

\* Not Enrolled, in India Code.

1961

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**TABLE SHOWING EFFECT OF PARLIAMENTARY  
LEGISLATION OF 1961**

**PART I.—CENTRAL ACTS AMENDED, REPEALED OR OTHERWISE AFFECTED**

Year of Act	No. of Act	Short title of Act	How affected	No. and section of 1961 Act by which affected
1	2	3	4	5
1850	19	Apprentices Act, 1850	Repealed (w.e.f. 1-3-1962).	✓ 52, s. 38.
1860	45	Indian Penal Code, 1860	S. 153A substituted. Ss. 295A and 505 amended.	✓ 41, s. 2. <i>Ibid.</i> , ss. 3 and 4.
1879	18	Legal Practitioners Act, 1879.	Repealed (except ss. 1, 3 and 36) (by stages) (when notified).	✓ 25, s. 50.
1885	13	Indian Telegraph Act, 1885.	Ss. 3 and 7 amended.	✓ 15, ss. 2 and 3.
1890	9	Indian Railways Act, 1890.	Ss. 3, 27, 47, 55, 61, 63 to 66, 71B, 82, 82J, 106, 113, 130, 137, 140 and 141 amended (w.e.f. 1-1-1962). Ss. 56A, 139 and 147A inserted (w.e.f. 1-1-1962). Ss. 72, 72A, 73, 74, 74A, 74B, 74C, 74D, 74E, 75 to 78, 80 and 115 substituted (w.e.f. 1-1-1962). First Schedule and Second Schedule amended (w.e.f. 1-1-1962).	✓ 39, ss. 2 to 5, 7 to 12, 15 to 18, 20, 21, 23 and 24. <i>Ibid.</i> , ss. 6, 22 and 25. <i>Ibid.</i> , ss. 13, 14 and 19. <i>Ibid.</i> , ss. 26 and 27.
1899	2	Indian Stamp Act, 1899	Schedule I amended.	✓ 14, s. 16.

(ii) Table showing effect of Parliamentary Legislation of 1961

I	2	3	4	5
1922	8	Delhi University Act, 1922.	Ss. 4, 5 and 33 amended (w.e.f. 1-2-1962).	61, ss. 2 to 4. ✓
1922	11	Income-tax Act, 1922	Ss. 4 (w.e.f. 1-4-1961), 7 (retrospectively), 9, 10 and 15C (w.e.f. 1-4-1961), 23A (partly w.e.f. 1-4-1961 and partly w.e.f. 1-4-1960), 35 and 56A (w.e.f. 1-4-1961) amended.	14, ss. 3 to 10. ✓
			Repealed (w.e.f. 1-4-1962).	43, s. 297. ✓
1923	8	Workmen's Compensation Act, 1923.	Supplemented.	52, s. 16 and Schedule. ✓
1923	23	Legal Practitioners (Women) Act, 1923.	Repealed (when the whole of Act 25 of 1961 comes into force).	25, s. 50 and Schedule. ✓
1926	21	Legal Practitioners (Fees) Act, 1926.	Repealed (when the whole of Act 25 of 1961 comes into force).	25, s. 50 and Schedule. ✓
1926	38	Indian Bar Councils Act, 1926.	Repealed (by stages) (when notified).	25, s. 50. ✓
1933	17	Indian Wireless Telegraphy Act, 1933.	Ss. 2 and 10 amended.	15, ss. 4 and 5. ✓
1934	2	Reserve Bank of India Act, 1934.	Ss. 2 and 17 amended (w.e.f. 1-1-1962).	47, s. 51 and Second Schedule. ✓
1934	32	Indian Tariff Act, 1934	First Schedule amended.	14, s. 11 and Schedule II. ✓
			First Schedule amended (partly w.e.f. 17-12-1961 and partly w.e.f. 1-1-1962).	56, s. 2. ✓
1937	6	Arbitration (Protocol and Convention) Act, 1937.	Repealed (partially).	45, s. 10. ✓
1938	4	Insurance Act, 1938	Part IVA inserted. S. 114 amended.	11, s. 2. Ibid., s. 3. ✓

Table showing effect of Parliamentary Legislation of 1961 (iii)

1	2	3	4	5
1941	19	Mines Maternity Benefit Act, 1941.	Repealed (when Act 53 of 1961 applies to mines).	✓ 53, s. 30.
1942	7	Coffee Act, 1942	Ss. 3, 4, 12, 13, 14, 17, 20, 31, 36 and 48 amended (w.e.f. 19-4-1962). Ss. 19 and 41 omitted (w.e.f. 19-4-1962).	✓ 48, ss. 2 to 7, 9, 10, 11 and 13. <i>Ibid.</i> , ss. 8 and 12.
1944	1	Central Excises and Salt Act, 1944.	First Schedule amended	✓ 14, s. 13.
1946	20	Industrial Employment (Standing Orders) Act, 1946.	Ss. 1, 2, 6 and 15 amended. S. 14A inserted	✓ 16, ss. 2 to 4 and 6. <i>Ibid.</i> , s. 5.
1947	14	Industrial Disputes Act, 1947.	S. 2 amended (w.e.f. 1-1-1962).	✓ 47, s. 51 and Second Schedule.
1948	11	Minimum Wages Act, 1948.	S. 3 amended . . . S. 30A inserted . . . S. 31 substituted.	✓ 31, s. 2. <i>Ibid.</i> , s. 3. <i>Ibid.</i> , s. 4.
1949	1	Indian Tariff (Amendment) Act, 1949.	Ss. 4 and 5 amended	✓ 14, s. 12.
1949	10	Banking Companies Act, 1949.	Ss. 35A, 44A, 45 and 45L amended. Ss. 5 and 43A amended (w.e.f. 1-1-1962).	✓ 7, ss. 2 to 5. 47, s. 51 and Second Schedule.
1950	43	Representation of the People Act, 1950.	S. 4 amended (w.e.f. 11-8-1961). Ss. 23, 27 and 28 amended (w.e.f. 20-9-1961). Ss. 24 and 25 inserted (w.e.f. 20-9-1961). First Schedule amended (w.e.f. 11-8-1961). Fourth Schedule amended (w.e.f. 20-9-1961).	✓ 35, s. 3. 40, ss. 2, 4 and 5. <i>Ibid.</i> , s. 3. 35, s. 3. 40, s. 6.

## (iv) Table showing effect of Parliamentary Legislation of 1961

I	2	3	4	5
1950	61	Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1950.	Repealed . . . . .	✓ 46, s. 5.
1951	18	Supreme Court Advocates (Practice in High Courts) Act, 1951.	Repealed (when Chapter IV of Act 25 of 1961 comes into force).	✓ 25, s. 50.
1951	29	Visva-Bharati Act, 1951	Ss. 2 (retrospectively), 3, 4 (retrospectively), 5 (retrospectively), 6, 13, 19, 23, 27, 29, 32, 36 and 40 amended. S. 7A inserted . . . . .	✓ 60, ss. 2 to 6 and 8 to 15. <i>Ibid.</i> , s. 7.
1951	39	Marking of Heavy Packages Act, 1951.	Ss. 4 and 5 substituted	✓ 29, s. 2.
1951	43	Representation of the People Act, 1951.	S. 4 amended (w.e.f. 11-8-1961). Ss. 30, 33, 36, 37, 39, 67A, 73, 81, 83, 90, 116A, 117, 120, 123, 126, 139, 141 and 169 amended (w.e.f. 20-9-1961). Ss. 54 and 63 omitted (w.e.f. 20-9-1961). S. 58 substituted (w.e.f. 20-9-1961). Ss. 125 and 127A inserted (w.e.f. 20-9-1961).	✓ 35, s. 3. 40, ss. 7 to 11, 15 to 23, 25 and 27 to 29. <i>Ibid.</i> , ss. 12 and 14. <i>Ibid.</i> , s. 13. <i>Ibid.</i> , ss. 24 and 26.
1951	65	Industries (Development and Regulation) Act, 1951.	S. 1 amended . . . . .	✓ 51, s. 2.
1951	69	Plantations Labour Act, 1951.	S. 32 amended (in the States where Act 53 of 1961 comes into force in relation to plantations).	✓ 53, s. 29.

Table showing effect of Parliamentary Legislation of 1961 (v)

1	2	3	4	5
1952	12	Coal Mines (Conservation and Safety) Act, 1952.	Ss. 3, 8, 13 and 17 amended.	24, ss. 2 to 5. ✓
1952	36	Indian Standards Institution (Certification Marks) Act, 1952.	Ss. 1, 2, 3, 8, 20 and 21 amended.	44, ss. 2 to 7. ✓
1953	49	Salt Cess Act, 1953	Ss. 2 and 6 amended.	34, ss. 2 and 4. ✓
			S. 3 substituted	<i>Ibid.</i> , s. 3. ✓
1954	28	High Court Judges (Conditions of Service) Act, 1954.	Ss. 2 (retrospectively) and 24 amended.	50, ss. 2 and 4. ✓
			S. 17A inserted (retrospectively).	<i>Ibid.</i> , s. 3. ✓
1955	10	Essential Commodities Act, 1955.	S. 3 amended	17, s. 2. ✓
1955	16	Medicinal and Toilet Preparations (Excise Duties) Act, 1955.	S. 19 amended (w.e.f. 1-6-1961).	19, s. 2. ✓
			Schedule substituted (w.e.f. 1-6-1961).	<i>Ibid.</i> , s. 3. ✓
1956	51	Indian Institute of Technology (Kharagpur) Act, 1956.	Repealed (w.e.f. 1-4-1962).	59, s. 39. ✓
1956	37	States Reorganisation Act, 1956.	S. 53 omitted (when the whole of Act 25 of 1961 comes into force).	25, s. 50 and Schedule. ✓
1956	45	Newspaper (Price and Page) Act, 1956.	S. 1 amended	36, s. 2. ✓
1956	61	Khadi and Village Industries Commission Act, 1956.	Ss. 2 to 5, 12, 13, 15; 18, 20, 26 and 27 amended.	32, ss. 2 to 8, 10, 12, 13 and 14. ✓
			Ss. 17A, 19A and 19B inserted.	<i>Ibid.</i> , ss. 9 and 11. ✓
1956	74	Central Sales Tax Act, 1956.	S. 14 amended (partly w.e.f. 29-4-1961 and partly w.e.f. 1-3-1961).	14, s. 14. ✓
1957	25	Railway Passenger Fares Act, 1957.	Repealed (w.e.f. 1-4-1961)	8, s. 2. ✓

(vi) Table showing effect of Parliamentary Legislation of 1961

1	2	3	4	5
1957	57	Estate Duty and Tax on Railway Passenger Fares (Distribution) Act, 1957.	Long title amended (w.e.f. 1-4-1961). Ss. 1 and 2 amended (w.e.f. 1-4-1961). S. 5 omitted (w.e.f. 1-4-1961).	8, s. 3. <i>Ibid.</i> , s. 3. <i>Ibid.</i> , s. 3.
1957	58	Additional Duties of Excise (Goods of Special Importance) Act, 1957.	Ss. 2 and 3 amended First Schedule and Second Schedule amended.	. 14, s.15. <i>Ibid.</i> , s.15.
1957	66	Delhi Municipal Corporation Act, 1957.	Ss. 2, 10, 31, 38, 113, 119, 120, 124 to 127, 137, 344, 460, 479 and 481 amended. Ss. 5, 164 and 343 substituted. Sixth Schedule, Tenth Schedule and Twelfth Schedule amended.	42, ss. 2, 4 to 14 and 17 to 20. <i>Ibid.</i> , ss. 3, 15 and 16. <i>Ibid.</i> , ss. 21, 22 and 23.
1960	11	Bombay Reorganisation Act, 1960.	S. 19 amended S. 31 omitted (when the whole of Act of 1961 comes into force).	1, s. 6. 25, s. 50 and Schedule.
1961	4	U.P. Sugarcane Cess (Validation) Act, 1961	S.3 amended (retrospectively).	38, s. 5.

## PART II.—CENTRAL ORDINANCES REPEALED

Year	No. of Ordinance	Short title of Ordinance	How affected	No. and section of 1961 Act by which affected
1	2	3	4	5
1961	1	U.P. Sugarcane Cess (Validation) Ordinance, 1961.	Repealed (w.e.f. 3-2-1961).	4, s. 4.

Table showing effect of Parliamentary Legislation of 1961 (vii)

1	2	3	4	5
1961	2	Banking Companies (Amendment) Ordinance, 1961.	Repealed .	7, s. 6.
1961	3	Sugar (Regulation of Production) Ordinance, 1961.	Repealed (w.e.f. 1-11-1961).	55, s. 8.

PART III.—STATE ACTS AMENDED OR REPEALED

Year of Act	No. of Act	Short title of Act	How affected	No. and section of 1961 Act by which affected
1	2	3	4	5
<i>Andhra Pradesh</i>				
1958	1	Andhra Pradesh Dowry Prohibition Act, 1958.	Repealed (w.e.f. 1-7-1961).	28, s. 10.
<i>Bihar</i>				
1950	25	Bihar Dowry Restraint Act, 1950.	Repealed (w.e.f. 1-7-1961).	28, s. 10.
<i>Maharashtra</i>				
1920	17	Bombay Pleaders Act, 1920.	Repealed (by stages) (when notified).	25, s. 50.
1948	82	Bombay Sugarcane Cess Act, 1948 (as in force in any State).	S.II omitted (when notified).	38, s. 4.

PART IV.—ACTS IN FORCE IN THE UNION TERRITORIES AMENDED, REPEALED OR OTHERWISE AFFECTED

Year of Act	No. of Act	Short title of Act	How affected	No. and section of 1961 Act by which affected
1	2	3	4	5
<i>Delhi</i>				
1887	16	Punjab Tenancy Act, 1887.	Provisions which are inconsistent with Act 30 of 1961,	30, s. 9.

(viii) *Table showing effect of Parliamentary Legislation of 1961*

1	2	3	4	5
			repealed, as applicable to the areas to which Act 30 of 1961 extends (when notified).	
1901	2	Agra Tenancy Act, 1901.	Provisions which are inconsistent with Act 30 of 1961, repealed, as applicable to the areas to which Act 30 of 1961 extends (when notified).	30, s. 9.
1929	7	Bombay Maternity Benefit Act, 1929.	Repealed, as in force in the Union territory of Delhi, when Act 53 of 1961 applies to factories.	53, s. 30.
1950	23	Punjab Tenants (Security of Tenure) Act, 1950.	Provisions which are inconsistent with Act 30 of 1961, repealed, as applicable to the areas to which Act 30 of 1961 extends (when notified).	30, s. 9.
1954	7	Delhi Shops and Establishments Act, 1954.	Ss. 2, 46 and 47 amended. S. 15 substituted	21, ss. 2, 4 and 5. <i>Ibid.</i> , s. 3.
<i>Himachal Pradesh</i>				
1870	7	Court-fees Act, 1870	Repealed, as in force in Himachal Pradesh, when Court-fees Act, 1870, as in force in Punjab, is extended to Himachal Pradesh by notification under s. 2 of Act 30 of 1950.	33, s. 3.
1899	2	Indian Stamp Act, 1899.	Amended, as in force in Himachal Pradesh (when notified).	33, s. 2.

Table showing effect of Parliamentary Legislation of 1961

(iz) - (ix)

1	2	3	4	5
<i>Manipur</i>				
1870	7	Court-fees Act, 1870.	Repealed, as in force in Manipur, when the Court-fees Act, 1870, as in force in Assam, is extended to Manipur by notification under s. 2 of Act 30 of 1950.	33, s. 4.
1899	2	Indian Stamp Act, 1899.	Repealed, as in force in Manipur, when the Indian stamp Act, 1899, as in force in Assam, is extended to Manipur by notification under s. 2 of Act 30 of 1950.	33, s. 5.
1957	15	Assam Municipal Act, 1956.	S. 14 substituted (when notified). Ss. 15, 16 and 30I amended (when notified). Ss. 15A and 26A inserted (when notified).	49, s. 2. <i>Ibid.</i> , ss. 3, 5 and 7. <i>Ibid.</i> , ss. 4 and 6.
<i>Tripura</i>				
1870	7	Court-fees Act, 1870.	Repealed, as in force in Tripura, when the Court-fees Act, 1870, as in force in Assam, is extended to Tripura by notification under s. 2 of Act 30 of 1950.	33, s. 4.
1899	2	Indian Stamp Act, 1899.	Repealed, as in force in Tripura, when the Indian Stamp Act, 1899, as in force in Assam, is extended to Tripura by notification under s. 2 of Act 30 of 1950.	33, s. 5.

(x) Table showing effect of Parliamentary Legislation of 1961

PART V.—CONSTITUTION OF INDIA AMENDED

How affected	No. and section of 1961 Act by which affected
1	2
Articles 66 and 71 amended	Constitution (Eleventh Amendment) Act, 1961, ss. 2 and 3.
Article 240 amended (w.e.f. 11-8-1961).	Constitution (Tenth Amendment) Act, 1961, s. 3.
First Schedule amended (w.e.f. 11-8-1961).	<i>Ibid.</i> , s. 2.

*Not corrected. See India Code, Vol. VI A, Pt. VI, P. 157.*

THE TWO-MEMBER CONSTITUENCIES (ABOLITION)  
ACT, 1961

No. 1 OF 1961

[9th March, 1961]

An Act to provide for the abolition of two-member parliamentary and assembly constituencies and for the creation of single-member constituencies in their place.

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

1. This Act may be called the Two-Member Constituencies (Abolition) Act, 1961. Short title.

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

(a) "Commission" means the Election Commission appointed by the President under article 324 of the Constitution;

(b) "Delimitation Order" means the Delimitation of Parliamentary and Assembly Constituencies Order, 1956;

(c) "sitting member" means a person who, immediately before the date of publication of a notification under clause (c) of section 4 in the Official Gazette of the State concerned, is a member of the House of the People from that State or, as the case may be, of the Legislative Assembly of that State;

(d) "State" includes a Union territory;

(e) "two-member constituency" means a two-member parliamentary constituency specified in the First Schedule, or a two-member assembly constituency specified in the Second Schedule, to the Delimitation Order.

3. The Commission shall, as soon as may be practicable and in the manner herein provided, divide every two-member constituency (other than a two-member assembly constituency in the State of Gujarat) into two single-member constituencies, delimit their extent and decide in which of them the seat shall be reserved for the Division of two-member constituencies.

scheduled castes or, as the case may be, for the scheduled tribes, having regard to the following provisions, namely:—

(a) all the single-member constituencies shall, as far as practicable, be geographically compact areas and in delimiting them regard shall be had to physical features, existing boundaries of administrative units, facilities of communication and public convenience; and

(b) the seat shall be reserved in that single-member constituency which in the opinion of the Commission has the greater concentration of population of the scheduled castes or, as the case may be, of the scheduled tribes.

*Explanation.*—In this section, “population” means the population as ascertained at the census held in 1951.

Manner of  
division.

4. The Commission shall, as respects each State,—

(a) formulate its proposals in regard to the matters mentioned in section 3 and publish them in the Gazette of India, in the Official Gazette of the State and in such newspapers in the regional languages of the State as are considered important by the Commission, together with a notice inviting objections and suggestions in relation to the proposals and specifying a date on or after which the proposals will be further considered by it;

(b) after considering all objections and suggestions which may have been received by it before the date so specified, determine the matters referred to in section 3; and

(c) direct, by notification published in the Official Gazette of the State and in the Gazette of India, such amendments to be made in the Delimitation Order as appear to it to be necessary for giving effect to its decisions.

Effect of  
division.

5. As from the date of publication of a notification under clause (c) of section 4 in the Official Gazette of the State concerned,—

(a) every two-member constituency in the State (other than a two-member assembly constituency in the State of Gujarat) shall cease to exist and, in lieu thereof, there shall come into existence two single-member constituencies (hereinafter referred to as “the corresponding new constituencies”) as provided in the amended Delimitation Order;

(b) the sitting member of any two-member constituency in the State elected to fill the reserved seat therein shall be deemed to have been elected to the House of the People or, as the case may be, to the State Legislative Assembly from that one of the corresponding new constituencies in which the seat has been reserved, and the other sitting member of that two-member con-

*Not cancelled: See India Code*

**1961] Two-Member Constituencies (Abolition)**

stituency shall be deemed to have been elected from the other of the corresponding new constituencies; and

(c) any casual vacancy existing immediately before the said date in any two-member constituency in the State shall, if it be in the reserved seat, be deemed to be a casual vacancy in that one of the corresponding new constituencies in which the seat has been reserved, and if it be in the other seat, be deemed to be a casual vacancy in the other of the corresponding new constituencies.

