, State Industrial Development Corporation, State Small Industries Corporation, National Small Industries Corporation or such other financial institutions, as the Central Government may, on the recommendation of the Development Bank, specify;

(iv) granting lines of credit or loans and advances to any State Financial Corporation, State Industrial Development Corporation, State Small Industries Corporation, National Small Industries Corporation or such other financial institutions, as the Central Government may, on the recommendation of the Development Bank, specify;

(v) granting loans and advances to any industrial concern in the small-scale sector or subscribing to, or purchasing, or underwriting the issue of stocks, shares, bonds or debentures of, any such concern:

Provided that nothing contained in this clause shall be deemed to preclude the Small Industries Bank from granting loans or advances to, or subscribing to the debentures of, an industrial concern in the small-scale sector, the amounts outstanding thereon may be convertible at the option of the Small Industries Bank into stocks or shares of that concern within the period the loan, advance or debenture is repayable.

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) granting loans and advances—

(a) to any person exporting; or

(b) to any person outside India, in connection with the export; or

(c) for the execution of turn-key projects outside India by any industrial concern in the small-scale sector;

(vii) granting loans and advances to a scheduled bank or any other bank or such financial institutions as the Central Government may, on the recommendation of the Development Bank, specify, by way of refinance of loans and advances granted by it for purposes of export;

(viii) accepting, collecting, discounting, rediscounting, purchasing, selling or negotiating in or outside India, bills of exchange or promissory notes arising out of transactions, relating to export or import and granting of loans and advances in or outside India against such bills or promissory notes;

(ix) granting, opening, issuing, confirming or endorsing letters of credit and negotiating or collecting bills or other documents drawn thereunder;

(x) granting lines of credit to the Government of any foreign State or any financial institution or person outside India for the purpose of export or import;

(xi) financing export from or import into India of machinery, equipment or other assets including vehicles, ships and aircrafts on lease, sub-lease or hire purchase basis by or for any industrial concern in small-scale sector;

(xii) buying or selling of, or entering into such other dealings in, foreign exchange, as may be necessary for the discharge of the functions of the Small Industries Bank;

(xiii) opening of any account in any bank in or outside India or making of any agency arrangements with, or acting as an agent or correspondent of, any bank or other institution in or outside India;

(xiv) transferring for consideration any instrument relating to loans and advances granted by it to any industrial concern in the small-scale sector;

(xv) granting loans and advances to any person for purposes of investment in any industrial concern in the small-scale sector;

(xvi) guaranteeing loans raised from, or credit arrangements made with, any bank, financial institution or other lending agency in any country outside India in foreign currency, with the approval of the Central Government, by industrial concern in the small-scale sector;

(xvii) guaranteeing deferred payments due from any industrial concern in the small-scale sector;

(xviii) guaranteeing—

(a) loans raised by industrial concerns in the small-scale sector which are floated in the public market, or

(b) loans raised by any industrial concern in the small-scale sector from any scheduled bank or State Co-operative Bank or State Financial Corporation or State Industrial Corporation or such other financial institutions as the Central Government may, on the recommendation of the Development Bank, specify;

(xix) guaranteeing the obligations of any scheduled bank or State Co-operative Bank or State Financial Corporation or State Industrial Development Corporation or State Small Industries Corporation or such other financial institutions as the Central Government may, on the recommendation of the Development Bank, specify, arising out of, or in connection with, underwriting the issue of stocks, shares, bonds or debentures of any industrial concern in the small-scale sector;

(xx) providing factoring services to any industrial concern in the small-scale sector;

(xxi) providing technical and financial consultancy, merchant banking and extension services;

(xxii) undertaking activities for promotion of industry in the small-scale sector including entrepreneurial development programmes, raw material purchase, marketing support and promotion of, or financial support to, agencies engaged in such activities;

(xxiii) acquiring, with the approval of the Central Government on the recommendation of the Development Bank, the undertaking including the business, assets and liabilities of any institution the principal object of which is the promotion or development of industry in the small-scale sector in India, or the grant of financial assistance for such promotion or development;

(xxiv) leasing, sub-leasing or giving on hire or hire-purchase any movable or immovable assets to any industrial concern in the small-scale sector;

(xxv) undertaking research and surveys for evaluating or dealing with marketing or investments and undertaking and carrying on techno-economic studies in connection with the development of industry in the small-scale sector;

(xxvi) providing technical, legal, marketing and administrative assistance to any industrial concern in the small-scale sector or any person for promotion, management or expansion of any industrial concern in the small-scale sector;

(xxvii) planning, promoting and developing industries in the small-scale sector;

(xxviii) promoting, forming or conducting or associating in the promotion, formation or conduct of companies, subsidiaries, societies, trusts or such other association of persons as it may deem fit;

(xxix) acting as agent of—

(a) the Central Government or of the Reserve Bank or of the Development Bank, or

(b) such other Government or person as the Development Bank may authorise;

(xxx) doing any other kind of business which the Central Government may, on the recommendation of the Development Bank, authorise;

(xxxi) generally doing such other acts and things as may be incidental to, or consequential upon, the exercise of its powers or the discharge of its duties under this Act or any other law for the time being in force including sale or transfer of any of its assets.

(2) The Small Industries Bank may receive in consideration of any of the services mentioned in sub-section (1) such commission, brokerage, interest, remuneration or fees as may be agreed upon.

(3) The Small Industries Bank shall not grant any loan or advance or other financial accommodation on the security of its own bonds or debentures.

14. The Central Government may, after due appropriation made by Parliament by law in this behalf, advance to the Small Industries Bank—

(a) an interest free loan of such amount and repayable in such instalments and in such other manner as may be determined by the Central Government; and

(b) such further sums of money by way of loan on such terms and conditions as may be agreed upon:

Provided that the Central Government may, on a request being made to it by the Small Industries Bank, increase the number of instalments or alter the amount of any instalment or vary the date on which any instalment is payable under clause (a).