**6. In section 19 of the Bombay Reorganisation Act, 1960,—**

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

“(b) the assembly constituencies into which the State shall be divided, the extent of each of such constituencies and in which of them seats shall be reserved for the scheduled castes or for the scheduled tribes; and”;

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

“(3) In determining the matters referred to in clauses (b) and (c) of sub-section (2), the Election Commission shall have regard to the following provisions, namely:—

(a) all the constituencies shall be single-member constituencies;

(b) all the constituencies shall, as far as practicable, be geographically compact areas and in delimiting them regard shall be had to physical features, existing boundaries of administrative units, facilities of communication and public convenience; and

(c) constituencies in which seats are reserved either for the scheduled castes or for the scheduled tribes shall, as far as practicable, be located in the areas in which the population of the scheduled castes or, as the case may be, of the scheduled tribes is most concentrated, but in regard to scheduled castes, care should be taken to distribute the reserved seats in different areas of the State.”.

**7. (1) After all the notifications have been published under clause (c) of section 4 and the order referred to in sub-section (5) of section 19 of the Bombay Reorganisation Act, 1960, has been made, the Commission shall—**

(a) make such further amendments in the Delimitation Order as appear to it to be necessary for bringing up-to-date the

Special provision for Gujarat amendment of section 19 of Act 11 of 1960.

Revision of the Delimitation Order.

11 of 1960.

description of the extent of all constituencies and for better arranging the order in which they are set out in the Schedules to the Delimitation Order; and

(b) send authenticated copies of the Delimitation Order as so amended and revised to the Central Government and to each of the State Governments.

(2) As soon as may be after the revised Delimitation Order is received by the Central Government or a State Government, it shall be laid before the House of the People or, as the case may be, before the Legislative Assembly of the State.

Power to  
maintain  
Delimitation  
Order up-  
to-date.

8. The Commission may from time to time, by notification published in the Gazette of India and in the Official Gazette of the State concerned,—

(a) correct any printing mistake in the revised Delimitation Order or any error arising therein from an inadvertent slip or omission, and

(b) where the boundaries or name of any district or any territorial division mentioned in a Schedule to the said Order are or is altered, make such amendments as appear to it to be necessary or expedient for bringing the Schedule up-to-date.

THE APPROPRIATION ACT, 1961

No. 2 OF 1961

[16th March, 1961]

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 1960-61.

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

1. This Act may be called the Appropriation Act, 1961.

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 sixty-seven crores, fifteen lakhs and sixty-one thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1960-61, in respect of the services specified in column 2 of the Schedule.

Issue of Rs.  
67,15,61,000  
out of the  
Consolidated  
Fund of  
India for the  
year 1960-61.

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

Appropriation.

## THE SCHEDULE

(See sections 2 and 3)

I No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
1	Ministry of Commerce and Industry . . . . .	1,38,000	..	1,38,000
15	Miscellaneous Departments and Other Expenditure under the Ministry of Edu- cation . . . . .	1,000	..	1,000
21	Ministry of Finance . . . . .	3,00,000	..	3,00,000
23	Union Excise Duties . . . . .	..	57,74,000	57,74,000
28	Currency . . . . .	60,00,000	..	60,00,000
31	Superannuation Allowances and Pensions . . . . .	13,01,000	40,000	13,41,000
32	Miscellaneous Departments and Other Expenditure under the Ministry of Finance . . . . .	1,000	..	1,000
34	Miscellaneous Adjustments between the Union and State Governments . . . . .	6,20,000	..	6,20,000
41	Miscellaneous Departments and Other Expenditure under the Ministry of Food and Agriculture . . . . .	27,36,000	..	27,36,000
49	Police . . . . .	93,74,000	..	93,74,000
50	Census . . . . .	50,00,000	..	50,00,000
52	Privy Purses and Allowances of Indian Rulers . . . . .	..	2,93,000	2,93,000
54	Himachal Pradesh . . . . .	80,00,000	1,84,000	81,84,000
56	Manipur . . . . .	59,52,000	..	59,52,000
57	Tripura . . . . .	50,00,000	..	50,00,000
59	Miscellaneous Departments and Expenditure under the Ministry of Home Affairs . . . . .	1,25,00,000	..	1,25,00,000

1	2	3		
		Sums not exceeding		
No. of Vote	Services and purposes	Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
70A	Miscellaneous Expenditure under the Ministry of Law . . . . .	75,000	..	75,000
72	Expenditure on Displaced Persons and Minorities . . . . .	..	10,000	10,000
80	Ministry of Steel, Mines and Fuel . . . . .	40,000	..	40,000
82	Miscellaneous Departments and Other Expenditure under the Ministry of Steel, Mines and Fuel . . . . .	7,84,42,000	..	7,84,42,000
83	Ministry of Transport and Communi- cations . . . . .	1,50,000	..	1,50,000
84	Indian Posts and Telegraphs Depart- ment . . . . .	..	6,000	6,000
85	P. & T. Dividend to General Revenues and Appropriation to Reserve Funds . . . . .	2,48,30,000	..	2,48,30,000
92	Communications (including National Highways) . . . . .	19,00,000	..	19,00,000
95	Supplies . . . . .	8,04,000	..	8,04,000
96	Other Civil Works . . . . .	4,80,23,000	..	4,80,23,000
97	Stationery and Printing . . . . .	68,00,000	..	68,00,000
106	Capital Outlay of the Ministry of Commerce and Industry . . . . .	1,000	..	1,000

1	2	3		
No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
114	Commuted Value of Pensions . . . . .	22,59,000	..	22,59,000
115	Payments to Retrenched Personnel . . . . .	6,000	..	6,000
117	Loans and Advances by the Central Government . . . . .	..	8,50,00,000	8,50,00,000
119	Purchase of Foodgrains . . . . .	36,00,00,000	..	36,00,00,000
124	Capital Outlay on Multipurpose River Schemes . . . . .	1,000	..	1,000
	TOTAL . . . . .	58,02,54,000	9,13,07,000	67,15,61,000

**THE ORISSA APPROPRIATION ACT, 1961**

**No. 3 OF 1961**

[20th March, 1961]

**An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Orissa for the services of the financial year 1960-61.**

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

1. This Act may be called the Orissa Appropriation Act, 1961. Short title.
  
2. From and out of the Consolidated Fund of the State of Orissa there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of four crores, forty lakhs, forty-eight thousand, eight hundred and fifteen rupees towards defraying the several charges which will come in course of payment during the financial year 1960-61, in respect of the services specified in column 2 of the Schedule. Issue of Rs.  
4,40,48,815  
from and  
out of the  
Consolidated  
Fund of the  
State of  
Orissa for  
the year  
1960-61.
  
3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Orissa by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the financial year 1960-61. Appropriation.

## THE SCHEDULE

(See sections 2 and 3)

I	2	3		
		Sums not exceeding		
No. of Vote	Services and purposes	Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Election and Other Expenditure relating to the Home Department . . . . .	..	28,530	28,530 <sup>0</sup>
2	Jails . . . . .	1,03,500	..	1,03,500 <sup>0</sup>
3	Police . . . . .	10	..	10 <sup>0</sup>
4	Planning and Reconstruction and Other Expenditure relating to the Planning and Co-ordination and Political and Services Departments . . . . .	15	..	15
5	Community Development Projects etc. . . . .	20	..	20 <sup>0</sup>
6	River Valley Development . . . . .	15	5,94,000	5,94,015
8	Stamps . . . . .	16,000	..	16,000 <sup>0</sup>
9	Ministers, Civil Secretariat and Other Expenditure relating to the Finance Department . . . . .	5	..	5
10	Pensions . . . . .	7,34,002	3,931	7,37,933
11	Expenditure relating to the Education Department . . . . .	120	..	120 <sup>0</sup>
12	Taxation . . . . .	3,779	..	3,779
15	Registration . . . . .	5	..	5
16	District Administration and Other Expenditure relating to the Revenue Department . . . . .	2,42,000	40,000	2,82,000 <sup>0</sup>
17	Expenditure relating to the Industries Department . . . . .	5	..	5
18	Civil and Sessions Court and Other Expenditure relating to the Law Department . . . . .	6,361	..	6,361
19	Stationery and Printing and Other Expenditure relating to the Commerce Department . . . . .	6,72,899	..	6,72,899

1 No. of Vote	2 Services and purposes		3 Sums not exceeding		
			Voted by Parliament	Charged on the Consolidated Fund	Total
20	Labour and Emigration and Employment Organisation		12,649	..	12,649
21	Tribal and Rural Welfare Department		8,93,489	..	8,93,489
22	Medical and Other Expenditure relating to the Health Department		3,25,765	..	3,25,765
23	Public Health		9,88,235	..	9,88,235
24	Irrigation		20,35,222	..	20,35,222
25	Civil Works		1,50,62,076	2,14,700	1,52,76,776
26	State Legislature		69,800	5,000	74,800
28	Electricity Schemes		5	..	5
30	Transport Schemes		29,005	..	29,005
31	Forest		1,10,511	..	1,10,511
33	Co-operation		15	..	15
34	Contribution to Local Bodies		5,14,170	..	5,14,170
36	Public Relations		57,505	..	57,505
37	Agriculture		15	..	15
	Appropriation for reduction or Avoidance of Debt		..	16,55,085	16,55,085
39	Hirakud Dam Project		5	..	5
41	Loans to Local Funds, Government Servants, etc.		15,00,015	..	15,00,015
43	Electricity Schemes outside the Revenue Account and Other Expenditure relating to the Works Department		5	..	5
44	Agricultural Improvement and Research		28,00,000	1,390	28,01,390
48	Capital Outlay on Industrial Development		6,32,505	..	6,32,505
51	Subsidised Industrial Housing Scheme		5	..	5
55	Capital Expenditure relating to Development (Co-operation) Department		1,80,000	..	1,80,000

1	2	3		
No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
58	Capital Account of Other Works relating to the Planning and Co-ordination (Gram Panchayat) Department . . . . .	40,000	..	40,000
60	Capital Account of Civil Works . . . . .	1,17,71,023	4,82,000	1,22,53,023
	Loans from the Central Government (Repayment) . . . . .	..	22,18,503	22,18,503
	Other Loans . . . . .	..	94,920	94,920
	TOTAL . . . . .	3,87,10,756	53,38,059	4,40,48,815

THE U. P. SUGARCANE CESS (VALIDATION)  
ACT, 1961

No. 4 OF 1961

[21st March, 1961]

An Act to validate the imposition and collection of cesses on sugarcane under certain Acts of Uttar Pradesh.

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

1. (1) This Act may be called the U. P. Sugarcane Cess (Validation) Act, 1961. Short title and commencement.

(2) It shall be deemed to have come into force on the 3rd day of February, 1961.

2. In this Act,—

Definitions.

(a) "cess" means the cess payable under any State Act and includes any sum recoverable under any such Act by way of interest or penalty;

(b) "State Act" means any of the following Acts, namely:—

U.P. Act I  
of 1938

(i) The United Provinces Sugar Factories Control Act, 1938;

U.P. Act  
XXIV of  
1953.

(ii) The U. P. Sugarcane (Regulation of Supply and Purchase) Act, 1953; and

U.P. Act  
XXII of  
1956.

(iii) The U. P. Sugarcane Cess Act, 1956.

<sup>3rd</sup>  
[before the 3rd day of February, 1961]

3. (1) Notwithstanding any judgment, decree or order of any court, all cesses imposed, assessed or collected or purporting to have been imposed, assessed or collected under any State Act ~~during the period beginning with the 26th day of January, 1950 and ending on the 3rd day of February, 1961~~ shall be deemed to have been validly imposed, assessed or collected in accordance with law, as if the provisions of the State Acts and of all notifications, orders and rules issued or made thereunder, in so far as such provisions relate to the imposition, assessment and collection of such cess had been included in and formed part of this section and this section had been in force Validation of imposition and collection of cesses under State Acts during certain period.

2. Subs. by Act 38 of 1961, s. 513 (Retrospectively)

at all material times when such cess was imposed, assessed or collected; and accordingly,—

(a) no suit or other proceeding shall be maintained or continued in any court for the refund of any cess paid under any State Act;

(b) no court shall enforce a decree or order directing the refund of any cess paid under any State Act; and

(c) any cess imposed or assessed under any State Act before the 31st day of February, 1961 but not collected before that date, may be recovered (after assessment of the cess, where necessary) in the manner provided under that Act.

(2) For the removal of doubts it is hereby declared that nothing in sub-section (1) shall be construed as preventing any person—

(a) from questioning in accordance with the provisions of any State Act and rules made thereunder the assessment of any cess for any period, or

(b) from claiming refund of any cess paid by him in excess of the amount due from him under any State Act and the rules made thereunder.

Repeal.

4. The U.P. Sugarcane Cess (Validation) Ordinance, 1961, is hereby repealed.

(b) "State Act" means any of the following Acts, namely:—

- (i) The United Provinces Sugar Factories Control Act, 1938
- (ii) The U.P. Sugarcane (Regulation of Supply and Purchase) Act, 1952, and
- (iii) The U.P. Sugarcane Cess Act, 1956.

3. (1) Notwithstanding any judgment, decree or order of any court, all cesses imposed, assessed or collected or purporting to have been imposed, assessed or collected under any State Act during the period beginning with the 25th day of January, 1950 and ending on the 31st day of February, 1961 shall be deemed to have been validly imposed, assessed or collected in accordance with law as if the provisions of the State Act and of all notifications, orders and rules issued or made thereunder in so far as such provisions relate to the imposition, assessment and collection of such cess had been included in and formed part of this section and this section had been in force

U.P. Act I of 1938  
U.P. Act XXIV of 1952  
U.P. Act XXII of 1956

**THE APPROPRIATION (RAILWAYS) ACT, 1961**

No. 5 OF 1961

23rd March, 1961

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the service of the financial year 1960-61 for the purposes of Railways.

Enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

1. This Act may be called the Appropriation (Railways) Act, 1961. Short title.

2. From and out of the Consolidated Fund of India, there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of fifty-one crores, ninety-eight lakhs and seventeen thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1960-61, in respect of the services relating to Railways specified in column 2 of the Schedule.

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

Issue of Rs. 51,98,17,000 out of the Consolidated Fund of India for the financial year 1960-61.

Appropriation.

Appropriation (Railways)

[ACT 5 OF 1961/

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.
2	Miscellaneous Expenditure . . . . .	3,38,000	2,000	3,40,000
6	Working Expenses—Operating Staff . . . . .	..	6,000	6,000
7	Working Expenses—Operation (Fuel) . . . . .	4,26,41,000	1,000	4,26,42,000
8	Working Expenses—Operation other than Staff and Fuel . . . . .	79,68,000	19,88,000	99,56,000
13	Open Line Works (Revenue)—Labour Welfare . . . . .	46,05,000	..	46,05,000
15	Construction of New Lines . . . . .	..	3,14,000	3,14,000
16	Open Line Works—Additions . . . . .	33,00,18,000	..	33,00,18,000
17	Open Line Works—Replacements . . . . .	9,09,24,000	..	9,09,24,000
18	Open Line Works—Development Fund . . . . .	4,10,12,000	..	4,10,12,000
	TOTAL . . . . .	51,75,06,000	23,11,000	51,98,17,000

THE APPROPRIATION (RAILWAYS) No. 2 ACT, 1961

No. 6 OF 1961

[23rd March, 1961]

An Act to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of India for the service of the financial year 1961-62 for the purposes of Railways.

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

1. This Act may be called the Appropriation (Railways) No. 2 Short title. Act, 1961.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of one thousand and ninety-one crores, eighty-four lakhs and eighteen thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1961-62, in respect of the services relating to Railways specified in column 2 of the Schedule.

Issue of Rs.  
1,091,84,18,  
000  
out of the  
Consoli-  
dated Fund  
of India for  
the financial  
year 1961-62.

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

THE SCHEDULE

(See sections 2 and 3)

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
1	Railway Board	98,19,000	..	98,19,000
2	Miscellaneous Expenditure	2,11,91,000	3,00,000	2,14,91,000
3	Payments to Worked Lines and Others	23,79,000	..	23,79,000
4	Working Expenses—Administration (Railway)	38,78,93,000	..	38,78,93,000
5	Working Expenses—Repairs and Maintenance	125,22,60,000	..	125,22,60,000
6	Working Expenses—Operating Staff	55,30,37,000	..	55,30,37,000
7	Working Expenses—Operation (Fuel)	73,70,09,000	..	73,70,09,000
8	Working Expenses—Operation other than Staff and Fuel	26,67,56,000	4,99,000	27,14,22,000
9	Working Expenses—Miscellaneous	29,07,16,000	..	29,07,16,000
10	Working Expenses—Labour Welfare	11,81,37,000	..	11,81,37,000
11	Working Expenses—Appropriation to Depreciation Reserve Fund	65,00,00,000	..	65,00,00,000
12	Payments to General Revenues	77,83,95,000	..	77,83,95,000
13	Open Line Works (Revenue)—Labour Welfare	10,63,63,000	..	10,63,63,000
14	Open Line Works (Revenue)—Other than Labour Welfare	10,63,63,000	..	10,63,63,000
15	Construction of New Lines	61,13,46,000	3,86,000	61,17,32,000
16	Open Line Works—Additions	312,72,04,000	..	312,72,04,000
17	Open Line Works—Replacements	99,56,91,000	..	99,56,91,000
18	Open Line Works—Development Fund	23,00,00,000	..	23,00,00,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
19	Repayment of loans from General Revenues and interest thereon—Development Fund	30,19,48,000	..	30,19,48,000
20	Appropriation to Development Fund	17,21,57,000	..	17,21,57,000
22	Withdrawal from Revenue Reserve Fund	8,57,15,000	..	8,57,15,000
	TOTAL	1,090,96,87,000	87,31,000	1,091,84,18,000

THE BANKING COMPANIES (AMENDMENT)  
ACT, 1961

No. 7 OF 1961

[24th March, 1961]

An Act further to amend the Banking Companies Act, 1949.

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

Short title. 1. This Act may be called the Banking Companies (Amendment) Act, 1961.

Amendment of section 35A. ~~2. In section 35A of the Banking Companies Act, 1949 (herein- 10 of 1949.~~  
after referred to as the principal Act), in clause (a) of sub-section (1), for the words "national interest", the words "public interest" shall be substituted.

Amendment of section 44A. 3. In section 44A of the principal Act, in sub-section (7), the words "in national interest" shall be omitted.

Amendment of section 45. 4. In section 45 of the principal Act,—  
(a) in sub-section (1)—  
(i) for the words "any agreement", the words "any agreement or other instrument" shall be substituted;  
(ii) for the words "the banking company", the words "a banking company" shall be substituted;  
(b) for sub-sections (4) to (9), the following sub-sections shall be substituted, namely:—  
(4) During the period of moratorium, if the Reserve Bank is satisfied that—  
(a) in the public interest; or

↓ Section 265 rep. by Act 52 of 1964, s. 2 & sch. I  
(a.e.f. 29.12.64).

- (b) in the interests of the depositors; or
- (c) in order to secure the proper management of the banking company; or
- (d) in the interests of the banking system of the country as a whole,—

it is necessary so to do, the Reserve Bank may prepare a scheme—

- (i) for the reconstruction of the banking company, or
- (ii) for the amalgamation of the banking company with any other banking institution (in this section referred to as "the transferee bank").