Loans by
Central
Govern-
ment.

Borrowings and acceptance of deposits by the Small Industries Bank.

15. (1) The Small Industries Bank may, for the purpose of carrying out its functions under this Act,—

(a) issue and sell bonds and debentures with or without the guarantee of the Central Government;

(b) borrow money from the Reserve Bank—

(i) repayable on demand or on the expiry of the fixed periods not exceeding ninety days from the date on which the money is so borrowed against the security of stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India;

(ii) against bills of exchange or promissory notes arising out of *bona fide* commercial or trade transactions, bearing two or more good signatures and maturing within five years from the date of the borrowing;

(iii) out of the National Industrial Credit (Long Term Operations) Fund established under section 46C of the Reserve Bank of India Act, 1934, for any of the purposes specified in that section;

2 of 1934.

(c) borrow money from the Development Bank or such other authority, organisation or institution as may be generally or specially approved by the Development Bank;

(d) accept deposits repayable after the expiry of such period and on such terms as may be generally or specially approved by the Development Bank.

(2) The Central Government may, on a request being made to it by the Small Industries Bank, guarantee the bonds and debentures issued by that Bank as to the repayment of principal and the payment of interest at such rate as may be fixed by that Government.

Investment.

16. The Small Industries Bank may invest its funds in the securities of the Central Government or of any State Government or in deposits with any scheduled bank.

Power to transfer rights.

17. The rights and interests of the Small Industries 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 Small Industries 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 Small Industries Bank may, notwithstanding such transfer, act as the trustee for the transferee.

Power to acquire rights.

18. The Small Industries Bank shall have the right to acquire, by transfer or assignment, the rights and interests of any public financial institution as defined in section 4A of the Companies Act, 1956 (including any other rights incidental thereto) in relation to any loan or advance granted, or any amount recoverable by such institution, either in whole

1 of 1956.

or in part, by the execution or issue of any instrument or by the transfer of any instrument or in any other manner.

46 of 1973.

19. (1) Notwithstanding anything contained in the Foreign Exchange Regulation Act, 1973, or in any other enactment for the time being in force relating to foreign exchange, the Small Industries Bank may, for the purposes of granting loans and advances under this Act, borrow, with the previous consent of the Central Government and the Development Bank, foreign currency from any bank or financial institution in any foreign country or otherwise.

Loans in
foreign
currency.

(2) The Central Government may, where necessary, guarantee any loan taken by the Small Industries Bank under sub-section (1) or any part thereof as to the repayment of principal and the payment of interest and other incidental charges.

(3) All loans and advances granted by the Small Industries 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) Unless otherwise provided by the Central Government, 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 exchange accruing—

(a) during the period within which the loan or advance is repayable by the industrial concern in the small-scale sector 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 recipient of such loans and advances;

(b) after the expiry of the period specified in clause (a),—

(i) shall be borne by the Small Industries Bank in respect of normal market fluctuations in the rate of 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.

20. The Small Industries Bank may receive gifts, grants, donations, benefactions or other monies from Government or any other source.

Grants,
donations,
etc., to
the Small
Industries
Bank.

CHAPTER V

SMALL INDUSTRIES DEVELOPMENT ASSISTANCE FUND

Small
Industries
Develop-
ment As-
sistance
Fund.

21. (1) With effect from [↓]such date as the Central Government may, by notification, appoint, the Small Industries Bank shall establish and maintain, a special fund to be called the Small Industries Development Assistance Fund.

(2) The Small Industries Bank may, at any time, establish any fund as part of the Small Industries Development Assistance Fund for such purpose or purposes as may be approved by the Central Government on the recommendation of the Development Bank, or establish any other fund as may be required by or under any law for the time being in force.

Credits to
Small
Industries
Develop-
ment As-
sistance
Fund.

22. To the Small Industries Development Assistance Fund shall be credited—

(a) all amounts received for the purpose of that Fund by way of loans, gifts, grants, donations, benefactions or otherwise from Government or any other source;

(b) repayments or recoveries in respect of loans, advances or other facilities granted from the Fund;

(c) income or profits from investments made from the Fund; and

(d) income accruing or arising to the Fund, by way of interest or otherwise, on account of the application of the Fund in accordance with the provisions of section 23.

Utilisa-
tion of
Small
Industries
Develop-
ment As-
sistance
Fund.

23. The Small Industries Bank may disburse or spend from the Small Industries Development Assistance Fund, any amount for such purposes as the Central Government may, on the recommendation of the Development Bank, specify.

Debits to
Small
Industries
Develop-
ment As-
sistance
Fund.

24. (1) To the Small Industries Development Assistance Fund shall be debited—

(a) such amounts as may from time to time be disbursed or spent under section 23;

(b) such amounts as may be required for discharging the liabilities in respect of loans received for the purpose of that Fund;

(c) any loss arising on account of investment made out of that Fund; and

(d) such expenditure arising out of, or in connection with, the administration and application of that Fund as may be determined by the Board.

(2) No amount shall be debited to the Small Industries Development Assistance Fund except as provided for in sub-section (1).

↓ 2.4.1990: Vide Notification No. S.O. 195[E], dt. 2.3.1990.

25. (1) The balance-sheet and accounts of Small Industries Development Assistance Fund shall be prepared in such form and manner as may be prescribed.

Accounts and audit of Small Industries Development Assistance Fund.

(2) The Board shall cause the books and accounts of the Small Industries Development Assistance Fund to be closed and balanced as on the 31st day of March each year or such other date as the Development Bank may specify.

(3) The Small Industries Development Assistance Fund shall be audited by one or more auditors appointed by the Development Bank under section 30 who shall make a separate report thereon.

(4) The provisions of sub-sections (2), (3) and (4) of section 30 shall, so far as may be, apply in relation to the audit of the Small Industries Development Assistance Fund.