(5) The scheme aforesaid may contain provisions for all or any of the following matters, namely:—

(a) the constitution, name and registered office, the capital, assets, powers, rights, interests, authorities and privileges, the liabilities, duties and obligations, of the banking company on its reconstruction or, as the case may be, of the transferee bank;

(b) in the case of amalgamation of the banking company, the transfer to the transferee bank of the business, properties, assets and liabilities of the banking company on such terms and conditions as may be specified in the scheme;

(c) any change in the Board of directors, or the appointment of a new Board of directors, of the banking company on its reconstruction or, as the case may be, of the transferee bank and the authority by whom, the manner in which, and the other terms and conditions on which, such change or appointment shall be made and in the case of appointment of a new Board of directors or of any director, the period for which such appointment shall be made;

(d) the alteration of the memorandum and articles of association of the banking company on its reconstruction or, as the case may be, of the transferee bank for the purpose of altering the capital thereof or for such other purposes as may be necessary to give effect to the reconstruction or amalgamation;

(e) subject to the provisions of the scheme, the continuation by or against the banking company on its reconstruction or, as the case may be, the transferee bank, of any actions or proceedings pending against the banking company immediately before the date of the order of moratorium;

(f) the reduction of the interest or rights which the members, depositors and other creditors have in or against the banking company before its reconstruction or amalgamation to such extent as the Reserve Bank considers necessary in the public interest or in the interests of the members, depositors and other creditors or for the maintenance of the business of the banking company;

(g) the payment in cash or otherwise to depositors and other creditors in full satisfaction of their claim—

(i) in respect of their interest or rights in or against the banking company before its reconstruction or amalgamation; or

(ii) where their interest or rights aforesaid in or against the banking company has or have been reduced under clause (f), in respect of such interest or rights as so reduced;

(h) the allotment to the members of the banking company for shares held by them therein before its reconstruction or amalgamation [whether their interest in such shares has been reduced under clause (f) or not], of shares in the banking company on its reconstruction or, as the case may be, in the transferee bank and where any members claim payment in cash and not allotment of shares, or where it is not possible to allot shares to any members, the payment in cash to those members in full satisfaction of their claim—

(i) in respect of their interest in shares in the banking company before its reconstruction or amalgamation; or

(ii) where such interest has been reduced under clause (f), in respect of their interest in shares as so reduced;

14 of 1947.

(i) the continuance of the services of all the employees of the banking company (excepting such of them as not being workmen within the meaning of the Industrial Disputes Act, 1947 are specifically mentioned in the scheme) in the banking company itself on its reconstruction or, as the case may be, in the transferee bank at the same remuneration and on the same terms and conditions of service, which they were getting or, as the case may be, by which they were being governed, immediately before the date of the order of moratorium:

Provided that the scheme shall contain a provision that—

(i) the banking company shall pay or grant not later than the expiry of the period of three years from the date on which the scheme is sanctioned by the Central Government, to the said employees the same remuneration and the same terms and conditions of service as are applicable to employees of corresponding rank or status of a comparable banking company to be determined for this purpose by the Reserve Bank (whose determination in this respect shall be final);

(ii) the transferee bank shall pay or grant not later than the expiry of the aforesaid period of three years, to the said employees the same remuneration and the same terms and conditions of service as are applicable to the other employees of corresponding rank or status of the transferee bank subject to the qualifications and experience of the said employees being the same as or equivalent to those of such other employees of the transferee bank:

Provided further that if in any case under clause (ii) of the first proviso any doubt or difference arises as to whether the qualification and experience of any of the said employees are the same as or equivalent to the qualifications and experience of the other employees of corresponding rank or status of the transferee bank, the doubt or difference shall be referred to the Reserve Bank whose decision thereon shall be final;

(j) notwithstanding anything contained in clause (i) where any of the employees of the banking company not being workmen within the meaning of the Industrial

Disputes Act, 1947 are specifically mentioned in the 14 of 1947. scheme under clause (i), or where any employees of the banking company have by notice in writing given to the banking company or, as the case may be, the transferee bank at any time before the expiry of one month next following the date on which the scheme is sanctioned by the Central Government, intimated their intention of not becoming employees of the banking company on its reconstruction or, as the case may be, of the transferee bank, the payment to such employees of compensation, if any, to which they are entitled under the Industrial Disputes Act, 1947, and such pension, 14 of 1947. gratuity, provident fund and other retirement benefits ordinarily admissible to them under the rules or authorisations of the banking company immediately before the date of the order of moratorium;

(k) any other terms and conditions for the reconstruction or amalgamation of the banking company;

(l) such incidental, consequential and supplemental matters as are necessary to secure that the reconstruction or amalgamation shall be fully and effectively carried out.

(6) (a) A copy of the scheme prepared by the Reserve Bank shall be sent in draft to the banking company and also to the transferee bank and any other banking company concerned in the amalgamation, for suggestions and objections, if any, within such period as the Reserve Bank may specify for this purpose;

(b) The Reserve Bank may make such modifications, if any, in the draft scheme as it may consider necessary in the light of the suggestions and objections received from the banking company and also from the transferee bank, and any other banking company concerned in the amalgamation and from any members, depositors or other creditors of each of those companies and the transferee bank.

(7) The scheme shall thereafter be placed before the Central Government for its sanction and the Central Government may sanction the scheme without any modifications or with such modifications as it may consider necessary; and the scheme as sanctioned by the Central Government shall come into force on such date as the Central Government may specify in this behalf:

Provided that different dates may be specified for different provisions of the scheme.

(8) On and from the date of the coming into operation of the scheme or any provision thereof, the scheme or such provision shall be binding on the banking company or, as the case may be, on the transferee bank and any other banking company concerned in the amalgamation and also on all the members, depositors and other creditors and employees of each of those companies and of the transferee bank, and on any other person having any right or liability in relation to any of those companies or the transferee bank.

(9) On and from such date as may be specified by the Central Government in this behalf, the properties and assets of the banking company shall, by virtue of and to the extent provided in the scheme, stand transferred to, and vest in, and the liabilities of the banking company shall, by virtue of and to the extent provided in the scheme, stand transferred to, and become the liabilities of, the transferee bank.

(10) If any difficulty arises in giving effect to the provisions of the scheme, the Central Government may by order do anything not inconsistent with such provisions which appears to it necessary or expedient for the purpose of removing the difficulty.

(11) Copies of the scheme or of any order made under sub-section (10) shall be laid before both Houses of Parliament, as soon as may be, after the scheme has been sanctioned by the Central Government, or, as the case may be, the order has been made.

(12) Where the scheme is a scheme for amalgamation of the banking company, any business acquired by the transferee bank under the scheme or under any provision thereof shall, after the coming into operation of the scheme or such provision, be carried on by the transferee bank in accordance with the law governing the transferee bank, subject to such modifications in that law or such exemptions of the transferee bank from the operation of any provisions thereof as the Central Government on the recommendation of the Reserve Bank may, by notification in the Official Gazette, make for the purpose of giving full effect to the scheme:

Provided that no such modification or exemption shall be made so as to have effect for a period of more than seven years from the date of the acquisition of such business.

(13) Nothing in this section shall be deemed to prevent the amalgamation with a banking institution by a single scheme of several banking companies in respect of each of which an order of moratorium has been made under this section.

(14) The provisions of this section and of any scheme made under it shall have effect notwithstanding anything to the contrary contained in any other provisions of this Act or in any other law or any agreement, award or other instrument for the time being in force.

(15) In this section, "banking institution" means any banking company and includes the State Bank of India or any other banking institution notified by the Central Government under section 51.

Amendment  
of Section  
45L.

5. In section 45L of the principal Act,—

(a) in sub-section (3), for the words "a scheme of reconstruction of a banking company or its amalgamation with another banking company", the words "a scheme of reconstruction or amalgamation of a banking company" shall be substituted:

(b) in sub-section (4), for the words "a scheme of reconstruction of a banking company or its amalgamation with another banking company", the words "a scheme of reconstruction or ~~amalgamation of a banking company~~" shall be substituted.

Repeal and  
Saving.

6. (1) The Banking Companies (Amendment) Ordinance, 1961, <sup>2 of 1961</sup> is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act, as if this Act had commenced on the 4th day of February, 1961.

*Repeal Act 52 of 1961, S. 2 + Sch. I (no. of 29.12.64)*

THE RAILWAY PASSENGER FARES (REPEAL)

ACT, 1961

No. 8 OF 1961

[24th March, 1961]

An Act to repeal the Railway Passenger Fares Act, 1957 and to make certain provisions consequential thereto.

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

1. (1) This Act may be called the Railway Passenger Fares (Repeal) Act, 1961. Short title and commencement  
(2) It shall come into force on the 1st day of April, 1961.
2. The Railway Passenger Fares Act, 1957 is hereby repealed. Repeal of Act 25 of 1957.
3. In the Estate Duty and Tax on Railway Passenger Fares (Distribution) Act, 1957,— Amendment of Act 57 of 1957.
  - (a) in the long title, the words “and the tax on railway passenger fares” shall be omitted;
  - (b) in section 1, the words “and Tax on Railway Passenger Fares” shall be omitted;
  - (c) in section 2, clause (c) shall be omitted; and
  - (d) section 5 shall be omitted.

THE APPROPRIATION (VOTE ON ACCOUNT) ACT, 1961

No. 9 OF 1961

[24th March, 1961]

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 1961-62.

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

Short title. 1. This Act may be called the Appropriation (Vote on Account) Act, 1961.

Withdrawal of Rs. 8,66,74,57,000 from and out of the Consolidated Fund of India for the financial year 1961-62. 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 eight hundred and sixty-six crores, seventy-four lakhs and fifty-seven thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1961-62.

Appropriation. 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.

THE SCHEDULE  
(See sections 2 and 3)

I No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
1	Ministry of Commerce and Industry . . . . .	6,44,000	..	6,44,000
2	Industries . . . . .	1,64,55,000	..	1,64,55,000
3	Salt . . . . .	4,47,000	..	4,47,000
4	Commercial Intelligence and Statistics . . . . .	7,77,000	..	7,77,000
5	Miscellaneous Departments and Expenditure under the Ministry of Commerce and Industry . . . . .	19,66,000	..	19,66,000
6	Ministry of Community Development and Co-operation . . . . .	2,55,000	..	2,55,000
7	Community Development Project, National Extension Service and Co-operation . . . . .	25,05,000	..	25,05,000
8	Ministry of Defence . . . . .	3,65,000	..	3,65,000
9	Defence Services—Effective—Army . . . . .	17,35,97,000	83,000	17,36,80,000
10	Defence Services—Effective—Navy . . . . .	1,67,05,000	4,000	1,67,09,000
11	Defence Services—Effective—Air Force . . . . .	5,24,46,000	4,000	5,24,50,000
12	Defence Services—Non-Effective Charges . . . . .	1,55,00,000	1,000	1,55,01,000
13	Ministry of Education . . . . .	3,53,000	..	3,53,000
14	Education . . . . .	1,39,95,000	..	1,39,95,000
15	Miscellaneous Departments and Other Expenditure under the Ministry of Education . . . . .	24,49,000	..	24,49,000
16	Tribal Areas . . . . .	89,76,000	..	89,76,000
17	Naga Hills—Tuensang Area . . . . .	31,05,000	..	31,05,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
18	External Affairs . . . . .	1,02,07,000	..	1,02,07,000
19	State of Pondicherry . . . . .	35,98,000	..	35,98,000
20	Miscellaneous Expenditure under the Ministry of External Affairs . . . . .	27,26,000	..	27,26,000
21	Ministry of Finance . . . . .	14,58,000	..	14,58,000
22	Customs . . . . .	33,50,000	3,000	33,53,000
23	Union Excise Duties . . . . .	74,60,000	4,000	74,64,000
24	Taxes on Income including Corporation Tax, etc. . . . .	49,39,000	11,000	49,50,000
25	Opium . . . . .	4,92,02,000	..	4,92,02,000
26	Stamps . . . . .	22,22,000	..	22,22,000
27	Audit . . . . .	99,28,000	1,85,000	1,01,13,000
28	Currency . . . . .	43,63,000	..	43,63,000
29	Mint . . . . .	57,57,000	..	57,57,000
30	Territorial and Political Pensions . . . . .	1,96,000	..	1,96,000
31	Superannuation Allowances and Pensions . . . . .	79,18,000	2,49,000	81,67,000
32	Miscellaneous Departments and Other Expenditure under the Ministry of Finance . . . . .	1,20,32,000	..	1,20,32,000
33	Planning Commission . . . . .	7,28,000	..	7,28,000
34	Grants-in-aid to States . . . . .	14,65,36,000	11,20,00,000	25,85,36,000
35	Miscellaneous Adjustments between the Union and State Governments . . . . .	1,86,000	..	1,86,000
36	Pre-partition payments . . . . .	1,40,000	1,23,000	2,63,000
	CHARGED.—Interest on Debt and other Obligations and reduction or avoidance of Debt . . . . .	..	17,80,16,000	17,80,16,000
37	Ministry of Food and Agriculture . . . . .	6,20,000	..	6,20,000
38	Forest . . . . .	8,03,000	..	8,03,000

1	2	3				
		No. of Vote	Services and purposes	Sums not exceeding		
				Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.		
39	Agriculture . . . . .	35,82,000	..	35,82,000		
40	Agricultural Research . . . . .	52,14,000	..	52,14,000		
41	Animal Husbandry . . . . .	9,04,000	..	9,04,000		
42	Miscellaneous Departments and Other Expenditure under the Ministry of Food and Agriculture . . . . .	97,22,000	59,000	97,81,000		
43	Ministry of Health . . . . .	1,39,000	..	1,39,000		
44	Medical and Public Health . . . . .	90,01,000	..	90,01,000		
45	Miscellaneous Departments and Expenditure under the Ministry of Health . . . . .	8,89,000	..	8,89,000		
46	Ministry of Home Affairs . . . . .	29,31,000	..	29,31,000		
47	Cabinet . . . . .	3,10,000	..	3,10,000		
48	Zonal Councils . . . . .	20,000	..	20,000		
49	Administration of Justice . . . . .	20,000	1,68,000	1,88,000		
50	Police . . . . .	59,15,000	..	59,15,000		
51	Census . . . . .	27,83,000	..	27,83,000		
52	Statistics . . . . .	13,12,000	..	13,12,000		
53	Privy Purses and Allowances of Indian Rulers . . . . .	1,30,000	1,34,89,000	1,36,19,000		
54	Delhi . . . . .	1,23,69,000	1,000	1,23,70,000		
55	Himachal Pradesh . . . . .	79,12,000	..	79,12,000		
56	Andaman and Nicobar Islands . . . . .	24,83,000	..	24,83,000		
57	Manipur . . . . .	33,29,000	..	33,29,000		
58	Tripura . . . . .	52,24,000	..	52,24,000		
59	Laccadive, Minicoy and Amin-divi Islands . . . . .	2,29,000	..	2,29,000		
60	Miscellaneous Departments and Expenditure under the Ministry of Home Affairs . . . . .	5,81,000	..	5,81,000		
61	Ministry of Information and Broadcasting . . . . .	1,19,000	..	1,19,000		

1	2	3				
		No. of Vote	Services and purposes	Sums not exceeding		
				Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.		
62	Broadcasting . . . . .	46,76,000	..	46,76,000		
63	Miscellaneous Departments and Expenditure under the Ministry of Information and Broadcasting . . . . .	33,46,000	..	33,46,000		
64	Ministry of Irrigation and Power	2,00,000	..	2,00,000		
65	Multi-purpose River Schemes .	13,62,000	..	13,62,000		
66	Miscellaneous Departments and Other Expenditure under the Ministry of Irrigation and Power . . . . .	20,79,000	..	20,79,000		
67	Ministry of Labour and Employment . . . . .	2,11,000	..	2,11,000		
68	Chief Inspector of Mines . . . . .	1,93,000	..	1,93,000		
69	Labour and Employment . . . . .	48,38,000	..	48,38,000		
70	Miscellaneous Departments and Other Expenditure under the Ministry of Labour and Employment . . . . .	9,000	..	9,000		
71	Ministry of Law . . . . .	3,16,000	..	3,16,000		
72	Elections . . . . .	2,37,000	..	2,37,000		
73	Miscellaneous Expenditure under the Ministry of Law . . . . .	12,000	..	12,000		
74	Ministry of Rehabilitation . . . . .	2,30,000	..	2,30,000		
75	Expenditure on Displaced Persons and Minorities . . . . .	93,98,000	1,000	93,99,000		
76	Ministry of Scientific Research and Cultural Affairs . . . . .	2,87,000	..	2,87,000		
77	Archaeology . . . . .	11,05,000	..	11,05,000		
78	Survey of India . . . . .	16,51,000	..	16,51,000		
79	Botanical Survey . . . . .	2,09,000	..	2,09,000		
80	Zoological Survey . . . . .	1,39,000	..	1,39,000		
81	Scientific Research and Cultural Affairs . . . . .	1,67,19,000	..	1,67,19,000		

1	2	3				
		No. of Vote	Services and purposes	Sums not exceeding		
				Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.		
82	Miscellaneous Departments and Expenditure under the Ministry of Scientific Research and Cultural Affairs . . . . .	4,65,000	..	4,65,000		
83	Ministry of Steel, Mines and Fuel . . . . .	3,32,000	..	3,32,000		
84	Geological Survey . . . . .	26,43,000	..	26,43,000		
85	Miscellaneous Departments and Other Expenditure under the Ministry of Steel, Mines and Fuel . . . . .	3,38,14,000	..	3,38,14,000		
86	Ministry of Transport and Communications . . . . .	5,83,000	..	5,83,000		
87	Indian Posts and Telegraphs Deptt. (including working expenses) . . . . .	6,24,39,000	5,000	6,24,44,000		
88	Posts and Telegraphs Dividends to General Revenues and Appropriation to Reserve Fund . . . . .	96,40,000	..	96,40,000		
89	Mercantile Marine . . . . .	6,36,000	..	6,36,000		
90	Lighthouses and Lightships . . . . .	12,55,000	..	12,55,000		
91	Meteorology . . . . .	16,67,000	..	16,67,000		
92	Overseas Communications Service . . . . .	50,97,000	..	50,97,000		
93	Aviation . . . . .	54,91,000	..	54,91,000		
94	Central Road Fund . . . . .	36,37,000	..	36,37,000		
95	Communications (including National Highways) . . . . .	54,33,000	..	54,33,000		
96	Miscellaneous Departments and Other Expenditure under the Ministry of Transport and Communications . . . . .	23,11,000	..	23,11,000		
97	Ministry of Works, Housing and Supply . . . . .	5,41,000	..	5,41,000		
98	Supplies . . . . .	25,71,000	..	25,71,000		
99	Other Civil Works . . . . .	2,76,95,000	2,33,000	2,79,28,000		

I No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
100	Stationery and Printing . . . . .	74,46,000	..	74,46,000
101	Miscellaneous Departments and Expenditure under the Ministry of Works, Housing and Supply . . . . .	5,54,000	..	5,54,000
102	Department of Atomic Energy . . . . .	1,37,000	..	1,37,000
103	Atomic Energy Research . . . . .	48,80,000	..	48,80,000
104	Department of Parliamentary Affairs . . . . .	21,000	..	21,000
105	Lok Sabha . . . . .	8,24,000	6,000	8,30,000
106	Miscellaneous Expenditure under Lok Sabha . . . . .	42,000	..	42,000
107	Rajya Sabha . . . . .	3,17,000	6,000	3,23,000
	<i>CHARGED.—Staff, Household and Allowances of the President</i>	..	2,23,000	2,23,000
108	Secretariat of the Vice Presi- dent . . . . .	6,000	..	6,000
	<i>CHARGED.—Union Public Service Commission</i>	..	3,89,000	3,89,000
109	Capital Outlay of the Ministry of Commerce and Indus- try . . . . .	2,22,21,000	..	2,22,21,000
110	Capital Outlay of the Ministry of Community Develop- ment and Co-operation . . . . .	45,10,000	..	45,10,000
111	Defence Capital Outlay . . . . .	2,74,72,000	33,000	2,75,05,000
112	Capital Outlay of the Ministry of Education . . . . .	1,51,000	..	1,51,000
113	Capital Outlay of the Ministry of External Affairs . . . . .	7,36,000	..	7,36,000
114	Capital Outlay of the India Security Press . . . . .	2,71,000	..	2,71,000
115	Capital Outlay on Currency and Coinage . . . . .	85,66,000	..	85,66,000
116	Capital Outlay of Mints . . . . .	58,000	..	58,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
117	Commuted Value of Pensions . . .	12,38,000	12,000	12,50,000
118	Other Capital Outlay of the Ministry of Finance . . .	6,78,87,000	..	6,78,87,000
119	Capital Outlay on Grants to States for Development . . .	1,43,00,000	..	1,43,00,000
120	Loans and Advances by the Central Government . . .	14,21,69,000	34,10,14,000	48,31,83,000
	CHARGED.— <i>Repayment of Debt</i> . . .	..	6,42,24,00,000	6,42,24,00,000
121	Capital Outlay on Forests . . .	48,000	..	48,000
122	Purchase of Foodgrains . . .	17,94,37,000	8,000	17,94,45,000
123	Other Capital Outlay of the Ministry of Food and Agri- culture . . .	4,44,95,000	2,000	4,44,97,000
124	Capital Outlay of the Ministry of Health . . .	1,05,38,000	..	1,05,38,000
125	Capital Outlay of the Ministry of Home Affairs . . .	7,69,000	..	7,69,000
126	Capital Outlay of the Ministry of Information and Broad- casting . . .	41,17,000	..	41,17,000
127	Capital Outlay on Multi-purpose River Schemes . . .	27,90,000	..	27,90,000
128	Other Capital Outlay of the Ministry of Irrigation and Power . . .	1,02,43,000	..	1,02,43,000
129	Capital Outlay of the Ministry of Labour and Employment . . .	66,000	..	66,000
130	Capital Outlay of the Ministry of Rehabilitation . . .	1,40,83,000	..	1,40,83,000
131	Capital Outlay of the Ministry of Scientific Research and Cultural Affairs . . .	33,40,000	..	33,40,000
132	Capital Outlay of the Ministry of Steel, Mines and Fuel . . .	6,56,08,000	..	6,56,08,000

1	2	3		
No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
133	Capital Outlay on Indian Posts and Telegraphs (not met from Revenues)	1,69,94,000		1,69,94,000
134	Capital Outlay on Civil Aviation	36,33,000	4,000	36,37,000
135	Capital Outlay on Ports	24,04,000	..	24,04,000
136	Capital Outlay on Roads	2,68,08,000	1,000	2,68,09,000
137	Other Capital Outlay of the Ministry of Transport and Communications	1,11,89,000	..	1,11,89,000
138	Delhi Capital Outlay	1,01,77,000	73,000	1,02,50,000
139	Capital Outlay on Buildings	80,75,000	8,000	80,83,000
140	Other Capital Outlay of the Ministry of Works, Housing and Supply	19,75,000	..	19,75,000
141	Capital Outlay of the Department of Atomic Energy	45,50,000	..	45,50,000
	GRAND TOTAL	1,59,86,39,000	7,06,88,18,000	8,66,74,57,000

THE ORISSA APPROPRIATION (VOTE ON ACCOUNT)  
ACT, 1961

No. 10 OF 1961

[30th March, 1961]

An Act to provide for the withdrawal of certain sums from and out of the Consolidated Fund of the State of Orissa for the services of a part of the financial year 1961-62.

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

1. This Act may be called the Orissa Appropriation (Vote on Short title. Account) Act, 1961.

2. From and out of the Consolidated Fund of the State of Orissa there may be withdrawn sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of fifteen crores, sixty-three lakhs and fifty-eight thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1961-62.

Withdrawal  
of Rs.  
15,63,58,000  
from and  
out of  
the Consoli-  
dated Fund  
of the State  
of Orissa for  
the financial  
year 1961-62.

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

## THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament Rs.	Charged on the Consoli- dated Fund Rs.	Total Rs.
1	Election and Other Expenditure relating to the Home Department . . . . .	6,67,000	1,02,000	7,69,000
2	Jails . . . . .	6,22,000	..	6,22,000
3	Police . . . . .	38,46,000	..	38,46,000
4	Expenditure relating to the Planning and Co-ordination and Political & Services Departments . . . . .	8,00,000	29,000	8,29,000
5	Community Development Projects, etc. . . . .	73,41,000	..	73,41,000
6	River Valley Development . . . . .	2,78,000	..	2,78,000
7	Expenditure on displaced persons . . . . .	85,000	..	85,000
8	Stamps . . . . .	29,000	..	29,000
9	Ministers, Civil Secretariat and Other Expenditure relating to the Finance Department . . . . .	12,06,000	66,000	12,72,000
10	Pensions . . . . .	6,90,000	5,000	6,95,000
11	Expenditure relating to the Education Department . . . . .	91,15,000	..	91,15,000
12	Taxation . . . . .	2,49,000	..	2,49,000
13	Land Revenue . . . . .	30,84,000	..	30,84,000
14	Excise . . . . .	3,58,000	..	3,58,000
15	Registration . . . . .	1,01,000	..	1,01,000
16	District Administration and Other Expenditure relating to the Revenue Department . . . . .	42,26,000	8,33,000	50,59,000
17	Expenditure relating to the Industries Department . . . . .	34,01,000	..	34,01,000
18	Civil and Sessions Court and Other Expenditure relating to the Law Department . . . . .	4,66,000	..	4,66,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
19	Stationery and Printing and Other Expenditure relating to the Commerce Department	7,06,000	..	7,06,000
20	Labour and Emigration and Employment Organisation	3,38,000	..	3,38,000
21	Tribal and Rural Welfare Department	39,80,000	..	39,80,000
22	Medical and Other Expenditure relating to the Health Depart- ment	29,78,000	..	29,78,000
23	Public Health	13,22,000	..	13,22,000
24	Irrigation	1,12,63,000	2,000	1,12,65,000
25	Civil Works	1,11,03,000	32,000	1,11,35,000
26	State Legislature	1,09,000	5,000	1,14,000
27	Public Works Common Establish- ment and Other Expenditure relating to the Works Depart- ment	10,11,000	..	10,11,000
28	Electricity Schemes	49,76,000	..	49,76,000
29	Taxes on Vehicles	2,20,000	..	2,20,000
30	Transport Schemes	20,16,000	..	20,16,000
31	Forest	21,28,000	1,000	21,29,000
32	Fisheries	4,84,000	..	4,84,000
33	Co-operation	7,57,000	..	7,57,000
34	Contribution to Local Bodies	2,75,000	..	2,75,000
35	Animal Husbandry	14,92,000	..	14,92,000
36	Public Relations	2,90,000	..	2,90,000
37	Agriculture	25,68,000	..	25,68,000
38	Supply Department	3,63,000	..	3,63,000
	<i>Interest on Debt and other obliga- tions</i>	..	1,09,01,000	1,09,01,000
	<i>Appropriation for reduction or avoidance of Debt</i>	..	27,86,000	27,86,000
39	Hirakud Dam Project	12,70,000	..	12,70,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
40	Community Development Pro- jects . . . . .	4,40,000	..	4,40,000
41	Loans to Local Funds, Govern- ment servants, etc. . . . .	28,75,000	..	28,75,000
42	Compensation for abolition of Zamindari system and Other Expenditure relating to Re- venue Department . . . . .	14,91,000	..	14,91,000
43	Electricity schemes outside the Revenue Account and Other Expenditure relating to the Works Department . . . . .	2,62,95,000	4,000	2,62,99,000
44	Agricultural improvements and research . . . . .	11,64,000	..	11,64,000
45	State schemes of Government trading . . . . .	50,99,000	..	50,99,000
46	Road Transport schemes . . . . .	33,000	..	33,000
47	Capital outlay on Public Health and Capital Account of Civil works relating to Health (L.S.G.) Department . . . . .	5,66,000	..	5,66,000
48	Capital outlay on Industrial Development . . . . .	4,53,000	..	4,53,000
49	Capital outlay on Ports (Chand- bali) . . . . .	16,000	..	16,000
50	Capital outlay on Ports (Paradip)	13,68,000	..	13,68,000
51	Subsidised Industrial Housing Scheme . . . . .	83,000	..	83,000
53	Capital Account of Other Works relating to Home Department	60,000	..	60,000
54	Capital outlay on Forest . . . . .	2,20,000	..	2,20,000
55	Capital Expenditure relating to Development (Co-operation) Department . . . . .	3,12,000	..	3,12,000
57	Capital Expenditure relating to Development (Veterinary) Department . . . . .	1,27,000	..	1,27,000

1	2	3		
No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
58	Capital Account of other works relating to the Planning and Co-ordination (Gram Panchayat) Department . . .	1,17,000	..	1,17,000
60	Capital Account of Civil works . . .	68,75,000	44,000	69,19,000
	<i>Loans from the Central Government (Repayment)</i> . . .	..	75,59,000	75,59,000
	<i>Other loans</i> . . .	..	1,82,000	1,82,000
	<b>GRAND TOTAL</b> . . .	13,38,07,000	2,25,51,000	15,63,58,000

*Repealed by Act 52 of 1964, S. 2 + Sch. I (w.e.f. 29.12.64)*

THE INSURANCE (AMENDMENT) ACT, 1961

No. 11 OF 1961

[1st April, 1961]

An Act further to amend the Insurance Act, 1938.

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

Short title. 1. This Act may be called the Insurance (Amendment) Act, 1961.

Insertion of a new Part. 2. After Part IV of the Insurance Act, 1938 (hereinafter referred to as the principal Act), the following Part shall be inserted, namely:—

**'PART IVA**

**RE-INSURANCE**

Re-insurance with Indian re-insurers.

101A. (1) Every insurer shall re-insure with Indian reinsurers such percentage of the sum assured on each policy as may be specified by the Central Government under sub-section (2).

(2) For the purposes of sub-section (1), the Central Government may, by notification in the Official Gazette,—

(a) specify the percentage of the sum assured on each policy to be re-insured and different percentages may be specified for different classes of insurance:

Provided that no percentage so specified shall exceed thirty per cent. of the sum assured on such policy; and

(b) also specify the proportions in which the said percentage shall be allocated among the Indian re-insurers.

(3) Notwithstanding anything contained in sub-section (1), an insurer carrying on fire insurance business in India may, in lieu of re-insuring the percentage specified under sub-section (2) of the sum assured on each policy in respect of such business, re-insure with Indian re-insurers such amount out of the first surplus in respect of that business as he thinks fit, so however that, the aggregate amount of the premiums payable

by him on such re-insurance in any year is not less than the said percentage of the premium income (without taking into account premiums on re-insurance ceded or accepted) in respect of such business during that year.

*Explanation.*—For the purposes of this sub-section, the year 1961 shall be deemed to mean the period from the 1st April to the 31st December of that year.

(4) A notification under sub-section (2) may also specify the terms and conditions in respect of any business of re-insurance required to be transacted under this section and such terms and conditions shall be binding on Indian re-insurers and other insurers.

(5) No notification under sub-section (2) shall be issued except after consultation with the Advisory Committee constituted under section 101B.

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

(7) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall be construed as preventing an insurer from re-insuring with any Indian re-insurer or other insurer the entire sum assured on any policy or any portion thereof in excess of the percentage specified under sub-section (2).

(8) In this section,—

(i) “policy” means a policy issued or renewed on or after the 1st day of April, 1961, in respect of general insurance business transacted in India and does not include a re-insurance policy; and

(ii) “Indian re-insurer” means an insurer specified in sub-clause (b) of clause (9) of section 2 who carries on exclusively re-insurance business and is approved in this behalf by the Central Government.

101B. (1) The Central Government shall, for the purposes <sup>Advisory</sup> of section 101A, constitute an Advisory Committee consisting of <sup>Committee</sup> not more than five persons having special knowledge and experience of the business of insurance.

(2) The term of office of, and the allowances payable to, members of the Advisory Committee, the procedure to be followed by, and the quorum necessary for the transaction of business of, the Committee and the manner of filling casual vacancies therein shall be such as may be prescribed.

Amendment  
of Section  
114.

3. In section 114 of the principal Act,—

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

“(l) the term of office of, and the allowances payable to, members of the Advisory Committee constituted under section 101B, the procedure to be followed by, and the quorum necessary for the transaction of business of, the Committee and the manner of filling casual vacancies therein;”

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

“(3) Every rule made under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, 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. 2) ACT, 1961

No. 12 OF 1961

[28th April, 1961]

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 1961-62.

Enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

1. This Act may be called the Appropriation (No. 2) Act, 1961.

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, 1961] to the sum of seven thousand, eight hundred and thirty-two crores, six lakhs and thirty six thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1961-62 in respect of the services specified in column 2 of the Schedule.

Issue of Rs.  
78,32,06,  
36,000  
out of the  
Consolidated  
Fund of  
India for the  
year 1961-62.

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

Appropriation.

## THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolida- ted Fund	Total
		Rs.	Rs.	Rs.
1	Ministry of Commerce and Industry . . . . .	77,31,000	..	77,31,000
2	Industries . . . . .	19,74,62,000	..	19,74,62,000
3	Salt . . . . .	53,68,000	...	53,68,000
4	Commercial Intelligence and Statistics . . . . .	93,28,000	..	93,28,000
5	Miscellaneous Departments and Expenditure under the Ministry of Commerce and Industry . . . . .	2,35,86,000	..	2,35,86,000
6	Ministry of Community De- velopment and Co-opera- tion . . . . .	30,54,000	..	30,54,000
7	Community Development Projects, National Exten- sion Service and Co- operation . . . . .	3,00,62,000	..	3,00,62,000
8	Ministry of Defence . . . . .	43,83,000	..	43,83,000
9	Defence Services—Effective— Army . . . . .	2,08,31,62,000	10,00,000	2,08,41,62,000
10	Defence Services—Effective— Navy . . . . .	20,04,65,000	50,000	20,05,15,000
11	Defence Services—Effective— Air Force . . . . .	62,93,48,000	50,000	62,93,98,000
12	Defence Services—Non- effective Charges . . . . .	18,59,95,000	5,000	18,60,00,000
13	Ministry of Education . . . . .	42,31,000	..	42,31,000
14	Education . . . . .	16,79,35,000	..	16,79,35,000
15	Miscellaneous Departments and Expenditure under the Ministry of Education . . . . .	2,93,93,000	..	2,93,93,000
16	Tribal Areas . . . . .	10,77,09,000	..	10,77,09,000
17	Naga Hills-Tuensang Area . . . . .	3,72,58,000	..	3,72,58,000
18	External Affairs . . . . .	12,24,84,000	..	12,24,84,000
19	State of Pondicherry . . . . .	4,31,78,000	1,000	4,31,79,000

I No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
20	Miscellaneous Expenditure under the Ministry of External Affairs . . . . .	3,27,12,000	..	3,27,12,000
21	Ministry of Finance . . . . .	1,75,02,000	..	1,75,02,000
22	Customs . . . . .	4,02,02,000	40,000	4,02,42,000
23	Union Excise Duties . . . . .	8,95,25,000	50,000	8,95,75,000
24	Taxes on Income including Corporation Tax, etc.. . . . .	5,92,62,000	1,27,000	5,93,89,000
25	Opium . . . . .	5,40,85,000	..	5,40,85,000
26	Stamps . . . . .	2,66,59,000	..	2,66,59,000
27	Audit . . . . .	11,91,35,000	22,22,000	12,13,57,000
28	Currency . . . . .	5,23,59,000	..	5,23,59,000
29	Mint . . . . .	6,90,82,000	..	6,90,82,000
30	Territorial and Political Pen- sions . . . . .	23,58,000	..	23,58,000
31	Superannuation Allowances and Pensions . . . . .	4,75,09,000	14,93,000	4,90,02,000
32	Miscellaneous Departments and other Expenditure under the Ministry of Finance . . . . .	14,43,87,000	..	14,43,87,000
33	Planning Commission . . . . .	87,41,000	..	87,41,000
34	Grants-in-aid to States . . . . .	1,75,84,30,000	44,80,00,000	2,20,64,30,000
35	Miscellaneous Adjustments between the Union and State Governments . . . . .	22,33,000	..	22,33,000
36	Pre-partition Payments . . . . .	16,75,000	14,78,000	31,53,000
	CHARGED.—Interest on Debt and Other Obligations and Reduction or Avoidance of Debt . . . . .	..	2,18,61,93,000	2,18,61,93,000
	CHARGED.—Payments of States' Share of Union Excise Duties . . . . .	..	76,33,15,000	76,33,15,000
37	Ministry of Food and Agri- culture . . . . .	74,37,000	..	74,37,000
38	Forest . . . . .	96,41,000	..	96,41,000
39	Agriculture . . . . .	4,29,85,000	..	4,29,85,000

I No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
40	Agricultural Research . . . .	6,25,63,000	..	6,25,63,000
41	Animal Husbandry . . . .	1,08,46,000	..	1,08,46,000
42	Miscellaneous Departments and Other Expenditure under the Ministry of Food and Agriculture . . . . .	11,66,68,000	7,02,000	11,73,70,000
43	Ministry of Health . . . .	16,68,000	..	16,68,000
44	Medical and Public Health . .	10,80,16,000	..	10,80,16,000
45	Miscellaneous Departments and Expenditure under the Ministry of Health . . . .	1,06,72,000	..	1,06,72,000
46	Ministry of Home Affairs . . .	3,51,77,000	..	3,51,77,000
47	Cabinet . . . . .	37,24,000	..	37,24,000
48	Zonal Councils . . . . .	2,43,000	..	2,43,000
49	Administration of Justice . . .	2,45,000	20,13,000	22,58,000
50	Police . . . . .	7,09,85,000	..	7,09,85,000
51	Census . . . . .	3,34,02,000	..	3,34,02,000
52	Statistics . . . . .	1,57,44,000	..	1,57,44,000
53	Privy Purses and Allowances of Indian Rulers . . . . .	5,21,000	5,39,57,000	5,44,78,000
54	Delhi . . . . .	14,84,28,000	12,000	14,84,40,000
55	Himachal Pradesh . . . . .	9,49,40,000	..	9,49,40,000
56	Andaman and Nicobar Islands . . . . .	2,97,97,000	..	2,97,97,000
57	Manipur . . . . .	3,99,46,000	..	3,99,46,000
58	Tripura . . . . .	6,26,85,000	..	6,26,85,000
59	Laccadive, Minicoy and Amindivi Islands . . . . .	27,43,000	..	27,43,000
60	Miscellaneous Departments and Expenditure under the Ministry of Home Affairs . . . . .	69,70,000	..	69,70,000
	Ministry of Information and Broadcasting . . . . .	14,32,000	..	14,32,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
62	Broadcasting	5,61,12,000	..	5,61,12,000
63	Miscellaneous Departments and Expenditure under the Ministry of Information and Broadcasting	4,01,48,000	..	4,01,48,000
64	Ministry of Irrigation and Power	24,03,000	..	24,03,000
65	Multi-purpose River Schemes.	1,63,49,000	..	1,63,49,000
66	Miscellaneous Departments and Other Expenditure under the Ministry of Irrigation and Power	2,49,52,000	..	2,49,52,000
67	Ministry of Labour and Employment	25,37,000	..	25,37,000
68	Chief Inspector of Mines	23,11,000	..	23,11,000
69	Labour and Employment	5,80,53,000	..	5,80,53,000
70	Miscellaneous Departments and Other Expenditure under the Ministry of Labour and Employment	1,05,000	..	1,05,000
71	Ministry of Law	37,87,000	..	37,87,000
72	Elections	28,45,000	..	28,45,000
73	Miscellaneous Expenditure under the Ministry of Law	1,39,000	..	1,39,000
74	Ministry of Rehabilitation	27,63,000	..	27,63,000
75	Expenditure on Displaced Persons and Minorities	11,27,71,000	3,000	11,27,79,000
76	Ministry of Scientific Research and Cultural Affairs	34,39,000	..	34,39,000
77	Archaeology	1,32,60,000	..	1,32,60,000
78	Survey of India	1,98,16,000	..	1,98,16,000
79	Botanical Survey	25,03,000	..	25,03,000
80	Zoological Survey	16,66,000	..	16,66,000
81	Scientific Research and Cultural Affairs	20,06,29,000	..	20,06,29,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolida- ted Fund	Total
		Rs.	Rs.	Rs.
82	Miscellaneous Departments and Expenditure under the Ministry of Scientific Research and Cultural Affairs	55,82,000	..	55,82,000
83	Ministry of Steel, Mines and Fuel	39,80,000	..	39,80,000
84	Geological Survey	3,17,18,000	..	3,17,18,000
85	Miscellaneous Departments and Other Expenditure under the Ministry of Steel, Mines and Fuel	40,57,65,000	..	40,57,65,000
86	Ministry of Transport and Communications	69,95,000	..	69,95,000
87	Indian Posts and Telegraphs Department (including Working expenses)	74,92,68,000	60,000	74,93,28,000
88	Posts and Telegraphs Dividend to General Revenues and Appropriations to Reserve Funds	11,56,77,000	..	11,56,77,000
89	Mercantile Marine	76,34,000	..	76,34,000
90	Lighthouses and Lightships	1,50,55,000	..	1,50,55,000
91	Meteorology	2,00,09,000	..	2,00,09,000
92	Overseas Communications Service	1,84,85,000	..	1,84,85,000
93	Aviation	6,58,94,000	..	6,58,94,000
94	Central Road Fund	4,36,40,000	..	4,36,40,000
95	Communications (including National Highways)	6,52,00,000	..	6,52,00,000
96	Miscellaneous Departments and Other Expenditure under the Ministry of Transport and Communications	2,77,36,000	..	2,77,36,000
97	Ministry of Works, Housing and Supply	64,94,000	..	64,94,000
98	Supplies	3,08,55,000	..	3,08,55,000
99	Other Civil Works	33,23,35,000	27,90,000	33,51,25,000
100	Stationery and Printing	8,93,57,000	..	8,93,57,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
101	Miscellaneous Departments and Expenditure under the Ministry of Works, Housing and Supply . . . . .	66,45,000	..	66,45,000
102	Department of Atomic Energy . . . . .	16,43,000	..	16,43,000
103	Atomic Energy Research . . . . .	5,85,60,000	..	5,85,60,000
104	Department of Parliamentary Affairs . . . . .	2,56,000	..	2,56,000
105	Lok Sabha . . . . .	98,89,000	67,000	99,56,000
106	Miscellaneous Expenditure under Lok Sabha . . . . .	42,000	..	42,000
107	Rajya Sabha . . . . .	38,02,000	67,000	38,69,000
	CHARGED.—Staff, House-hold and Allowances of the President . . . . .	..	26,83,000	26,83,000
108	Secretariat of the Vice-President . . . . .	71,000	..	71,000
	CHARGED.—Union Public Service Commission . . . . .	..	46,71,000	46,71,000
109	Capital Outlay of the Ministry of Commerce and Industry . . . . .	26,66,50,000	..	26,66,50,000
110	Capital Outlay of the Ministry of Community Development and Co-operation . . . . .	5,41,14,000	..	5,41,14,000
111	Defence Capital Outlay . . . . .	32,96,60,000	4,00,000	33,00,60,000
112	Capital Outlay of the Ministry of Education . . . . .	18,10,000	..	18,10,000
113	Capital Outlay of the Ministry of External Affairs . . . . .	88,32,000	..	88,32,000
114	Capital Outlay on the India Security Press . . . . .	32,58,000	..	32,58,000
115	Capital Outlay on Currency and Coinage . . . . .	10,27,91,000	..	10,27,91,000
116	Capital Outlay on Mints . . . . .	6,91,000	..	6,91,000
117	Commuted Value of Pensions . . . . .	1,48,55,000	<del>1,45,000</del>	1,50,00,000