(5) The Small Industries Bank shall furnish to the Central Government and the Development Bank within four months from the date on which the accounts of the Small Industries Development Assistance Fund are closed and balanced, a copy of balance-sheet and accounts together with a copy of its auditors' report and a report on the operation of that Fund during the relevant year and the Central Government shall, as soon as may be after they are received by it, cause the same to be laid before each House of Parliament.

26. The Small Industries Development Assistance Fund shall not be closed or wound up save by order of the Central Government and in such manner as that Government may, on the recommendation of the Development Bank, direct.

Liquidation of Small Industries Development Assistance Fund.

CHAPTER VI

SMALL INDUSTRIES GENERAL FUND, ACCOUNTS AND AUDIT

27. All receipts of the Small Industries Bank other than those which are to be credited to the Small Industries Development Assistance Fund under this Act shall be credited to a fund to be called the Small Industries General Fund and all payments by the Small Industries Bank, other than those which are to be debited to the Small Industries Development Assistance Fund, shall be made out of the Small Industries General Fund.

Small Industries General Fund.

28. (1) The balance-sheet and accounts of the Small Industries Bank shall be prepared in such form and manner as may be prescribed.

Preparation of accounts and balance-sheet.

(2) The Board shall cause the books and accounts of the Small Industries Bank to be closed and balanced as on the 31st day of March each year or such other date, as the Development Bank may specify.

29. (1) The Small Industries Bank may establish a reserve fund to which may be transferred such sums as that Bank may deem fit out of the annual profits accruing to the Small Industries General Fund.

Disposal of profits accruing to Small Industries General Fund.

(2) After making provision for bad and doubtful debts, depreciation of assets and for all other matters for which provision is necessary

or expedient or which is usually provided for by bankers and for the reserve fund referred to in sub-section (1), the Small Industrial Bank shall transfer the balance of the net profits to the Development Bank.

Audit.

30. (1) The accounts of the Small Industries Bank shall be audited by auditors duly qualified to act as auditors under sub-section (1) of section 226 of the Companies Act, 1956 who shall be appointed by the Development Bank for such term and on such remuneration as the Development Bank may fix.

1 of 1956.

(2) The auditors shall be supplied with a copy of the annual balance-sheet of the Small Industries Bank and it shall be their duty to examine it together with the accounts and vouchers relating thereto and they shall have a list delivered to them of all books kept by the Small Industries Bank and shall at all reasonable times have access to the books, accounts, vouchers and other documents of the Small Industries Bank.

(3) The auditors may, in relation to such accounts, examine any Director or any officer or other employee of the Small Industries Bank and shall be entitled to require from the Board or officers or other employees of the Small Industries Bank such information and explanation as they may think necessary for the performance of their duties.

(4) The auditors shall make a report to the Small Industries Bank upon the annual balance-sheet and accounts examined by them and in every such report they shall state whether in their opinion the balance-sheet is a full and fair balance-sheet containing all necessary particulars and properly drawn up so as to exhibit a true and fair view of the state of affairs of the Small Industries Bank and in case they had called for any explanation or information from the Board or any officer or other employee of the Small Industries Bank whether it has been given and whether it is satisfactory.

(5) The Small Industries Bank shall furnish to the Central Government and the Development Bank within four months from the date on which its accounts are closed and balanced, a copy of its balance-sheet and accounts together with a copy of the auditors' report and a report of the working of the Small Industries Bank during the relevant year, and the Central Government shall, as soon as may be after they are received by it, cause the same to be laid before each House of Parliament.

Saving.

31. Save as otherwise provided in sub-section (4) of section 25, nothing contained in this Chapter shall apply to the Small Industries Development Assistance Fund.

CHAPTER VII

TRANSFER OF PART OF BUSINESS OF DEVELOPMENT BANK

Transfer
of part of
business
of Deve-
lopment
Bank.

32. (1) On such date as the Central Government may, by notification, appoint, the business, assets and liabilities, rights, interests, privileges and obligations of the Development Bank relating to the Small Industries Development Fund and the National Equity Fund (hereinafter in this section referred to as Fund) shall stand transferred to, and vest in, the Small Industries Bank.

Explanation.—“Small Industries Development Fund” and “National Equity Fund” mean the Small Industries Development Fund and National Equity Fund referred to as such in the books and accounts of the Development Bank on the day immediately preceding the date appointed in this sub-section.

(2) For the transfer to, and vesting in, the Small Industries Bank under sub-section (1) of the Funds, that Bank shall pay to the Development Bank such amount and on such terms and conditions as the Development Bank may determine.

(3) All contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature which relate to the Funds and which are subsisting or having effect immediately before the date referred to in sub-section (1) and to which the Development Bank is a party or which are in favour of the Development Bank shall,—

(a) if they relate exclusively to the Funds, be of full force and effect against or in favour of the Small Industries Bank and may be enforced and acted upon as fully and effectively as if, instead of the Development Bank, the Small Industries Bank had been a party thereto or as if they had been issued in favour of the Small Industries Bank; and

(b) if they relate not only to the Funds but also to any of the other business or functions of the Development Bank, be of full force and effect against or in favour of both the Development Bank and the Small Industries Bank and may be enforced or acted upon as fully and effectively as if, in addition to the Development Bank, the Small Industries Bank had also been a party thereto or as if they had been issued in favour of the Development Bank and also the Small Industries Bank.

(4) If, on the date referred to in sub-section (1), any suit, appeal or other legal proceeding of whatever nature relating to the Funds is pending, the same shall not abate, be discontinued or be in any way prejudicially affected by reason of the transfer to the Small Industries Bank of the business of the Development Bank or of anything contained in this Act, but the suit, appeal or other proceeding may,—

(a) where it relates exclusively to the Funds, be continued, prosecuted and enforced by or against the Small Industries Bank; and

(b) where it relates not only to the Funds but also to any of the other business or functions of the Development Bank, be continued, prosecuted and enforced by or against the Development Bank and the Small Industries Bank or, if the Central Government by order in writing so directs, by or against such one of them, as may be specified in such order.