318 M of Law—9.

[1,45,000]

1	2	3		
		Sums not exceeding		
No. of Vote	Services and purposes	Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
118	Other Capital Outlay of the Ministry of Finance . . . . .	81,46,46,000	..	81,46,46,000
119	Capital Outlay on Grants to States for Development . . . . .	17,16,00,000	..	17,16,00,000
120	Loans and Advances by the Central Government . . . . .	1,70,60,29,000	4,09,21,65,000	5,79,81,94,000
	CHARGED.— <i>Repayment of Debt.</i> . . . .	..	52,20,00,78,000	52,20,00,78,000
121	Capital Outlay on Forests . . . . .	5,80,000	..	5,80,000
122	Purchase of Foodgrains . . . . .	2,15,32,38,000	1,00,000	2,15,33,38,000
123	Other Capital Outlay of the Ministry of Food and Agriculture . . . . .	53,39,40,000	25,000	53,39,65,000
124	Capital Outlay of the Ministry of Health . . . . .	12,64,53,000	..	12,64,53,000
125	Capital Outlay of the Ministry of Home Affairs . . . . .	92,32,000	..	92,32,000
126	Capital Outlay of the Ministry of Information and Broadcasting . . . . .	4,94,00,000	..	4,94,00,000
127	Capital Outlay on Multi-purpose River Schemes . . . . .	3,34,75,000	..	3,34,75,000
128	Other Capital Outlay of the Ministry of Irrigation and Power . . . . .	12,29,18,000	..	12,29,18,000
129	Capital Outlay of the Ministry of Labour and Employment . . . . .	7,88,000	..	7,88,000
130	Capital Outlay of the Ministry of Rehabilitation . . . . .	16,90,00,000	..	16,90,00,000
131	Capital Outlay of the Ministry of Scientific Research and Cultural Affairs . . . . .	4,00,77,000	..	4,00,77,000
132	Capital Outlay of the Ministry of Steel, Mines and Fuel . . . . .	78,72,99,000	..	78,72,99,000
133	Capital Outlay on Indian Posts and Telegraphs (not met from Revenue) . . . . .	20,39,28,000	..	20,39,28,000
134	Capital Outlay on Civil Aviation . . . . .	4,35,91,000	50,000	4,36,41,000

I No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
135	Capital Outlay on Ports	2,88,50,000	..	2,88,50,000
136	Capital Outlay on Roads	32,17,00,000	9,000	32,17,09,000
137	Other Capital Outlay of the Ministry of Transport and Communications	13,42,69,000	..	13,42,69,000
138	Delhi Capital Outlay	12,21,29,000	8,71,000	12,30,00,000
139	Capital Outlay on Buildings	9,69,00,000	1,00,000	9,70,00,000
140	Other Capital Outlay of the Ministry of Works, Housing and Supply	2,36,96,000	..	2,36,96,000
141	Capital Outlay of the Depart- ment of Atomic Energy	5,45,99,000	..	5,45,99,000
	GRAND TOTAL	18,55,56,39,000	59,76,49,97,000	78,32,06,36,000

NOT Corrected: See India Code Vol P.B. Pt. IV.P.66

THE ORISSA STATE LEGISLATURE (DELEGATION  
OF POWERS) ACT, 1961

No. 13 OF 1961

[29th April, 1961]

An Act to confer on the President the power of the Legislature  
of the State of Orissa to make Laws.

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

**Short title.** 1. This Act may be called the Orissa State Legislature (Delegation  
of Powers) Act, 1961.

**Definition.** 2. In this Act, "Proclamation" means the Proclamation issued on  
the 25th day of February, 1961, by the President under clause (1)  
of article 356 of the Constitution.

**Conferment on the President of the power of the State Legislature.** 3. (1) The power of the Legislature of the State of Orissa to  
make laws, which has been declared by the Proclamation to be  
exercisable by or under the authority of Parliament, is hereby  
conferred on the President.

(2) In the exercise of the said power, the President may, from  
time to time whether Parliament is or is not in session, enact as a  
President's Act a Bill containing such provisions as he considers  
necessary:

Provided that before enacting any such Act, the President shall,  
whenever he considers it practicable to do so, consult a committee  
constituted for the purpose consisting of fourteen members of the  
House of the People nominated by the Speaker and seven members  
of the Council of States nominated by the Chairman.

(3) Every Act enacted by the President under sub-section (2)  
shall, as soon as may be after enactment, be laid before each House  
of Parliament.

(4) Either House of Parliament may, by resolution passed within  
seven days from the date on which the Act has been laid before it  
under sub-section (3), direct any modifications to be made in the

*Not Corrected, See India Code.*

[ACT 13 OF 1961] *Orissa State Legislature (Delegation of Powers)* 55

Act and if the modifications are agreed to by the other House of Parliament during the session in which the Act has been so laid before it or the session succeeding, such modifications shall be given effect to by the President by enacting an amending Act under subsection (2) :

Provided that nothing in this sub-section shall affect the validity of the Act or of any action taken thereunder before it is so amended.

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THE FINANCE ACT, 1961

No. 14 OF 1961

[29th April, 1961]

An Act to give effect to the financial proposals of the Central Government for the financial year 1961-62.

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

Short title  
and com-  
mencement.

1. (1) This Act may be called the Finance Act, 1961.

(2) Save as otherwise provided in this Act, sections 3 to 10 inclusive shall be deemed to have come into force on the first day of April, 1961.

Income-tax  
and super-  
tax.

2. (1) Subject to the provisions of sub-sections (2), (3) and (4), for the year beginning on the 1st day of April, 1961,—

(a) income-tax shall be charged at the rates specified in Part I of the First Schedule, and, in the cases to which Paragraphs A, B and C of that Part apply, shall be increased by a surcharge for purposes of the Union and a special surcharge, calculated in either case in the manner provided therein; and

(b) super-tax shall, for the purposes of section 55 of the Indian Income-tax Act, 1922 (hereinafter referred to as the <sup>11 of 1922</sup> Income-tax Act), be charged at the rates specified in Part II of the First Schedule, and, in the cases to which Paragraphs A, B and C of that Part apply, shall be increased by a surcharge for purposes of the Union and a special surcharge, calculated in either case in the manner provided therein.

(2) In making any assessment for the year ending on the 31st day of March, 1962,—

(a) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries", the income-tax payable by the assessee on that part

13 of 1960.

of his total income which consists of such inclusion shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Finance Act, 1960, on his total income the same proportion as the amount of such inclusion bears to his total income;

13 of 1960.

(b) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" on which super-tax has been or might have been deducted under the provisions of sub-section (2) of section 18 of the Income-tax Act, the super-tax payable by the assessee on that portion of his total income which consists of such inclusion shall be an amount bearing to the total amount of super-tax payable according to the rates applicable under the operation of the Finance Act, 1960, on his total income the same proportion as the amount of such inclusion bears to his total income.

31 of 1956.

(3) In making any assessment for the year ending on the 31st day of March, 1962, where the total income of a company, other than the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956, includes any profits and gains from life insurance business, the super-tax payable by it shall be the aggregate of the tax calculated—

(i) on the amount of profits and gains from life insurance business so included, at the rate applicable to the Life Insurance Corporation of India in accordance with Paragraph E of Part II of the First Schedule; and

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

(4) In cases to which section 17 of the Income-tax Act applies the tax chargeable shall be determined as provided in that section, and with reference to the rates imposed by sub-section (1).

(5) In cases in which tax has to be deducted under section 18 of the Income-tax Act at the prescribed rates, the deduction shall be made at the rates specified in Part III of the First Schedule.

(6) For the purposes of this section, and of the rates of tax imposed thereby, the expression "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Income-tax Act, and the expression "earned income" has the meaning assigned to it in clause (6AA) of section 2 of that Act.

Amendment  
of section 4.

3. In section 4 of the Income-tax Act, in sub-section (3),—

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

“(iii) Any income of an association or institution established in India having 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 specify in this behalf from time to time by notification in the Official Gazette:—

Provided that—

(i) the association or institution applies its income, or accumulates it for application, solely to the objects for which it is established;

(ii) no part of the income of the association or institution is distributed in any manner to its members except as grants to any association or institution affiliated to it; and

(iii) the association or institution is, for the time being, approved for the purpose of this clause by the Central Government by general or special order.”;

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

‘Provided further that in the case of a person referred to in this clause whose contract of service was approved by the Central Government before the commencement of his service, this clause shall have effect as if for the words “during the financial year in which he arrived in India and the financial year next following”, the words “during the thirty-six months commencing from the date of his arrival in India” had been substituted and as if the proviso immediately preceding had been omitted:

Provided also that where a person referred to in the proviso immediately preceding continues to remain in employment in India after the expiry of the thirty-six months commencing from the date of his arrival in India, the employer may, notwithstanding anything contained in section 200 of the Companies Act, 1956, pay to the Central Government the tax on the income of such person chargeable under the head ‘Salaries’ for a period not exceeding

twenty-four months following the expiry of the said thirty-six months and if the tax is so paid it shall not be included in his total income of the said period.;

(iii) in clause (xvi), after the words "International Bank for Reconstruction and Development," the words "or under a loan agreement between the Central Government and the Development Loan Fund of the United States of America," shall be inserted and after the words "under a loan agreement with the said Bank"; the words "or Fund, as the case may be," shall be inserted.

4. In section 7 of the Income-tax Act, in the proviso to *Explanation* 2, after the words "a Central, State or Provincial Act", the words, letters and figures "or any payment of retiring gratuity received after the 1st day of June, 1953, under the New Pension Code applicable to the members of the Defence Services" shall be inserted and shall be deemed always to have been inserted. Amendment of section 7.

5. In section 9 of the Income-tax Act, in sub-section (2), after the third proviso, the following proviso and *Explanation* shall be inserted, namely:— Amendment of section 7.

"Provided further that in respect of a building the erection of which is begun and completed after the 1st day of April, 1961, the annual value for a period of three years from the date of such completion shall be reduced by a sum equal to the aggregate of—

(a) in respect of any residential unit (comprised in the building) whose annual value does not exceed six hundred rupees, the amount thereof; and

(b) in respect of any residential unit (comprised in the building) whose annual value exceeds six hundred rupees, an amount of six hundred rupees,

so, however, that the income in respect of any residential unit shall in no case be a loss.

*Explanation.*—Where a residential unit is in the occupation of the owner for the purposes of his own residence, and the annual value thereof is computed in accordance with the first proviso, such computation shall be made as if the fourth proviso had been omitted."

6. In section 10 of the Income-tax Act, in sub-section (2),— Amendment of section 10.  
(i) in clause (vi), after the words "in the case of machinery or plant, to twenty per cent. of the cost thereof to the assessee:"

and before the proviso, the following paragraph shall be inserted, namely:—

“and where the buildings have been newly erected after the 31st day of March, 1961, such buildings being used solely for the purpose of residence of persons employed in the business and drawing remuneration not exceeding two hundred rupees per mensem or such buildings being used solely or mainly for the welfare of such persons as hospitals, creches, schools, canteens, libraries, recreational centres, shelters, rest rooms and lunch rooms, a sum (which shall not be deductible in determining the written down value for the purposes of this clause) equal to twenty per cent. of the actual cost of the building to the assessee in respect of the previous year of erection of the building:”;

(ii) in clause (vib),—

(1) for sub-clause (i) and sub-clause (ii), the following sub-clauses shall be substituted, namely:—

“(i) in the case of a ship acquired after the 31st day of December, 1957, forty per cent. and in the case of a ship acquired before the 1st day of January, 1958, twenty-five per cent. of the actual cost of the ship to the assessee; and

(ii) in the case of machinery or plant installed before the 1st day of April, 1961, twenty-five per cent. and in the case of machinery or plant installed after the 31st day of March, 1961, twenty per cent. of the actual cost of the machinery or plant to the assessee.”;

(2) in the first proviso, after the words “any person other than the Government”, the words “or for any consideration not connected with any amalgamation or succession referred to in clause (vic)” shall be inserted;

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

“(vic) (i) where in a scheme of amalgamation, a company (hereinafter in this sub-clause referred to as the predecessor) sells or otherwise transfers to the company formed in pursuance of the predecessor’s amalgamation with that company (hereinafter in this sub-clause referred to as the successor) any ship, machinery or plant in respect of which development rebate has been allowed to the predecessor under clause (vib),—

(1) the successor shall continue to fulfil the conditions mentioned in the first proviso to clause (vib) in

respect of the reserve created by the predecessor and in respect of the period within which such ship, machinery or plant shall not be sold or otherwise transferred and in default of any of these conditions, the provisions of sub-section (11) of section 35 shall apply to the successor as it would have applied to the predecessor had it committed the default;

(2) the balance of development rebate, if any, still outstanding to the predecessor in respect of such ship, machinery or plant shall be allowed to the successor in accordance with *Explanations* I and II of clause (vib), so, however, that the total period for which the balance of development rebate shall be carried forward in the assessments of the predecessor and the successor shall not exceed the period of eight years specified in *Explanation* I to clause (vib) and the successor shall be treated as the assessee in respect of such ship, machinery or plant for the purposes of clause (vib) and this sub-clause;

*Explanation.*—For the purposes of this sub-clause, “amalgamation” means the merger of two companies (each of which is hereinafter in this *Explanation* referred to as the amalgamating company) to form one company (hereinafter in this *Explanation* referred to as the amalgamated company) in such a manner that—

(a) all the property of the amalgamating companies immediately before the amalgamation becomes the property of the amalgamated company by virtue of the amalgamation;

(b) all the liabilities of the amalgamating companies immediately before the amalgamation become the liabilities of the amalgamated company by virtue of the amalgamation; and

(c) all the shareholders of the amalgamating companies immediately before the amalgamation become shareholders of the amalgamated company by virtue of the amalgamation,

otherwise than as a result of the acquisition of property of one company by another company pursuant to the purchase of such property by the other company or as a result of the distribution of such property to the other company after the winding up of the company;

(ii) where a firm is succeeded to by a private company, as defined in the Companies Act, 1956, in the business carried on by it as a result of which the firm sells or otherwise transfers to the private company any ship, machinery or plant, the provisions of sub-clause (i) of this clause shall, so far as may be, apply to the firm and the company;

*Explanation.*—The provisions of this sub-clause shall apply only where—

(a) all the property of the firm immediately before the succession becomes the property of the company;

(b) all the liabilities of the firm immediately before the succession become the liabilities of the company; and

(c) all the partners of the firm immediately before the succession become shareholders of the company;;

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

“(xiva) in respect of any special reserve created by a financial corporation which is engaged in providing long term finance for industrial development in India, an amount not exceeding ten per cent. of the total income carried to such reserve account:

Provided that the corporation is for the time being approved by the Central Government for the purposes of this clause:

Provided further that where the aggregate of the amounts carried to such reserve account from time to time exceeds the paid-up share capital (excluding the amounts capitalised from reserves) of the corporation no allowance under this clause shall be made in respect of such excess;”;

(v) in clause (xv), the following proviso shall be inserted, namely:—

“Provided that in the case of a company, no expenditure in the nature of entertainment expenditure shall be allowed which exceeds the aggregate amount computed as hereunder—

(i) on the first Rs. 10,00,000 of the profits and gains of the business [computed before making any allowance under clause (vib) or in respect of entertainment expenditure]

at the rate of  
1% or Rs. 5,000  
whichever is  
higher;

(ii) on the next Rs. 40,00,000 of the profits and gains of the business (computed in the manner aforesaid) .. at the rate of  $\frac{3}{4}\%$ ;

(iii) on the next Rs. 1,20,00,000 of the profits and gains of the business (computed in the manner aforesaid) .. at the rate of  $\frac{1}{2}\%$ ;

(iv) on the balance of the profits and gains of the business (computed in the manner aforesaid) ... *nil.*"

7. In section 15C of the Income-tax Act,—

Amendment  
of section  
15C.

(a) in sub-section (1), after the word "undertaking" wherever it occurs, the words "or hotel" shall be inserted;

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

"(2A) This section applies to any hotel which—

(a) starts functioning on or after the first day of April, 1961 and is not formed by the splitting up, or the reconstruction of, business already in existence or by the transfer to a new business of building, machinery or plant previously used in any other business;

(b) is owned and run by a company registered in the taxable territories with a paid-up capital of not less than five hundred thousand rupees;

(c) is run in premises which are owned by the company;

(d) has such number and types of guest rooms and provides such amenities as may be prescribed, having regard to the population and the tourist importance of the place in which the hotel is located; and

(e) is for the time being approved for the purposes of this sub-section by the Central Government.";

(c) in sub-sections (3) and (5), after the words "industrial undertaking", the words "or a hotel" shall be inserted;

(d) in sub-section (4),—

(i) after the words "industrial undertaking", the words "or a hotel" shall be inserted;

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

*Explanation.*—The amount of dividend in respect of which the tax is not payable under this sub-section shall be computed in accordance with such rules as may be made in this behalf by the Central Board of Revenue.”;

(e) in sub-section (6), for the words “shall apply”, the words “shall, in relation to an industrial undertaking, apply” shall be substituted;

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

“(7) The provisions of this section shall, in relation to a hotel, apply to the assessment for the financial year next following the previous year in which the hotel starts functioning and for the four assessments immediately succeeding.”.