(5) If any question arises as to whether any contract, deed, bond, agreement, power of attorney, grant of legal representation or other instrument referred to in sub-section (3) or any suit, appeal or other legal proceeding referred to in sub-section (4) relates or relate exclu-

sively to the Funds it shall be referred to the Development Bank for decision and the decision of the Development Bank thereon shall be final.

(6) The provisions of this section shall have effect notwithstanding anything contained in the Industrial Development Bank of India Act, 1964, or any other law or any instrument having force by virtue of the said Act or other law.

18 of 1964.

CHAPTER VIII

MISCELLANEOUS

Staff of
Small
Industries
Bank.

33. (1) The Small Industries Bank may appoint such number of officers and other employees as it considers necessary or desirable for the efficient performance of its functions and determine the terms and conditions of their appointment and service.

(2) At any time before the expiry of six months from the appointed day, the Development Bank may, in public interest, transfer to the Small Industries Bank such members of its staff whom the Development Bank considers as relevant to, or suitable for, the functions of the Small Industries Bank, as on deputation with the Small Industries Bank, but such members shall hold office by the same tenure and upon the same terms and conditions of service as respects remuneration, leave, provident fund, retirement or other terminal benefits as they would have held such office if the Small Industries Bank had not been established and shall continue to do so until the Development Bank either on its own motion or at the request of the Small Industries Bank recalls such member of staff to its service:

Provided that every member of the staff so transferred may elect to go back to the Development Bank by exercising an option in writing to that effect before the expiry of a period of nine months from the appointed day and on the exercise of such option, the Development Bank shall, before the expiration of a period of eighteen months from the appointed day, take back such member of the staff and he shall be deemed to have been on deputation to the Small Industries Bank during the period he was a member of the staff of the Small Industries Bank.

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the absorption of any member of the staff by the Small Industries Bank in its regular service under this section shall not entitle such employee to any compensation under that Act or other law and no such claim shall be entertained by any court, tribunal or other authority.

14 of 1947.

Explanation.—For the purposes of this section, “appointed day” means the date of establishment of the Small Industries Bank under section 3.

Delega-
tion of
powers.

34. The Board may, by general or special order, delegate to any Director or committee constituted under section 12 or to any officer or other employee of the Small Industries Bank, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and duties under this Act as it may deem necessary.

35. The Small Industries Bank shall furnish from time to time to the Central Government, the Reserve Bank and the Development Bank such returns as they may require.

Returns.

36. (1) The Small Industries Bank shall not, except as otherwise required by this Act or any other law, divulge any information relating to, or to the affairs of, its constituents except in circumstances in which it is, in accordance with the law or practice and usage customary among bankers necessary or appropriate for the Small Industries Bank to divulge such information.

Obligations as to fidelity and secrecy.

(2) The Small Industries Bank may, for the purpose of the efficient discharge of the functions under this Act, collect from or furnish to the Central Government, Reserve Bank, Development Bank, State Bank, any subsidiary bank, nationalised bank or other scheduled bank, State Co-operative Bank, State Financial Corporation, State Industrial Development Corporation, State Small Industries Corporation or the National Small Industries Corporation or such other institutions as may be specified by the Development Bank, credit information or other information as it may consider useful for the purpose, in such manner and at such times, as it may think fit.

Explanation.—For the purpose of this sub-section, the expression “credit information” shall have the same meaning as in clause (c) of section 45A of the Reserve Bank of India Act, 1934, subject to the modification that “banking company” referred to therein shall mean a bank, corporation or other institution referred to in this sub-section.

2 of 1934.

(3) Every Director, member of a committee, auditor, officer or other employee of the Small Industries Bank or the Development Bank whose services are utilised by the Small Industries Bank under the provisions of this Act, shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the First Schedule to this Act.

37. (1) No act or proceeding of the Board or of any committee of the Small Industries Bank shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Board or the committee, as the case may be.

Defects in appointment not to invalidate acts etc.

(2) No act done by any person acting in good faith as a Director shall be deemed to be invalid merely on the ground that he was disqualified to be a Director or that there was any other defect in his appointment

38. (1) Where any industrial concern in the small-scale sector, which is under a liability to the Small Industries Bank under an agreement, makes any default in repayment of any loan or advance or any instalment thereof or in meeting its obligations in relation to any guarantee given by the Small Industries Bank or otherwise fails to comply with the terms of its agreement, with the Small Industries Bank, the Small Industries Bank shall have the right to take over the management, or possession, or both of such industrial concern in the small-scale sector, as well as the right to transfer by way of lease or sale and realise the property pledged, mortgaged, hypothecated or assigned to the Small Industries Bank.

Rights of Small industries Bank in case of default.

(2) Any transfer of property made by the Small Industries Bank, in exercise of its powers under sub-section (1), shall vest in the transferee all rights in or to the property transferred as if the transfer had been made by the owner of the property.

(3) The Small Industries Bank shall have the same rights and powers with respect to goods manufactured or produced wholly or partly from goods forming part of the security held by it as it had with respect to the original goods.

(4) Where any action has been taken against an industrial concern in the small-scale sector under the provisions of sub-section (1), all costs, charges and expenses which in the opinion of the Small Industries Bank have been properly incurred by it as incidental thereto shall be recoverable from the industrial concern in the small-scale sector and the money which is received by it shall, in the absence of any contract to the contrary, be held by it in trust to be applied firstly, in payment of such costs, charges and expenses and, secondly, in discharge of the debt due to the Small Industries Bank, and the residue of the money so received shall be paid to the person entitled thereto in accordance with his rights and interests.

(5) Where the Small Industries Bank takes over the management or possession of an industrial concern in the small-scale sector under the provisions of sub-section (1), the Small Industries Bank shall be deemed to be the owner of such concern, for the purposes of suits by or against the concern, and shall sue and be sued in the name of the concern.

Power
to seek
assist-
ance of
Chief
Metro-
politan
Magistrate
or District
Magistrate.

39. (1) Where any property, effects or actionable claims are sold or leased in pursuance of any power conferred by section 38, the Small Industries Bank or any other person authorised by it may, for the purpose of taking into custody or under control any such property, effects or actionable claims, request, in writing, the chief Metropolitan Magistrate or the District Magistrate within whose jurisdiction any such property, effects, actionable claims, books of account or other documents relating thereto may be situated or found, to take possession thereof, and the Chief Metropolitan Magistrate or the District Magistrate shall, on such request being made to him,—

(a) take possession of such property, effects, actionable claims, or books of account or other documents relating thereto; and

(b) forward them to the Small Industries Bank or such other person, as the case may be.

(2) For the purpose of securing compliance with the provisions of sub-section (1), the Chief Metropolitan Magistrate or the District Magistrate may take or cause to be taken such steps and use, or cause to be used, such force as may, in his opinion, be necessary.

(3) No act of the Chief Metropolitan Magistrate or the District Magistrate done in pursuance of this section shall be called in question in any court or before any authority.

40. Notwithstanding anything in any agreement to the contrary, the Small Industries Bank may, by notice in writing, require any industrial concern in the small-scale sector to which it has granted any loan or advance to discharge forthwith in full its liabilities to the Small Industries Bank,—

Power to call for re-payment before agreed period.

(a) if it appears to the Board that false or misleading information in any material particular was given in the application for the loan or advance; or

(b) if the industrial concern in the small-scale sector has failed to comply with the terms of its contract with the Small Industries Bank in the matter of the loan or advance; or

(c) if there is a reasonable apprehension that the industrial concern in the small-scale sector is unable to pay its debt or that proceedings for liquidation may be commenced in respect thereof; or

(d) if the property pledged, mortgaged, hypothecated or assigned to the Small Industries Bank as security for the loan or advance is not insured and kept insured by the industrial concern in the small-scale sector to the satisfaction of the Small Industries Bank; or depreciates in value to such an extent that, in the opinion of the Board, further security to the satisfaction of the Board should be given and such security is not given; or

(e) if, without the permission of the Board, any machinery, plant or other equipment, whether forming part of the security or otherwise, is removed from the premises of the industrial concern in the small-scale sector without being replaced; or

(f) if for any reason it is necessary to protect the interests of the Small Industries Bank.

41. (1) Where an industrial concern in the small-scale sector, in breach of any agreement, makes any default in repayment of any loan or advance or any instalment thereof or in meeting its obligations in relation to any guarantee given by the Small Industries Bank or otherwise fails to comply with the terms of its agreement with that Bank, or where the Small Industries Bank requires any industrial concern in the small-scale sector to make repayment of any loan or advance under section 40 and such industrial concern fails to make such repayment, then, without prejudice to the provisions of section 38 of this Act and section 69 of the Transfer of Property Act, 1882, any officer of that Bank, generally or specially authorised by that Bank in this behalf, may apply to the Court for one or more of the following reliefs, namely:—

Special provisions for enforcement of claims by Small Industries Bank.

(a) for an order for the sale of the property assigned, charged, hypothecated, mortgaged or pledged to that Bank as security for the loan or advance; or

(b) for enforcing the liability of any surety; or

(c) for an *ad interim* injunction restraining the industrial concern in the small-scale sector from transferring or removing its machinery, plant or equipment from the premises of such industrial concern without the permission of the Small Industries Bank, where such transfer or removal is apprehended.

(2) An application under sub-section (1) shall state the nature and extent of the liability of the industrial concern in the small-scale sector to the Small Industries Bank, the ground on which it is made and such other particulars as may be necessary for obtaining the relief prayed for.

(3) Where the application is for the reliefs mentioned in clause (a) and clause (c) of sub-section (1), the Court shall pass an *ad interim* order attaching the security, or so much of the property of the industrial concern in the small-scale sector as would on being sold realise in its estimation an amount equivalent in value to the outstanding liability of such industrial concern to the Small Industries Bank together with costs of the proceedings taken under this section with or without an *ad interim* injunction restraining such industrial concern from transferring or removing its machinery, plant or equipment.

(4) Where the application is for the relief mentioned in clause (b) of sub-section (1), the Court shall issue a notice calling upon the surety to show cause on a date to be specified in the notice as to why the liability should not be enforced.

(5) Before passing any order under sub-section (3) or issuing a notice under sub-section (4), the Court may, if it thinks fit, examine the officer making the application.

(6) At the same time as it passes an order under sub-section (3), the Court shall issue to the industrial concern in the small-scale sector or to the owner of the security attached, a notice accompanied by copies of the order, the application and the evidence, if any, recorded by the Court calling upon such industrial concern or owner, to show cause on a date to be specified in the notice, as to why the *ad interim* order of attachment should not be made absolute or the injunction confirmed.

(7) If no cause is shown, on or before the date specified in the notice under sub-section (4), the Court shall forthwith order the enforcement of the liability of the surety.

(8) If no cause is shown on or before the date specified in the notice under sub-section (6), the Court shall forthwith make the *ad interim* order absolute and direct the sale of the attached property or confirm the injunction.

(9) If cause is shown, the Court shall proceed to investigate the claim of the Small Industries Bank in accordance with the provisions contained in the Code of Civil Procedure, 1908, in so far as such provisions may be applied thereto.

5 of 1908.