Amendment  
of section  
23A.

8. In section 23A of the Income-tax Act, in sub-section (1),—

(a) in clause (ii), the word “or” shall be added at the end;  
**and**

(b) after clause (ii), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1960, namely:—

“(iii) that at least 75 per cent. of the share capital of the company is throughout the previous year beneficially held by an institution or fund established in the taxable territories for a charitable purpose the income whereof is exempt under clause (i) of sub-section (3) of section 4;”.

Amendment  
of section 35.

9. In section 35 of the Income-tax Act, in sub-section (11),—

(a) in clause (i), after the words “other than the Government”, the words “or for any consideration not connected with any amalgamation or succession referred to in clause (vic) of sub-section (2) of section 10”, shall be inserted;

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

*Explanation.*—For the purposes of this sub-section, a successor referred to in sub-clause (i) or sub-clause (ii) of clause (vic) of sub-section (2) of section 10 shall be deemed to be the assessee even in respect of an allowance by way of development rebate made to the predecessor, and any tax

resulting from the recomputation of the total income for any previous year of the predecessor shall be payable by the successor.”.

10. In section 56A of the Income-tax Act, in clause (i) of sub-section (1), after item (20), the following item shall be inserted, namely:— Amendment  
of section  
56A.

“(21) Refractories;”.

11. The Indian Tariff Act, 1934 (hereinafter referred to as the Tariff Act), shall be amended in the manner specified in the Second Schedule. Amendment  
of Act 32  
of 1934.

12. In the Indian Tariff (Amendment) Act, 1949, in sections 4 and 5, for the figures “1961”, the figures “1962” shall be substituted. Amendment  
of Act 1  
of 1949.

13. In the First Schedule to the Central Excises and Salt Act, 1944,— Amendment  
of Act 1  
of 1944.

(a) in Item No. 2, for the entry in the third column, the entry “Fifty-five rupees per quintal” shall be substituted;

(b) in Item No. 4,—

(1) under “I. Unmanufactured tobacco—”

(i) for sub-item (1), the following sub-item shall be substituted, namely:—

“(1) If flue cured and used in the manufacture of cigarettes. Two rupees and fifty naye paise.”;

(ii) in sub-item (4), for the entry in the third column, the entry “Two rupees” shall be substituted;

(iii) in sub-item (5), for the entry in the third column, the entry “One rupee and fourteen naye paise” shall be substituted;

(iv) in sub-item (8), for the entry in the third column, the entry “Twenty-two naye paise” shall be substituted;

(2) under “II. Manufactured tobacco—”

(i) for sub-item (1), the following sub-item shall be substituted, namely:—

“(1) Cigars and cheroots of which the value— Per hundred.

(i) exceeds Rs. 25 a hundred. Fifteen rupees.

- (ii) exceeds Rs. 15 a hundred, but does not exceed Rs. 25 a hundred. Nine rupees
- (iii) exceeds Rs. 5 a hundred, but does not exceed Rs. 15 a hundred. Three rupees.
- (iv) exceeds Rs. 1·25 a hundred, but does not exceed Rs. 5 a hundred. Seventy-five naye paise.”;

(ii) in sub-item (2),—

(A) for sub-items (2) (i), (2) (ii), (2) (iii) and (2) (iv), the following shall be substituted, namely:—

- “(i) exceeds Rs. 35 a thousand Twenty-three rupees and seventy-five naye paise.
- (ii) exceeds Rs. 30 a thousand, but does not exceed Rs. 35 a thousand. Twelve rupees and seventy-five naye paise.
- (iii) exceeds Rs. 25 a thousand, but does not exceed Rs. 30 a thousand. Eleven rupees and fifty naye paise.” ;

(B) sub-items (2)(v), (2)(vi), (2)(vii), (2) (viii) and (2) (ix) shall, respectively, be re-numbered as sub-items (2)(iv), (2)(v), (2)(vi), (2)(vii) and (2)(viii);

(c) in Item No. 7, for the entry in the third column, the entry “Ninety-five rupees and fifty-five naye paise per kilolitre at fifteen degrees of Centigrade thermometer” shall be substituted;

(d) in Item No. 9, for the entry in the third column, the entry “Sixteen per cent. *ad valorem* plus ninety-two rupees and ten naye paise per metric tonne” shall be substituted;

(e) in Item No. 13, for the entry in the third column, the entry “Twenty rupees per quintal” shall be substituted;

(f) in Item No. 14, for the entries in the third column against each of the sub-items specified below, the following entries as are set out in the corresponding column against that sub-item shall be substituted, namely:—

- I (i) (i) “Nineteen rupees and seventy-five naye paise per quintal.
- (ii) Seventy naye paise per kilogram.

- (2) Seventeen rupees and twenty-five naye paise per quintal.
- (3)
- (i) Seventeen rupees and twenty-five naye paise per quintal.
- (ii) Twenty-nine rupees and fifty naye paise per quintal.
- (iii) Forty-two naye paise per litre.
- (iv) Ninety-eight naye paise per litre.
- (4)
- (i) Seventy naye paise per kilogram.
- (ii) Seventeen rupees and twenty-five naye paise per quintal.
- (iii) Fifty-six naye paise per litre.
- (5) Seventeen rupees and twenty-five naye paise per quintal, if sold by weight;
- Fifty-six naye paise per litre, if sold by volume.
- II
- (i) Twenty-eight naye paise per litre,
- (ii) Eighteen naye paise per litre.
- III
- (i) One rupee and forty naye paise per litre;
- (ii) Fifty naye paise per kilogram, if sold by weight;
- Eighty-five naye paise per litre, if sold by volume." ;
- (g) after Item No. 14, the following Items shall be inserted, namely:—
- “14A. SODA ASH Two rupees per quintal.
- 14B. CAUSTIC SODA—
- (i) if in a solid form Four rupees per quintal.
- (ii) If in lye Four rupees per quintal on the basis of hundred per cent. strength of caustic soda.

- 14C. GLYCERINE. Seventeen rupees per quintal.
- 14D. DYES DERIVED FROM COAL TAR, AND COAL TAR DERIVATIVES USED IN ANY DYEING PROCESS, ALL SORTS. Fifteen per cent. *ad valorem*.
- 14E. PATENT OR PROPRIETARY MEDICINES AS DEFINED IN CLAUSE (h) OF SECTION 3 OF THE DRUGS ACT, 1940 (23 OF 1940), NOT CONTAINING ALCOHOL OR OPIUM, INDIAN HEMP, OR OTHER NARCOTIC DRUGS OR NARCOTICS. Ten per cent. *ad valorem*.
- 14F. COSMETICS AND TOILET PREPARATIONS NOT CONTAINING ALCOHOL OR OPIUM, INDIAN HEMP, OR OTHER NARCOTIC DRUGS OR NARCOTICS, NAMELY:—  
 (i) Face cream and snow.  
 (ii) Face powder.  
 (iii) Talcum powder.  
 (iv) Hair lotion, cream and pomade.

(h) after Item No. 15, under the heading **Chemicals**, the following items shall be inserted, namely:—

“15A. PLASTICS, ALL SORTS, Twenty per cent. *ad valorem*.  
 NAMELY:—

- (i) Moulding powders, granules and flakes (thermosetting and thermoplastic).  
 (ii) Polyethylene films, lay-flat tubings and P.V.C. sheets (that is to say, Polyvinyl Chloride sheets).

15B. CELLOPHANE, THAT IS, ANY FILM OR SHEET OF REGENERATED CELLULOSE. Twenty per cent. *ad valorem*.”

(i) in Item No. 17, for the entries in the third column against sub-items (1), (2), (4), (5), (6), (7), (8), (9) and (10), the entries “Fifty naye paise per kilogram”, “One rupee per kilogram”, “Thirty-five naye paise per kilogram”, “Fifteen naye paise per kilogram”, “Thirty-five naye paise per kilogram”, “Thirty-five naye paise per kilogram”, “Fifty naye paise per kilogram” and “Fifty naye paise per kilogram” shall, respectively, be substituted;

(j) after Item No. 18, the following Items shall be inserted, namely:—

18A. COTTON TWIST,  
YARN AND THREAD,  
ALL SORTS, in or in rela-  
tion to the manufacture of  
which any process is ordi-  
narily carried on with the aid  
of power—

- |                             |                                  |
|-----------------------------|----------------------------------|
| (1) of 35 or more counts ;  | Fifteen naye paise per kilogram. |
| (2) of less than 35 counts. | Ten naye paise per kilogram.     |

*Explanation.*—For multiple-fold yarn, “count” means the count of the basic single yarn.

18B. WOOLLEN YARN, ALL  
SORTS INCLUDING  
KNITTING WOOL, in or  
in relation to the manufac-  
ture of which any process is  
ordinarily carried on with  
the aid of power—

- |                    |                                    |
|--------------------|------------------------------------|
| (1) worsted yarn ; | Ten per cent. <i>ad valorem</i> .  |
| (2) others.        | Five per cent. <i>ad valorem</i> ; |

(k) after Item No. 23, the following Items shall be inserted, namely:—

23A. GLASS AND GLASS-  
WARE—

- |   |                                       |
|---|---------------------------------------|
| (1) Sheet glass and Plate glass.                                    | Ten per cent. <i>ad valorem</i> .     |
| (2) Laboratory glassware.   | Five per cent. <i>ad valorem</i> .    |
| (3) Glass shells, glass globes and chimneys for lamps and lanterns. | Ten per cent. <i>ad valorem</i> .     |
| (4) Other glassware including tableware.                            | Fifteen per cent. <i>ad valorem</i> . |

23B. CHINAWARE AND  
PORCELAINWARE, ALL  
SORTS,—

- |                              |                                       |
|------------------------------|---------------------------------------|
| (1) Tableware.               | Fifteen per cent. <i>ad valorem</i> . |
| (2) Sanitaryware.            | Fifteen per cent. <i>ad valorem</i> . |
| (3) Glazed tiles.            | Ten per cent. <i>ad valorem</i> .     |
| (4) Not otherwise specified. | Ten per cent. <i>ad valorem</i> ;     |

*Explanation.*—“Chinaware” includes all glazed clayware but does not include terracotta.

(l) after Item No. 26, the following Items shall be inserted, namely:—

**“26A. COPPER AND COPPER ALLOYS CONTAINING NOT LESS THAN FIFTY PER CENT. BY WEIGHT OF COPPER,—**

- (1) Manufactures, the following, namely, plates, sheets, circles, strips and foils in any form or size. Three hundred rupees per metric tonne.
- (2) Pipes and tubes. Ten per cent. *ad valorem*.

**26B. ZINC,—**

- (1) Manufactures, the following, namely, plates, sheets, circles, strips and foils in any form or size. Three hundred rupees per metric tonne.
- (2) Pipes and tubes. Ten per cent. *ad valorem*.”;

(m) in Item No. 27, after sub-item (b), the following sub-item shall be inserted, namely:—

“(c) Pipes and tubes. Ten per cent. *ad valorem*.”;

(n) after Item No. 29, the following Item shall be inserted, namely:—

**“29A. AIR CONDITIONING MACHINERY, ALL SORTS. Twenty per cent. *ad valorem*.”;**

(o) after Item No. 33, the following Item shall be inserted, namely:—

**“33A. WIRELESS RECEIVING SETS, ALL SORTS, INCLUDING TRANSISTOR SETS AND RADIOGRAMS, WITH OR WITHOUT LOUD-SPEAKER. Twenty per cent. *ad valorem*.”;**

(p) in Item No. 38, for the entry in the third column, the entry “Sixty-five naye paise for every 1,000 matches or fraction thereof” shall be substituted;

(q) after Item No. 39, the following Item shall be inserted, namely:—

**“40. REFRIGERATORS AND PARTS THEREOF, SUCH AS ARE SPECIALLY DESIGNED FOR USE WITH REFRIGERATORS. Twenty per cent. *ad valorem*.”;**

14. In the Central Sales Tax Act, 1956, in section 14,—

Amendment  
of Act 74 of  
1956.

- (i) in item (iia), for the figures "12", the figures "19" shall be substituted;
- (ii) in item (vii), for the figures and letter "12A", the figures "22" shall be substituted;
- (iii) in item (viii), for the figure "8", the figure "1" shall be substituted;
- (iv) in item (ix), for the figure "9", the figure "4" shall be substituted;
- (v) in item (x), for the figures and letter "12B", the figures "21" shall be substituted;
- (vi) after item (x), the following item shall be inserted and shall be deemed to have been inserted with effect from the 1st day of March, 1961, namely:—
  - "(xi) silk fabrics, as defined in Item 20 of the First Schedule to the Central Excises and Salt Act, 1944."

15. In the Additional Duties of Excise (Goods of Special Import-  
ance) Act, 1957,—

Amendment  
of Act 58 of  
1957.

- (a) in clause (c) of section 2,—
  - (i) after the words "cotton fabrics", the words "silk fabrics" shall be inserted;
  - (ii) after the figures "19," the figures "20," shall be inserted;
- (b) in sub-section (1) of section 3, after the words "cotton fabrics," the words "silk fabrics," shall be inserted;
- (c) in the First Schedule,—
  - (1) in Item No. 4,—
    - (i) under "I. Unmanufactured tobacco", for sub-item (1), the following sub-item shall be substituted, namely:—
 

“(1) if flue cured and used in the manufacture of cigarettes.	Nil”;
--	-------
    - (ii) under "II. Manufactured tobacco"—
      - (A) for sub-item (1), the following sub-item shall be substituted, namely:—
 

“(1) Cigars and cheroots of which the value—	Per hundred.
(i) exceeds Rs. 25 a hundred.	Three rupees and seventy-five naye paise.

- (ii) exceeds Rs. 15 a hundred, but does not exceed Rs. 25 a hundred. Two rupees and twenty-five naye paise.
- (iii) exceeds Rs. 5 a hundred, but does not exceed Rs. 15 a hundred. Seventy-five naye paise.
- (iv) exceeds Rs. 1·25 a hundred, but does not exceed Rs. 5 a hundred. Fifteen naye paise.”;

(B) in sub-item (2), for sub-items (2)(i) and (2)(ii), the following shall be substituted, namely:—

“(2)(i) exceeds Rs. 35 a thousand. Seven rupees and seventy naye paise.”;

(C) the sub-items (2) (iii), (2) (iv), (2) (v), (2) (vi), (2) (vii), (2) (viii) and (2) (ix) shall, respectively, be re-numbered as sub-items (2) (ii), (2) (iii), (2) (iv), (2) (v), (2) (vi), (2) (vii) and (2) (viii);

(2) after Item No. 19, the following Item shall be inserted, namely:—

“20. SILK FABRICS.

Thirty naye paise per square metre.”;

(d) in the Second Schedule, in Part III,—

(i) in clause (a) of paragraph 5, after the words “cotton fabrics,” the words “silk fabrics,” shall be inserted; and

(ii) in the proviso to paragraph 6, after the words “cotton fabrics”, the words “silk fabrics” shall be inserted.

Amendment  
of Act 2  
of 1899.

16. In Schedule I to the Indian Stamp Act, 1899, in entry 47,—

(a) in sub-entry A(1) (i), in the first column, the words “fifteen naye paise or” shall be omitted; and

(b) in sub-entry E, in the second column, the following proviso shall be inserted, namely:—

“Provided that if the total amount of duty payable is not a multiple of five naye paise, the total amount shall be rounded off to the next higher multiple of five naye paise.”.

Discontinu-  
ance of salt  
duty.

17. For the year beginning on the first day of April, 1961, no duty under the Central Excises and Salt Act, 1944 or the Tariff Act shall be levied in respect of salt manufactured in, or imported into, India.

THE FIRST SCHEDULE

(See section 2)

PART I

Income-tax and surcharges on income-tax

Paragraph A

(i) In the case of every individual who is married and every Hindu undivided family whose total income does not exceed Rs. 20,000 in either case—

Rates of Income-tax

Where the individual has no child wholly or mainly dependent on him or where the Hindu undivided family has no minor coparcener.	Where the individual has one child wholly or mainly dependent on him or where the Hindu undivided family has one minor coparcener.	Where the individual has more than one child wholly or mainly dependent on him or where the Hindu undivided family has more than one minor coparcener.
--	--	--

	Rs.	Rs.	Rs.	
(1) On the first	3,000 of total income.	3,300 of total income.	3,600 of total income.	Nil
(2) On the next	2,000 "	1,700 "	1,400 "	3%
(3) On the next	2,500 "	2,500 "	2,500 "	6%
(4) On the next	2,500 "	2,500 "	2,500 "	9%
(5) On the next	2,500 "	2,500 "	2,500 "	11%
(6) On the next	2,500 "	2,500 "	2,500 "	14%
(7) On the next	5,000 "	5,000 "	5,000 "	18%;

(ii) In the case of every individual who is not married and every individual or Hindu undivided family whose total income in either case exceeds Rs. 20,000 and in the case of every unregistered firm or other association of persons, not being a case to which any other Paragraph of this Part applies:—

	Rs.	
(1) On the first	1,000 of total income	Nil
(2) On the next	4,000 " "	3%
(3) On the next	2,500 " "	6%
(4) On the next	2,500 " "	9%
(5) On the next	2,500 " "	11%
(6) On the next	2,500 " "	14%
(7) On the next	5,000 " "	18%
(8) On the balance of total income		25%:

Provided that for the purposes of this Paragraph—

(i) no income-tax shall be payable on a total income which does not exceed the limit specified below;

(ii) the income-tax payable shall in no case exceed half the amount by which the total income exceeds the said limit;

(iii) the income-tax payable by an individual who is married or a Hindu undivided family whose total income exceeds in either case Rs. 20,000 shall not exceed the aggregate of—

(a) the income-tax which would have been payable if the total income had been Rs. 20,000;

(b) half the amount by which the total income exceeds Rs. 20,000;

The limit aforesaid shall be—

(i) Rs. 6,000 in the case of every Hindu undivided family which as at the end of the previous year satisfies either of the following conditions, namely:—

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

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

(ii) Rs. 3,000 in every other case.

#### *Surcharges on income-tax*

The amount of income-tax computed at the rates hereinbefore specified shall be increased by the aggregate of the surcharges calculated as under:—

(a) A surcharge for purposes of the Union equal to the sum of—

(i) five per cent. of the amount of income-tax; and

(ii) where the earned income included in the total income exceeds Rs. 1,00,000, ten per cent. of the difference between the amount of income-tax which would have been payable on the whole of the earned income included in the total income if such earned income had been the total income and the amount of income-tax payable on a total income of Rs. 1,00,000;

(b) A special surcharge at fifteen per cent. of the difference between the amount of income-tax on the total income and the amount of income-tax on the whole of the earned income, if any,

included in the total income if such earned income had been the total income:

Provided that—

(i) no surcharge for purposes of the Union shall be payable where the total income does not exceed the limit specified below;

(ii) no special surcharge shall be payable in the case of an assessee whose total income does not include any income from dividend on ordinary shares if his total income does not exceed the limit specified below, and where the total income includes any dividends on ordinary shares, such limit shall be increased by Rs. 1,500 or the amount of the said dividends, whichever is less:

Provided further that—

(a) where the total income includes any dividends on ordinary shares, the surcharge for purposes of the Union and the special surcharge shall not in each case exceed half the amount by which the total income exceeds the respective limits applicable in either case;

(b) the surcharge for purposes of the Union and the special surcharge, both together, shall not exceed half the amount by which the total income exceeds the limit specified below;

The limit aforesaid shall be—

(i) Rs. 15,000 in the case of every Hindu undivided family which satisfies as at the end of the previous year either of the following conditions, namely:—

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

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

(ii) Rs. 7,500 in every other case.

*Explanation.*—For the purposes of this Paragraph, in the case of every Hindu undivided family governed by the *Mitakshara* law, a son shall be deemed to be entitled to claim partition of the coparcenary property against his father, or grand-father notwithstanding any custom to the contrary.

## Paragraph B

In the case of every local authority,—

## Rate of income-tax

On the whole of the total income .. 30%

## Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified shall be increased by a surcharge for purposes of the Union of 5 per cent. of the amount of income-tax.