(10) After making an investigation under sub-section (9), the Court may—

(a) confirm the order of attachment and direct the sale of the attached property;

(b) vary the order of attachment so as to release a portion of the property from attachment and direct the sale of the remainder of the attached property;

(c) release the property from attachment;

(d) confirm or dissolve the injunction; or

(e) direct the enforcement of the liability of the surety or reject the claim made in this behalf:

Provided that when making an order under clause (e) or making an order rejecting the claim to enforce the liability of the surety under clause (e), the Court may make such further order as it thinks necessary to protect the interests of the Small Industries Bank and may apportion the cost of the proceedings in such manner as it thinks fit:

Provided further that unless the Small Industries Bank intimates to the Court that it will not appeal against any order releasing any property from attachment or rejecting the claim to enforce the liability of the surety, such order shall not be given effect to, until the expiry of the period fixed under sub-section (12) within which an appeal may be preferred or, if an appeal is preferred, unless the Court empowered to hear appeals from the decisions of the said Court otherwise directs, until the appeal is disposed of.

(11) An order of attachment or sale of property under this section shall be carried into effect as far as practicable in the manner provided in the Code of Civil Procedure, 1908, for the attachment or sale of property in execution of a decree as if the Small Industries Bank were the decree holder.

5 of 1908.

(12) Any party aggrieved by an order under sub-section (7), sub-section (8) or sub-section (10) may, within thirty days from the date of the order, appeal to the Court empowered to hear appeals from the decisions of the Court which passed the order and upon such appeal the appellate Court may, after hearing the parties, pass such orders as it thinks proper.

(13) Where proceedings for liquidation in respect of an industrial concern in the small-scale sector have commenced before an application is made under sub-section (1), nothing in this section shall be construed as giving to the Small Industries Bank any preference over the other creditors of such industrial concern not conferred on it by any other law.

(14) For the removal of doubts, it is hereby declared that any Court competent to grant an *ad interim* injunction under this section shall also have the power to appoint a receiver and to exercise all the other powers incidental thereto.

42. (1) The Small Industries Bank shall have free access to all such records of any institution which seeks to avail of any credit facilities from the Small Industries Bank and to all such records of any such person who seeks to avail of any credit facilities from such institution, perusal whereof may appear to the Small Industries Bank to be necessary in connection with the providing of finance or other assistance to such institution or the refinancing of any loan or advance made to such person by the borrowing institution.

Small
Indus-
tries
Bank to
have ac-
cess to
records.

(2) The Small Industries Bank may require any institution or person referred to in sub-section (1) to furnish to it copies of any of the records referred to in that sub-section and the institution or the person, as the case may be, shall be bound to comply with such requisition.

Validity of loan or advance not to be questioned.

43. Notwithstanding anything to the contrary contained in any other law for the time being in force, the validity of any loan or advance granted by the Small Industries Bank in pursuance of the provisions of this Act shall not be called in question merely on the ground of non-compliance with the requirements of such other law as aforesaid or of any resolution, contract, memorandum, articles of association or other instrument:

Provided that nothing in this section shall render valid any loan or advance obtained by any company or co-operative society where such company or co-operative society is not empowered by its memorandum to obtain loans or advances.

Indemnity of Directors.

44. (1) Every Director shall be indemnified by the Small Industries Bank against all losses and expenses incurred by him in, or in relation to, the discharge of his duties, except such as are caused by his own wilful act or default.

(2) A Director shall not be responsible for any other Director or for any officer or other employee of the Small Industries Bank or for any loss or expenses resulting to the Small Industries Bank or from the insufficiency or deficiency of the value of, or title to, any property or security acquired or taken on behalf of the Small Industries Bank or the insolvency or wrongful act of any debtor or any person under obligation to the Small Industries Bank or anything done in good faith in the execution of the duties of his office or in relation thereto.

Protection of action taken under this Act.

45. No suit or other legal proceeding shall lie against the Small Industries Bank, Chairman or any Director or any officer or other employee of such Bank or any other person authorised by that Bank to discharge any functions under this Act for any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any other law or provision having the force of law.

Nomination by depositors or holders of bonds or other securities.

46. (1) Notwithstanding anything contained in any other law, where a nomination in respect of any deposits, bonds or other securities kept with or issued by the Small Industries Bank is made in the prescribed manner, the amount due on such deposits, bonds or other securities shall, on the death of the depositor or holder thereof, vest in, and be payable to, the nominee subject to any right, title, interest or claim of any other person, in relation to such deposits, bonds or other securities.

(2) Any payment by the Small Industries Bank in accordance with the provisions of sub-section (1) shall be a full discharge of its liability in respect of such deposits, bonds or securities.

Arrangement with Small Industries Bank on appointment of directors to prevail.

47. (1) Where any arrangement entered into by the Small Industries Bank with an industrial concern in the small-scale sector provides for the appointment by the Small Industries Bank of one or more directors of such industrial concern, such provision and any appointment of directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the Companies Act, 1956, or in any other law for the time being in force or in the memorandum, articles of association or any other instrument relating to that 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 Small Industries Bank in pursuance of the arrangement as aforesaid.

(2) Any director appointed as aforesaid shall—

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

48. The Bankers' Books Evidence Act, 1891 shall apply in relation to Small Industries Bank as if it were a bank as defined in section 2 of that Act.

Act 18 of 1891 to apply in relation to Small Industries Bank.

49. Nothing contained in the Banking Regulation Act, 1949, except section 34A and section 36AD thereof, shall apply to the Small Industries Bank.

Act 10 of 1949 not to apply to Small Industries Bank.

50. Notwithstanding anything to the contrary contained in the Income-tax Act, 1961 or in any other enactment for the time being in force relating to income-tax or any other tax on income, profits or gains, the Small Industries Bank shall not be liable to pay income-tax or any other tax in respect of—

Act 43 of 1961 not to apply to Small Industries Bank.

(a) any income, profits or gains accruing or arising to the Small Industries Development Assistance Fund or any amount received in that Fund; and

(b) any income, profits or gains derived or any amount received by the Small Industries Bank.

51. No provision of law relating to the winding up of companies or corporations shall apply to the Small Industries Bank and that Bank shall not be placed in liquidation save by order of the Central Government and in such manner as it may direct.

Liquidation of Small Industries Bank.

52. (1) The Board may, with the previous approval of the Development Bank, by notification, make regulations not inconsistent with the provisions of this Act to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

Power to make regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the times and places of the meetings of the Board and the procedure to be followed at such meetings under sub-section (1) of section 11 including quorum necessary for the transaction of business;

(b) the form and manner in which the balance-sheets and the accounts of the Small Industries Development Assistance Fund under sub-section (1) of section 25 and the Small Industries Bank under sub-section (1) of section 28 shall be prepared;

(c) the manner in which nominations may be made in terms of sub-section (1) of section 46;

(d) generally the efficient conduct of the affairs of the Small Industries Bank;

(e) any other matter which is to be, or may be, prescribed.

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

Amend-
ment of
certain
enact-
ments.

53. The enactments specified in Parts I, II, III and IV of the Second Schedule to this Act shall be amended in the manner specified therein and such amendments shall take effect on the date of establishment of the Small Industries Bank.

Power to
remove
diffi-
culties.

54. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, in consultation with the Development Bank, by order, do anything, not inconsistent with such provisions, for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiration of three years from the date on which this Act receives the assent of the President.

THE FIRST SCHEDULE

[See section 36(3)]

Declaration of fidelity and secrecy

I,, do hereby declare that I will faithfully, truly and to the best of my skill and ability execute and perform the duties required of me as director, member of committee, auditor, officer, other employee (as the case may be) of the Small Industries Development Bank of India and which properly relate to the office or position held by me in or in relation to the said Bank.

I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the Small Industries Development Bank of India or to the affairs of any person having any dealing with the said Bank, nor will I allow any such person to inspect or have access to any books or documents belonging to or in the possession of the said Bank relating to the business of the said Bank or the business of any person having any dealing with the said Bank.

Signed before me.

(Signature)

THE SECOND SCHEDULE

(See section 53)

AMENDMENT OF CERTAIN ENACTMENTS

PART I

AMENDMENTS TO THE RESERVE BANK OF INDIA ACT, 1934

(2 OF 1934)

1. In section 2, after clause (e), insert the following clause, namely:—

‘(e) “Small Industries Bank” means the Small Industries Development Bank of India established under section 3 of the Small Industries Development Bank of India Act, 1989;’.

2. In section 17,—

(a) in clause (4G), after the words “the Reconstruction Bank”, insert the words “or the Small Industries Bank”;

(b) in clause (4H), after the words “the Development Bank”, insert the words “or the Small Industries Bank”;

(c) in clause (4-I), for the words “or the Reconstruction Bank”, substitute the words “the Reconstruction Bank or the Small Industries Bank”;

(d) in clause (12B), for the words “the Reconstruction Bank”, substitute the words “the Reconstruction Bank or the Small Industries Bank”.

3. In section 42, in sub-clause (ii) of clause (c) of the *Explanation to sub-section (1)*, after the words "or from the National Bank", insert the words "or from the Small Industries Bank".

4. In section 46C, in sub-section (2), in clauses (c) and (d), after the words "or the Reconstruction Bank" wherever they occur, insert the words "or the Small Industries Bank".

PART II

AMENDMENT TO THE INDUSTRIAL DISPUTES ACT, 1947

(14 OF 1947)

In section 2, in clause (bb), after the words "the Industrial Development Bank of India", insert the words "the Small Industries Development Bank of India established under section 3 of the Small Industries Development Bank of India Act, 1989".

PART III

AMENDMENTS TO THE BANKING REGULATION ACT, 1949

(10 OF 1949)

1. In section 5, after clause (n), insert the following clause, namely:—

'(ni) "Small Industries Bank" means the Small Industries Development Bank of India established under section 3 of the Small Industries Development Bank of India Act, 1989;'

2. In section 18, in sub-section (1), in the *Explanation*, in clause (a), in sub-clause (ii), after the words "or from the National Bank", insert the words ", or from the Small Industries Bank,".

3. In section 34A, in sub-section (3), after the words "the National Bank", insert the words ", the Small Industries Bank,".

4. In section 36AD, in sub-section (3), after the words "the National Bank", insert the words ", the Small Industries Bank,".

5. In section 56, in sub-clause (ii) of clause (a) of the *Explanation* under clause (j), after the words ", the National Bank", insert the words ", the Small Industries Bank,".

PART IV

AMENDMENT TO THE PAYMENT OF BONUS ACT, 1965

(21 OF 1965)

In section 32, in clause (IX), after sub-clause (f), the following sub-clause shall be inserted, namely:—

"(fa) the Small Industries Development Bank of India established under section 3 of the Small Industries Development Bank of India Act, 1989;"

THE CUSTOMS (AMENDMENT) ACT, 1989

No. 40 OF 1989

[26th October, 1989.]

An Act further to amend the Customs Act, 1962.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. This Act may be called the Customs (Amendment) Act, 1989.

Short
title.

2 of 1962. 2. In section 123 of the Customs Act, 1962 (hereinafter referred to as the principal Act), in sub-section (2), for the words “, diamonds, manufactures of gold or diamonds”, the words “and manufactures thereof” shall be substituted.

Amend-
ment of
section
123.

3. In section 135 of the principal Act, in sub-section (1), in clause (i), in the proviso, for the words “one year”, the words “three years” shall be substituted.

Amend-
ment of
section
135.

THE CONSTITUTION (SIXTY-FIRST AMENDMENT)
ACT, 1988

[28th March, 1989.]

An Act further to amend the Constitution of India.

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

Short
title.

1. This Act may be called the Constitution (Sixty-first Amendment) Act, 1988.

Amend-
ment of
article
326.

2. In article 326 of the Constitution, for the words "twenty-one years", the words "eighteen years" shall be substituted.