## Paragraph C

In every case in which under the provisions of the Income-tax Act, income-tax is to be charged at the maximum rate,—

## Rate of income-tax

On the whole of the total income ... 25%

## Surcharges on income-tax

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

(a) a surcharge for purposes of the Union of five per cent. of the amount of income-tax; and

(b) a special surcharge of fifteen per cent. of the amount of income-tax.

## Paragraph D

In the case of every company,—

## Rate of income-tax

(1) On the whole of the total income. ... 20%

## Paragraph E

In the case of every registered firm,—

## Rates of income-tax

(1) On the first Rs. 40,000 of total income	.. Nil
(2) On the next Rs. 35,000 of total income	.. 5%
(3) On the next Rs. 75,000 of total income	.. 6%
(4) On the balance of total income	.. 9%

## PART II

*Super-tax and surcharges on super-tax*  
Paragraph A

In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which any other Paragraph of this Part applies,—

*Rates of super-tax*

(1) On the first Rs. 20,000 of total income	Nil
(2) On the next Rs. 5,000 of total income	.. 5%
(3) On the next Rs. 5,000 of total income	... 15%
(4) On the next Rs. 10,000 of total income	... 20%
(5) On the next Rs. 10,000 of total income	.. 30%
(6) On the next Rs. 10,000 of total income	... 35%
(7) On the next Rs. 10,000 of total income	... 40%
(8) On the balance of total income	... 45%

*Surcharges on super-tax*

The amount of super-tax computed at the rates hereinbefore specified shall be increased by the aggregate of the surcharges calculated as under:—

(a) A surcharge for purposes of the Union equal to the sum of—

(i) five per cent. of the amount of super-tax; and

(ii) where the earned income included in the total income exceeds Rs. 1,00,000, ten per cent. of the difference between the amount of super-tax which would have been payable on the whole of the earned income included in the total income, if such earned income had been the total income and the amount of super-tax payable on a total income of Rs. 1,00,000;

(b) A special surcharge at fifteen per cent. of the difference between the amount of super-tax on the total income and the amount of super-tax on the whole of the earned income, if any, included in the total income, if such earned income had been the total income.

*Paragraph B*

In the case of every local authority,—

*Rate of super-tax*

On the whole of the total income 16%

*Surcharge on super-tax*

The amount of super-tax computed at the rates hereinbefore specified shall be increased by a surcharge for purposes of the Union of 12½ per cent. of the amount of super-tax.

*Paragraph C*

In the case of every association of persons being a co-operative society as defined in clause (5B) of section 2 of the Income-tax Act,—

*Rates of super-tax*

- |   |     |
|---|-----|
| (1) On the first Rs. 25,000 of total income .. .. | Nil |
| (2) On the balance of total income .. ..          | 16% |

*Surcharge on super-tax*

The amount of super-tax computed at the rates hereinbefore specified shall be increased by a surcharge for purposes of the Union of 12½ per cent. of the amount of super-tax.

*Paragraph D*

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

31 of 1956.

*Rates of super-tax*

On the whole of the total income .. 55%  
 Provided that—

(i) a rebate at the rate of 45 per cent. on so much of the total income as consists of dividends from a subsidiary Indian company formed and registered before the 1st day of April, 1961; at the rate of 40 per cent. on so much of the total income as consists of dividends from any other Indian company formed and registered on or after the 1st day of April, 1959; and at the rate of 35 per cent. on the balance of the total income shall be allowed in the case of any company which—

(a) in respect of its profits liable to tax under the Income-tax Act for the year ending on the 31st day of March, 1962, has made the prescribed arrangements for the declaration and payment within India of the dividends payable out of such profits in accordance with the provisions of sub-section (3D) of section 18 of that Act; and

(b) is such a company as is referred to in sub-section (9) of section 23A of the Income-tax Act with a total income not exceeding Rs. 25,000;

(ii) a rebate at the rate of 45 per cent. on so much of the total income as consists of dividends from a subsidiary Indian company formed and registered before the 1st day of April, 1961; at the rate of 35 per cent. on so much of the total income as consists of dividends from any other Indian company formed and registered on or after the 1st day of April, 1959; and at the rate of 30 per cent. on the balance of the total income shall be allowed in the case of ~~any Indian company which satisfies~~ condition (a) but not condition (b) of the preceding clause;

any company which satisfies

(iii) a rebate at the rate of 45 per cent. on so much of the total income as consists of dividends from a subsidiary Indian company formed and registered before the 1st day of April, 1961; at the rate of 35 per cent. on so much of the total income as consists of dividends from any other Indian company formed and registered on or after the 1st day of April, 1959; at the rate of 25 per cent. on so much of the total income as consists of royalties received from an Indian concern in pursuance of an agreement made by it with the Indian concern on or after the 1st day of April, 1961 and which has been approved by the Central Government in this behalf; and at the rate of 12 per cent. on the balance of the total income shall be allowed in the case of any company not entitled to a rebate under either of the preceding clauses:

Provided further that—

(i) the amount of the rebate under clause (i) or clause (ii) of the preceding proviso shall be reduced by the sum, if any, equal to the amount or the aggregate of the amounts, as the case may be, computed as hereunder:—

(a) on the aggregate of the sums computed in the manner provided in clause (i) of the second proviso to Paragraph D of Part II of the First Schedule to the Finance Act, 1960 as reduced by the amount, if any, which is deemed to have been taken into account, in accordance with clause (ii) of the said proviso, for the purpose of reducing the rebate mentioned in clause (i) of the said proviso to nil; and

(b) on the amount representing the face value of any at the rate of 12½% bonus shares or the amount of any bonus issued to its shareholders during the previous year with a view to increasing the paid-up capital;

13 of 1960.

↓ Subs. by Act 20 of 1962, S. 14 (Retrospectively)

(ii) where the sum arrived at in accordance with clause (i) of this proviso exceeds the amount of the rebate arrived at in accordance with clause (i) or clause (ii), as the case may be, of the preceding proviso, only so much of the amounts of reduction mentioned in sub-clauses (a) and (b) of clause (i) of this proviso as is sufficient, in that order, to reduce the rebate to *nil* shall be deemed to have been taken into account for the purpose:

Provided further that the super-tax payable by a company, the total income of which exceeds rupees twenty-five thousand, shall not exceed the aggregate of—

(a) the super-tax which would have been payable by the company if its total income had been rupees twenty-five thousand; and

(b) half the amount by which its total income exceeds rupees twenty-five thousand.

*Explanation.*—For the purposes of this Paragraph, where any portion of the profits and gains of a company is not included in its total income by reason of such portion being agricultural income, the amount representing the face value of any bonus shares and the amount of any bonus issued to its shareholders shall each be deemed to be such proportion thereof as the average of the total income of the company in the five previous years in which the company has been in receipt of taxable income immediately preceding the relevant previous year bears to the average of its total profits and gains (excluding capital receipts) for the preceding five years aforesaid, reduced by such allowances as may be admissible under the Income-tax Act which have not been taken into account by the company in its profit and loss accounts for the preceding five years aforesaid.

#### Paragraph E

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

#### Rate of super-tax

On the whole of its profits and gains from life insurance business

22 5%

### PART III

*Rates for deduction of tax under section 18 of the Income-tax Act at the prescribed rates*

In every case in which under the provisions of section 18 of the Income-tax Act, tax is to be deducted at the prescribed rates,

deduction shall be made from the income subject to deduction at the following rates:—

	Income-tax			Super-tax	
	Rate of income-tax	Rates of surcharges		Rate of super-tax	Rates of surcharges
		Surcharge for purposes of the Union	Special surcharge		
1. In the case of a person other than a company—					
(a) in every case, on the whole income (excluding interest payable on any security of the Central Government issued or declared to be income-tax free), and	25%	1.25%	3.75%		
(b) in addition, where the person is one whom the person responsible for paying the income has no reason to believe to be resident in the taxable territories, on the whole income.					Super-tax and surcharges on super-tax in accordance with the provisions of clause (b) of subsection (1) of section 17 of the Income-tax Act.
				Rate of income-tax	Rate of super-tax
2. In the case of a company—					
(a) in every case—					
(i) on the whole income (excluding interest payable on any security of the Central Government issued or declared to be income-tax free); and				20%	
(ii) on the whole income (excluding dividends payable by an Indian company referred to in section 56A of the Income-tax Act); and				10%	
(b) in addition, where the company is neither an Indian company nor a company which has made the prescribed arrangements for the declaration and payment of dividends within India,—					
(i) on the income from dividends (excluding dividends payable by an Indian company referred to in section 56A of the Income-tax Act)—					
(1) on dividends payable by any of its subsidiary Indian companies formed and registered before the 1st day of April, 1961				Nil	
(2) on dividends payable by any other Indian company formed and registered on or after the 1st day of April, 1959				10%	
(3) on any other dividends				33%	
(ii) on the income from royalties payable by an Indian concern in pursuance of an agreement which is made by it with the Indian concern on or after the 1st day of April, 1961 and which has been approved by the Central Government in this behalf				20%	
(iii) on any other income, not being income from dividends				33%	

## THE SECOND SCHEDULE

(See section 11)

## PART I

In the First Schedule to the Tariff Act,—

(i) in Item No. 8(2), for the entries in the fourth and sixth columns, the entries "50 per cent. *ad valorem*" and "40 per cent. *ad valorem*", respectively, shall be substituted;

(ii) in Item No. 9(3), for the entries in the fourth and sixth columns, the entries "100 per cent. *ad valorem*" and "92½ per cent. *ad valorem*", respectively, shall be substituted;

(iii) in Item No. 9(5), for the entries in the fourth and sixth columns, the entries "Rs. 3·07 per kilogram" and "Rs. 3·00 per kilogram", respectively, shall be substituted;

(iv) in Item No. 12(4), in the third column, the word "Revenue" shall be inserted, and for the entry in the fourth column, the entry "50 per cent. *ad valorem*" shall be substituted;

(v) in Item No. 22(3), for the entries in the fourth column against sub-items (a) and (b), the entries "Rs. ~~23·50~~ per litre" and "Rs. 14·70 per litre", respectively, shall be substituted; [23·50]

(vi) in Item No. 22(4),—

(1) for the entry in the fourth column against sub-item (a), the entry "Rs. 44·00 per litre of the strength of London proof or 170 per cent. *ad valorem*, whichever is higher" shall be substituted;

(2) for the entry in the fourth column against sub-item (b) (i), the entry "Rs. ~~58·70~~ per litre or 170 per cent. *ad valorem*, whichever is higher, plus the excise duty for the time being leviable on like articles if produced or manufactured in India, and where such duty is leviable at different rates, the highest duty" shall be substituted; [58·70]

(3) for the entry in the fourth column against sub-item (b) (ii), the entry "Rs. 44·00 per litre of the strength of London proof or 170 per cent. *ad valorem*, whichever is higher, plus the excise duty for the time being leviable on like articles if produced or manufactured in India, and where such duty is leviable at different rates, the highest duty" shall be substituted;

(vii) in Items Nos. 22(5)(b)(i) and 22(5)(b)(ii), in each of the entries in the fourth, fifth and sixth columns, the words

“, plus the excise duty for the time being leviable on like articles if produced or manufactured in India, and where such duty is leviable at different rates, the highest duty” shall be added at the end;

(viii) in Item No. 24(3), for the entries in the fourth and sixth columns, the entry “Rs. 33.00 per kilogram” shall be substituted;

(ix) in Item No. 28A, in each of the entries in the fourth, fifth and sixth columns, the words “, plus the excise duty for the time being leviable on like articles if produced or manufactured in India, and where such duty is leviable at different rates, the highest duty” shall be added at the end;

(x) in Items Nos. 28(3) and 39, for the entry against each of them in the fourth column, the entry “10 per cent. *ad valorem*” shall be substituted;

(xi) in Items Nos. 28(4), 28(14), 28(30), 28(34), 30(1), 30(13), 30(15), 30(16), 47(3), 47(4), 47(5), 47(6), 48(3), 48(7), 48(8), 48(9) and 70(1), in the entry or entries against each of them in the fourth column, the words “, plus the excise duty for the time being leviable on like articles if produced or manufactured in India, and where such duty is leviable at different rates, the highest duty” shall be added at the end;

(xii) in Items Nos. 28(8) and 66(b), for the entry against each of them in the fourth column, the entry “50 per cent. *ad valorem*, plus the excise duty for the time being leviable on like articles if produced or manufactured in India, and where such duty is leviable at different rates, the highest duty” shall be substituted;

(xiii) in Item No. 30, for the figures “40” and “30” in the fourth and fifth columns, the figures “50” and “40”, respectively, shall be substituted;

(xiv) in Items Nos. 31, 31(2), 31(3), 45(b), 45(c) and 71(b), for the entry against each of them in the fourth column, the entry “75 per cent. *ad valorem*” shall be substituted;

(xv) in Item No. 31(1), for the entries in the fourth and sixth columns, the entries “75 per cent. *ad valorem*” and “65 per cent. *ad valorem*”, respectively, shall be substituted;

(xvi) in Items Nos. 39(1), 39(2), 39(3), 40, 63(28) and 87, for the entry against each of them in the fourth column, the entry “50 per cent. *ad valorem*” shall be substituted;

(xvii) in Item No. 44, for the figures "40" in the fourth column, the figures "50" shall be substituted;

(xviii) in Items Nos. 45(a), 53, 80 and 81, for the entry against each of them in the fourth column, the entry "100 per cent. *ad valorem*" shall be substituted;

(xix) in Items Nos. 72, 72(1), 72(2) and 72(3), for the entry against each of them in the fourth column, the entry "15 per cent. *ad valorem*" shall be substituted;

(xx) in Items Nos. 73, 73(1) and 77, for the entries against each of them in the fourth and fifth columns, the entries "50 per cent. *ad valorem*" and "40 per cent. *ad valorem*", respectively, shall be substituted;

(xxi) in Items Nos. 73(21), 73(22) and 75(19), for the entry against each of them in the fourth column, the following entry shall be substituted, namely:—

"The excise duty for the time being leviable on like articles if produced or manufactured in India, and where such duty is leviable at different rates, the highest duty; and the duty so leviable shall be in addition to the duty which would have been levied if this entry had not been inserted.";

(xxii) in Items Nos. 74(2) and 74(3), for the entry against each of them in the fourth column, the entry "25 per cent. *ad valorem*" shall be substituted; and

(xxiii) in Item No. 75(1), for the figures "75" in the fourth column, the figures "100" shall be substituted.

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## PART II

Item No.	Name of Article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty
				The United Kingdom	A British Colony	
1	2	3	4	5	6	7

In the First Schedule to the Tariff Act,—

(i) after item No. 12 (4), the following Item shall be inserted, namely:—

“I 2(4A)	Malt	Revenue	100 per cent. <i>ad valorem</i>	..	..	..”;
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(ii) after item No. 59 (6), the following Item shall be inserted, namely:—

“59 (7)	Chinaware and Porcelainware all sorts,— (1) Tableware. (2) Sanitaryware. (3) Glazed tiles. (4) Not otherwise specified.	Revenue	The excise duty for the time being leviable on like articles if produced or manufactured in India, and where such duty is leviable at different rates, the highest duty; and the duty so leviable shall be in addition to the duty which would have been levied if this entry had not been inserted.	..	..	..”;
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*Explanation.*—‘Chinaware’ includes all glazed clayware but does not include terracotta.

(iii) after item No. 6c(8), the following Item shall be inserted, namely:—

“6c(9)	Glass and glassware,— (1) Sheet glass and Plate glass. (2) Laboratory glassware. (3) Glass shells, glass globes and chimneys for lamps and lanterns.	Revenue	The excise duty for the time being leviable on like articles if produced or manufactured in India, and where such duty is leviable at different rates, the highest duty; and the duty	..	..	..”;
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Finance

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1	2	3	4	5	6	7
	(4) Other glassware including tableware.			so leviable shall be in addition to the duty which would have been levied if this entry had not been inserted.		

(iv) after Item No. 63 (14), the following Item shall be inserted, namely :—

"63(14A)	High carbon steel strips of thickness 5 mm. or below.	Preferential Revenue.	50 per cent. <i>ad valorem</i> .	40 per cent. <i>ad valorem</i> .	..	.. "
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(v) after Item No. 64(5), the following Item shall be inserted, namely :—

"64 (6)	Copper and copper alloys containing not less than fifty per cent. by weight of copper— (1) Manufactures, the following, namely, plates, sheets, circles, strips and foils in any form or size. (2) Pipes and tubes	Revenue	The excise duty for the time being leviable on like articles if produced or manufactured in India, and where such duty is leviable at different rates, the highest duty; and the duty so leviable shall be in addition to the duty which would have been levied if this entry had not been inserted.	..	..	.. "
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(vi) after Item No. 68(4), the following Item shall be inserted, namely :—

"68(5)	Zinc— (1) Manufactures, the following, namely, plates, sheets, circles, strips and foils in any form or size. (2) Pipes and tubes	Revenue	The excise duty for the time being leviable on like articles if produced or manufactured in India, and where such duty is leviable at different rates, the highest duty; and the duty so leviable shall be in addition to the duty which would have been levied if this entry had not been inserted.	..	..	.. "
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(vii) after Item No. 72 (40), the following Item shall be inserted, namely :—

“72 (41)	Refrigerators and parts thereof, such as are specially designed for use with refrigerators ; and air conditioning machinery, all sorts.	Revenue	The excise duty for the time being leviable on like articles if produced or manufactured in India, and where such duty is leviable at different rates, the highest duty ; and the duty so leviable shall be in addition to the duty which would have been levied if this entry had not been inserted.	..	..	..” ;
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(viii) after Item No. 73(4), the following item shall be inserted, namely :—

“73(4A)	Wireless receiving sets, all sorts, including transistor sets and radiograms, with or without loudspeaker.	Revenue	The excise duty for the time being leviable on like articles if produced or manufactured in India, and where such duty is leviable at different rates, the highest duty ; and the duty so leviable shall be in addition to the duty which would have been levied if this entry had not been inserted.	..	..	..” ;
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(ix) after Item No. 73 (22), the following Item shall be inserted, namely :—

“73(23)	Nichrome and other electrical resistance wires and strips.	Revenue	100 per cent. <i>ad valorem</i> .	..	..	..” ;
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(x) after Item No. 82(5), the following Item shall be inserted, namely :—

“82(6) (A)	Plastics, all sorts, namely :— (i) Moulding powders, granules and flakes (thermosetting and thermoplastic),	Revenue	The excise duty for the time being leviable on like articles if produced or manufactured in India, and where such duty is	..	..	..” ;
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OR 1961

Finance

1	2	3	4	5	6	7
	(ii) Polyethylene films, layflat tubings and P. V. C. sheets (that is to say, Polyvinyl Chloride sheets).		leviable at different rates, the highest duty; and the duty so leviable shall be in addition to the duty which would have been levied if this entry had not been inserted.			
	(B) Cellophane, that is, any film or sheet of regenerated cellulose.	Revenue	The excise duty for the time being leviable on like articles if produced or manufactured in India, and where such duty is leviable at different rates, the highest duty; and the duty so leviable shall be in addition to the duty which would have been levied if this entry had not been inserted.	...	...	..

Rep: by Act 52 of 1961, s. 2 & Sch. I (w.e.f. 29.12.64)

THE TELEGRAPH LAWS (AMENDMENT) ACT, 1961  
No. 15 OF 1961

[2nd May, 1961]

An Act further to amend the Indian Telegraph Act, 1885 and the Indian Wireless Telegraphy Act, 1933.

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

1. This Act may be called the Telegraph Laws (Amendment) Act, 1961. Short title.

13 of 1885. 2. In the Indian Telegraph Act, 1885 (hereinafter referred to as the Telegraph Act), in section 3, for clause (1), the following clause shall be substituted, namely:— Amendment of section 3.