INDEX

	PAGE
ADDITIONAL DUTIES OF EXCISE	
—(Goods of Special Importance) Amendment Act	193
ALLOWANCES	
Salary—and Pension of Members of Parliament (Amendment)	352
Act	104
Appropriation	
—Act	104
—(No. 2) Act	121
—(No. 3) Act	195
—(No. 4) Act	324
—(No. 5) Act	367
Karnataka—Act	327
Punjab—Act	112
Punjab—(No. 2) Act	321
Punjab—(Vote on Account) Act	115
—(Railways) Act	108
—(Railways) No. 2 Act	110
—(Railways) No. 3 Act	186
—(Vote on Account) Act	98
ASSAM	
—University Act	201
BANK OF INDIA	
Small Industries Development—Act	431
BUSINESS	
General Insurance—(Nationalisation) Amendment Act	430
CENTRAL	
—Industrial Security Force (Amendment) Act	197
CHANDIGARH	
—Disturbed Areas (Amendment) Act	188
Punjab Pre-emption (—and Delhi Repeal) Act	200

	PAGE
CONDITIONS OF SERVICE	
High Court and Supreme Court Judges (—) Amendment Act	356
Working Journalists and other Newspaper Employees (—) and Miscellaneous Provisions (Amendment) Act	353
CORPORATIONS	
Warehousing—(Amendment) Act	429
CUSTOMS	
—(Amendment) Act	459
DELHI	
—Motor Vehicles Taxation (Amendment) Act	311
—Municipal Laws (Amendment) Act	118
Punjab Pre-emption (Chandigarh and —) Act	200
DEVELOPMENT	
Small Industries—Bank of India Act	431
DIRECT TAX	
—Laws (Amendment) Act	29
—Laws (Second Amendment) Act	411
DISTRUBED AREAS	
Chandigarh—(Amendment) Act	188
DUTIES OF EXCISE	
Additional—(Goods of Special Importance) Amendment Act	193
Union—(Distribution) Amendment Act	190
EMPLOYEES'	
—State Insurance (Amendment) Act	332
FINANCE'	
—Act	127
FORCE	
Central Industrial Security—(Amendment) Act	197
GOODS OF SPECIAL IMPORTANCE	
Additional Duties of Excise (—) Amendment Act	193
GENERAL	
—Insurance Business (Nationalisation) Amendment Act	430

	PAGE
HIGH COURT	
— and Supreme Court Judges (Conditions of Service)	
Amendment Act	356
INCOME-TAX	
— (Amendment) Act	120
INDUSTRIAL	
Small—Development Bank of India Act	431
Central—Security Force (Amendment) Act	197
INSURANCE	
Employees' State—(Amendment) Act	332
General—Business (Nationalisation) Amendment Act	430
JOURNALISTS	
Working—and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions (Amendment) Act	353
JUDGES	
High Court and Supreme Court—(Conditions of Service) Amendment Act	356
KARNATAKA	
—Appropriation Act	327
LAWS	
Direct Tax—(Amendment) Act	29
Direct Tax—(Second Amendment) Act	411
Delhi Municipal—(Amendment) Act	118
MEMBER OF PARLIAMENT	
Salary, Allowances and Pension of—(Amendment) Act	352
MOTOR VEHICLES	
Delhi—Taxation (Amendment) Act	311
NARCOTIC DRUGS	
—and Psychotropic Substances (Amendment) Act	8
NAGALAND	
—University Act	369
NATIONALISATION	
General Insurance Business (—) Amendment Act	430

	PAGE
NEWSPAPER EMPLOYEES	
Working Journalists and other—(Conditions of Service) and Miscellaneous Provisions (Amendment) Act	353
PEOPLE	
Representation of the —(Amendment) Act	1
Representation of the — (Amendment) Act	198
PENSION	
Salary, Allowances and—of Members of Parliament (Amendment) Act	352
PRE-EMPTION	
Punjab—(Chandigarh and Delhi Repeal) Act	200
PUNJAB	
—Appropriation Act	112
—Appropriation (No. 2) Act	321
—Appropriation (Vote on Account) Act	115
—Pre-emption (Chandigarh and Delhi Repeal) Act	200
PREVENTION	
Terrorist and Disruptive Activities (—) Amendment Act	189
PSYCHOTROPIC SUBSTANCES	
Narcotic Drugs and — (Amendment) Act	8
RAILWAYS	
—Act	241
Appropriation (—) Act	108
Appropriation (—) No. 2 Act	110
Appropriation (—) No. 3 Act	186
REPRESENTATION	
—of the People (Amendment) Act	1
—of the People (Amendment) Act	198
SALARY	
—Allowances and Pension of Members of Parliament (Amendment) Act	352
SCHEDULED CASTES AND THE SCHEDULED TRIBES	
—(Prevention of Atrocities) Act	358
SECURITY FORCE	
Central Industrial—(Amendment) Act	197

	PAGE
SMALL INDUSTRIES	
—Development Bank of India Act	431
STATE	
Employees'—Insurance (Amendment) Act	332
SUBSTANCES	
Narcotic Drugs and Psychotropic—(Amendment) Act	8
SUPREME COURT	
High Court and—Judges (Conditions of Service) Amendment Act.	356
TAX LAWS	
Direct—(Amendment) Act	29
Direct—(Second Amendment) Act	411
TAXATION	
Delhi Motor Vehicles—(Amendment) Act	311
TERRORIST AND DISRUPTIVE	
—Activities (Prevention) Amendment Act	189
UNION DUTIES	
—of Excise (Distribution) Amendment Act	190
UNIVERSITIES	
Assam—Act	201
Nagaland—Act	369
VOTE ON ACCOUNT	
Appropriation (—) Act	29
Punjab Appropriation (—) Act	115
VEHICLES	
Delhi Motor—Taxation (Amendment) Act	311
WAREHOUSING	
—Corporations (Amendment) Act	429
WORKING	
—Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions (Amendment) Act	353