“(1) “telegraph” means any appliance, instrument, material or apparatus used or capable of use for transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature by wire, visual or other electro-magnetic emissions, Radio waves or Hertzian waves, galvanic, electric or magnetic means;

*Explanation.*—“Radio waves” or “Hertzian waves” means electro-magnetic waves of frequencies lower than 3,000 gigacycles per second propagated in space without artificial guide:”

3. In section 7 of the Telegraph Act,— Amendment of section 7.

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

“(jj) the qualifications to be possessed and the examinations, if any, to be passed by the persons employed for the establishment, maintenance or working of any telegraph and the fees to be charged for admission to such examinations;”;

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

“(5) Every rule made under this section shall be laid as soon as may be after it is made before each House of

Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, 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."

Amendment  
of section 2.

4. In the Indian Wireless Telegraphy Act, 1933. (hereinafter 17 of 1933 referred to as the Telegraphy Act), in section 2,—

(a) for clause (1), the following clause shall be substituted, namely:—

'(1) "wireless communication" means any transmission, emission or reception of signs, signals, writing, images and sounds, or intelligence of any nature by means of electricity, magnetism, or Radio waves or Hertzian waves, without the use of wires or other continuous electrical conductors between the transmitting and the receiving apparatus;

*Explanation.*—"Radio waves" or "Hertzian waves" means electro-magnetic waves of frequencies lower than 3,000 gigacycles per second propagated in space without artificial guide;";

(b) for clause (2A), the following clause shall be substituted, namely:—

'(2A) "wireless transmitter" means any apparatus, appliance, instrument or material used or capable of use for transmission or emission of wireless communication;'

Amendment  
of section  
10.

5. In the Telegraphy Act, in section 10, after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule

Rep. by Act 52 of 1964.

of 1961]

Telegraph Laws (Amendment)

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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."

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*Rep. by Act 52 of 1964, s. 2 + sec. I (w.e.f. 29.12.64)*

THE INDUSTRIAL EMPLOYMENT (STANDING  
ORDERS) AMENDMENT ACT, 1961

No. 16 OF 1961

[2nd May, 1961]

An Act further to amend the Industrial Employment (Standing Orders) Act, 1946.

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

**Short title.** 1. This Act may be called the Industrial Employment (Standing Orders) Amendment Act, 1961.

**Amendment of section 1.** 2. In section 1 of the Industrial Employment (Standing Orders) Act, 1946 (hereinafter referred to as the principal Act), for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) It applies to every industrial establishment wherein one hundred or more workmen are employed, or were employed on any day of the preceding twelve months:

Provided that the appropriate Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act to any industrial establishment employing such number of persons less than one hundred as may be specified in the notification:

Provided further that nothing in this Act shall apply to any industry to which the provisions of Chapter VII of the Bombay Industrial Relations Act, 1946 apply or to any industrial establishment to which the provisions of the Madhya Pradesh Industrial Workmen (Standing Orders) Act, 1959 apply.”

**Amendment of section 2.**

3. In section 2 of the principal Act,—

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

“(c) ‘Certifying Officer’ means a Labour Commissioner or a Regional Labour Commissioner, and includes any other officer appointed by the appropriate Government, by notifi-

*Rep. by Act 52 of 1964*

[ACT 16 OF 1961] Industrial Employment (Standing Orders) 93  
Amendment

cation in the Official Gazette, to perform all or any of the functions of a Certifying Officer under this Act;”;

25 of 1934. (ii) in sub-clause (i) of clause (d), for the words, letter, brackets and figures ‘clause (e) of sub-section (1) of section 9 of the Factories Act, 1934’, the words, letter, brackets and figures ‘clause (f) of sub-section (1) of section 7 of the Factories Act, 1948’ shall be substituted;

63 of 1948.

(iii) in clause (e), for sub-clause (ii), the following sub-clause shall be substituted, namely:—

63 of 1948. “(ii) a factory as defined in clause (m) of section 2 of the Factories Act, 1948, or”;

34 of 1934. (iv) in sub-clause (i) of clause (i), for the words, brackets and figures “the Navy (Discipline) Act, 1934”, the words and figures “the Navy Act, 1957” shall be substituted.

62 of 1957.

4. In section 6 of the principal Act, in sub-section (1), for the words “twenty-one days”, the words “thirty days” shall be substituted. Amendment of section 6.

5. After section 14 of the principal Act, the following section shall be inserted, namely:— Insertion of new Section 14A.

“14A. The Central Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act or rules made thereunder shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by such officer or authority subordinate to the Central Government or by the State Government or by such officer or authority subordinate to the State Government, as may be specified in the notification.” Delegation of powers.

6. In section 15 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:— Amendment of section 15.

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

Rep. by Act 52 of 1964

94 *Industrial Employment (Standing Orders) Amendment* [ACT 16 OF 1961]

in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”

Rep. by Act 52 of 1964, S. 2 + sub. I (w.c.f. 29.12.64)

THE ESSENTIAL COMMODITIES (AMENDMENT)  
ACT, 1961

NO. 17 OF 1961

[10th May, 1961]

An Act further to amend the Essential Commodities Act, 1955.

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

1. This Act may be called the Essential Commodities (Amendment) Act, 1961. Short title.

10 of 1955. 2. In the Essential Commodities Act, 1955, in section 3, in sub-section (2),— Amendment of section 3.

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

“(ii) for the grant or issue of licences, permits or other documents, the charging of fees therefor, the deposit of such sum, if any, as may be specified in the order as security for the due performance of the conditions of any such licence, permit or other document, the forfeiture of the sum so deposited or any part thereof for contravention of any such conditions, and the adjudication of such forfeiture by such authority as may be specified in the order;”;

(b) in clause (j),—

(i) after the word “aircraft”, the word “and” shall be inserted; and

(ii) the words “the grant or issue of licences, permits or other documents, and the charging of fees therefor” shall be omitted.

THE ORISSA APPROPRIATION (No. 2) ACT, 1961

No. 18 OF 1961

[11th May, 1961]

An Act to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Orissa for the services of the financial year 1961-62.

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

Short title. 1. This Act may be called the Orissa Appropriation (No. 2) Act, 1961.

Issue of Rs. 93,83,38,239 out of the Consolidated Fund of the State of Orissa for the year 1961-62. 2. From and out of the Consolidated Fund of the State of Orissa 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 Orissa Appropriation (Vote on Account) Act, 1961] to the sums of 10 of 1961 ninety-three crores, eighty-three lakhs, thirty-eight thousand, two hundred and thirty-nine rupees towards defraying the several charges which will come in course of payment during the financial year 1961-62 in respect of the services specified in column 2 of the Schedule.

Appropriation. 3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Orissa 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 Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
1	Election and Other Expenditure relating to the Home Department . . . . .	40,06,074	6,14,578	46,20,652
2	Jails . . . . .	37,35,171	..	37,35,171
3	Police . . . . .	2,30,81,391	..	2,30,81,391
4	Expenditure relating to the Planning and Co-ordination and Political and Services Departments . . . . .	48,01,867	1,75,000	49,76,867
5	Community Development Projects, etc. . . . .	4,40,46,604	..	4,40,46,604
6	River Valley Development . . . . .	16,68,807	..	16,68,807
7	Expenditure on Displaced Persons . . . . .	5,10,000	..	5,10,000
8	Stamps . . . . .	1,79,256	..	1,79,256
9	Ministers, Civil Secretariat and Other Expenditure relating to the Finance Department . . . . .	72,39,873	4,01,368	76,41,241
10	Pensions . . . . .	41,43,674	32,530	41,76,204
11	Expenditure relating to the Education Department . . . . .	5,46,91,737	..	5,46,91,737
12	Taxation . . . . .	14,97,103	200	14,97,303
13	Land Revenue . . . . .	1,85,04,173	..	1,85,04,173
14	Excise . . . . .	21,49,076	..	21,49,076
15	Registration . . . . .	6,09,033	..	6,09,033
16	District Administration and Other Expenditure relating to the Revenue Department . . . . .	2,53,60,770	50,00,000	3,03,60,770
17	Expenditure relating to the Industries Department . . . . .	2,04,07,301	..	2,04,07,301

1	2	3		
		Sums not exceeding		
No. of Vote	Services and purposes	Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
18	Civil and Sessions Court and Other Expenditure relating to the Law Department . . . . .	27,98,699	..	27,98,699
19	Stationery and Printing and Other Expenditure relating to the Commerce Department . . . . .	42,35,830	..	42,35,830
20	Labour and Emigration and Employment Organisation . . . . .	20,28,311	..	20,28,311
21	Tribal and Rural Welfare Department . . . . .	2,38,85,457	..	2,38,85,457
22	Medical and Other Expenditure relating to the Health Department . . . . .	1,78,68,573	..	1,78,68,573
23	Public Health . . . . .	79,32,382	..	79,32,382
24	Irrigation . . . . .	6,75,81,145	15,000	6,75,96,145
25	Civil Works . . . . .	6,66,22,967	1,94,792	6,68,17,759
26	State Legislature . . . . .	6,59,455	34,000	6,93,455
27	Public Works, Common Establishment and Other Expenditure relating to Works Department . . . . .	60,65,767	..	60,65,767
28	Electricity Schemes . . . . .	2,98,58,786	..	2,98,58,786
29	Taxes on Vehicles . . . . .	13,20,972	..	13,20,972
30	Transport Schemes . . . . .	1,20,98,105	..	1,20,98,105
31	Forest . . . . .	1,27,72,197	10,000	1,27,82,197
32	Fisheries . . . . .	29,07,269	..	29,07,269
33	Co-operation . . . . .	45,43,012	..	45,43,012
34	Contribution to Local Bodies . . . . .	16,53,196	..	16,53,196
35	Animal Husbandry . . . . .	89,55,952	..	89,55,952
36	Public Relations . . . . .	17,42,221	..	17,42,221
37	Agriculture . . . . .	1,54,08,515	..	1,54,08,515

I No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
38	Supply Department . . .	21,80,400	..	21,80,400
	<i>Interest on debt and other obligations</i> . . .	..	6,54,11,304	6,54,11,304
	<i>Appropriation for reduction or avoidance of debt</i> . . .	..	1,67,20,489	1,67,20,489
39	Hirakud Dam Project . . .	76,20,000	..	76,20,000
40	Community Development Projects . . .	26,40,000	..	26,40,000
41	Loans to Local Funds, Government servants, etc.	1,72,54,924	..	1,72,54,924
42	Compensation for abolition of Zamindari system and Other Expenditure relating to Revenue Department . . .	89,51,000	..	89,51,000
43	Electricity Schemes outside the Revenue Account and Other Expenditure relating to the Works Department . . .	15,77,75,152	25,000	15,78,00,152
44	Agricultural Improvements and Research . . .	69,87,931	..	69,87,931
45	State Schemes of Government Trading . . .	3,05,97,870	..	3,05,97,870
46	Road Transport Schemes . . .	2,00,000	..	2,00,000
47	Capital Outlay on Public Health and Capital Account of Civil Works relating to Health (L. S. G.) Department . . .	34,00,000	..	34,00,000
48	Capital Outlay on Industrial Development . . .	27,21,465	..	27,21,465
49	Capital Outlay on Ports (Chandbali) . . .	1,00,000	..	1,00,000
50	Capital Outlay on Ports (Paradip) . . .	82,08,400	..	82,08,400
51	Subsidised Industrial Housing Scheme . . .	5,00,000	..	5,00,000

I No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
53	Capital Account of Other Works relating to Home Department . . . . .	3,61,160	..	3,61,160
54	Capital Outlay on Forest . . . . .	13,24,120	..	13,24,120
55	Capital Expenditure relating to Development (Co-operation) Department . . . . .	18,75,000	..	18,75,000
57	Capital Expenditure relating to Development (Veterinary) Department . . . . .	7,62,000	..	7,62,000
58	Capital Account of Other Works relating to the Planning and Co-ordination (Gram Panchayat) Department . . . . .	7,04,000	..	7,04,000
60	Capital Account of Civil Works . . . . .	4,12,54,514	2,64,400	4,15,18,914
	Loans from the Central Government (Repayments) . . . . .	..	4,53,58,671	4,53,58,671
	Other loans . . . . .	..	10,92,250	10,92,250
	GRAND TOTAL . . . . .	80,29,88,657	13,53,49,582	93,83,38,239

*Rep. by Act 52 of 1964, S.2 + sch. I (w.e.f. 29.12.64)*

THE MEDICINAL AND TOILET PREPARATION  
(EXCISE DUTIES) AMENDMENT ACT, 1961

No. 19 OF 1961

[14th May, 1961]

An Act to amend the Medicinal and Toilet Preparations (Excise Duties) Act, 1955.

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

1. (1) This Act may be called the Medicinal and Toilet Preparations (Excise Duties) Amendment Act, 1961. Short title and commencement.

(2) It shall come into force on such date<sup>1</sup> as the Central Government may, by notification in the Official Gazette, appoint.

16 of 1955. 2. In section 19 of the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 (hereinafter referred to as the principal Act), for sub-section (4), the following sub-section shall be substituted, namely:— Amendment of section 19.

“(4) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following 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.”

<sup>1</sup> 1-6-1961: *vide* Notification No. G.S.R. 755, dated 1-6-1961, Gazette of India, Extraordinary, Pt. II, Sec. 3 (i), p. 315.

102 *Medicinal and Toilet Preparations (Excise Duties)* [ACT 19  
Amendment

Amendment  
of Schedule.

3. In the principal Act, for the Schedule, the following Schedule shall be substituted, namely:—

‘THE SCHEDULE

(See section 3)

Item No.	Description of dutiable goods	Rate of duty
<i>Medicinal Preparations</i>		
1	Medicinal preparations, being patent or proprietary medicines, containing alcohol and which are not capable of being consumed as ordinary alcoholic beverages.	Ten per cent. <i>ad valorem</i> .
2	Medicinal preparations, containing alcohol, which are prepared by distillation or to which alcohol has been added, and which are capable of being consumed as ordinary alcoholic beverages.	Rupees three and eighty-five naye paise per litre of the strength of London proof spirit.
3	Medicinal preparations, not otherwise specified containing alcohol—	
	(i) Ayurvedic preparations containing self-generated alcohol which are not capable of being consumed as ordinary alcoholic beverages.	<i>Nil</i> .
	(ii) Ayurvedic preparations, containing self-generated alcohol, which are capable of being consumed as ordinary alcoholic beverages.	Thirty-eight naye paise per litre.
	(iii) All others	Rupee one and ten naye paise per litre of the strength of London proof spirit.
4	Medicinal preparations, being patent or proprietary medicines, not containing alcohol, but containing opium, Indian hemp, or other narcotic drug or narcotic.	Ten per cent. <i>ad valorem</i> .

Rep. by Act 52 of 1964

OF 1961] Medicinal and Toilet Preparations (Excise Duties) 103  
Amendment

Item No.	Description of dutiable goods	Rate of duty
5	Medicinal preparations (not being patent or proprietary medicines), not containing alcohol but containing opium, Indian hemp, or other narcotic drug or narcotic.	Nil.
<i>Toilet Preparations</i>		
6	Toilet preparations containing alcohol, or opium, Indian hemp, or other narcotic drug or narcotic.	Twenty-five per cent. <i>ad valorem</i> .

*Explanation I.*—"Patent or proprietary medicine" has the same meaning as in clause (h) of section 3 of the Drugs Act, 1940 (23 of 1940).

*Explanation II.*—Where any article is chargeable with duty at a rate dependent on the value of the article, such value shall be deemed to be,—

- (a) the wholesale cash price for which an article of the like kind and quality is sold or is capable of being sold at the time of the removal of the article chargeable with duty from the place where the duty is leviable thereon in accordance with the provisions of section 3, or if a wholesale market does not exist for such article at such place, at the nearest place where such market exists; or
- (b) where such price is not ascertainable, the price at which an article of the like kind and quality is sold or is capable of being sold by the manufacturer or his agent, at the time of the removal of the article chargeable with duty from the place where the duty is leviable thereon in accordance with the provisions of section 3, or if such article is not sold or is not capable of being sold at such place, at any other place nearest thereto:

Reps. by Act 52 of 1964.

104 Medicinal and Toilet Preparations (Excise Duties) [ACT 19 OF 1961]  
Amendment

Provided that in determining the price of any article under this *Explanation*, no abatement or deduction shall be allowed except in respect of trade discount and the amount of duty payable at the time of the removal of such article from the place where the duty is so leviable.

*Explanation III.*—"London proof spirit" means that mixture of ethyl alcohol and distilled water which at the temperature of 51 degrees Fahrenheit weighs exactly 12/13th parts of an equal measure of distilled water at the same temperature.

*Explanation IV.*—Where in respect of any dutiable goods the unit of assessment for the purpose of any duty under this Act is a litre of the strength of London proof spirit, the duty shall be increased or reduced in such proportion as the strength of the dutiable goods is greater or less than that of the London proof spirit.

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THE APPROPRIATION (No. 3) ACT, 1961

NO. 20 OF 1961

[14th May, 1961]

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, 1959, in excess of the amounts granted for those services and for that year.

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

1. This Act may be called the Appropriation (No. 3) Act, 1961. Short title.

2. From and out of the Consolidated Fund of India, the sums specified in column 3 of the Schedule amounting in the aggregate to the sum of forty-four lakhs, eleven thousand, nine hundred and seventy-seven 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, 1959, in excess of the amounts granted for those services and for that year.

Issue of Rs.  
44,11,977  
out of the  
Consolidated  
Fund of  
India to meet  
certain excess  
expenditure  
for the year  
ended on the  
31st March,  
1959.

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, 1959.

Appropriation.

## THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3 Excess		
		Voted portion	Charged portion	Total
		Rs.	Rs.	Rs.
1	Ministry of Commerce and Industry . . . . .	2,23,716	..	2,23,716
31	Opium . . . . .	1,98,432	..	1,98,432
37	Superannuation Allowances and Pensions . . . . .	3,34,105	..	3,34,105
41	Pre-partition Payments . . . . .	..	5,271	5,271
48	Medical Services . . . . .	79,170	..	79,170
51	Ministry of Home Affairs . . . . .	2,66,056	..	2,66,056
52	Cabinet . . . . .	39,193	..	39,193
58	Privy Purses and Allowances of Indian Rulers . . . . .	..	1,30,778	1,30,778
60	Himachal Pradesh . . . . .	14,70,042	..	14,70,042
63	Tripura . . . . .	..	34,148	34,148
69	Ministry of Irrigation and Power . . . . .	69,073	..	69,073
99	Department of Atomic Energy . . . . .	16,413	..	16,413
	CHARGED:—Staff, Household and Allowances of the President . . . . .	..	11,490	11,490
121	Capital Outlay of the Ministry of Health . . . . .	7,82,071	..	7,82,071
132	Capital Outlay on Civil Aviation . . . . .	7,52,019	..	7,52,019
	GRAND TOTAL	42,30,290	1,81,687	44,11,977

*Rep. by Act 52 of 1964, S. 2 + Sch. I (w.e.f. 29.12.64)*

**THE DELHI SHOPS AND ESTABLISHMENTS  
(AMENDMENT) ACT, 1961**

**No. 21 OF 1961**

[14th May, 1961]

**An Act further to amend the Delhi Shops and Establishments  
Act, 1954.**

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

1. This Act may be called the Delhi Shops and Establishments Short title.  
(Amendment) Act, 1961.

Delhi Act  
No. VII of  
1954.

2. In section 2 of the Delhi Shops and Establishments Act, 1954 Amendment  
(hereinafter referred to as the principal Act), for clause (18), the of section 2.  
following clause shall be substituted, namely:—

‘(18) “opening hour” means the hour at which a shop or  
commercial establishment opens for the service of a customer;’.

3. For section 15 of the principal Act, the following section shall be Substitution  
substituted, namely:— of new sec-  
tion 15.

“15. (1) No shop or commercial establishment shall, on any Opening and  
day, be opened earlier than such hour or closed later than such closing hours  
hour, as may be fixed by the Government by general or special of shops and  
order made in that behalf; commercial  
establish-  
ments.

Provided that any customer who was being served or was  
waiting to be served in any shop or commercial establishment at  
the closing hour so fixed may be served during the period of  
fifteen minutes immediately following such hour.

(2) Before making an order under sub-section (1), the Gov-  
ernment shall hold an inquiry in such manner as may be pres-  
cribed.

*Rep. by Act 52 of 1964*

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(3) The Government may, for the purposes of this section, fix different opening hours and different closing hours for different classes of shops or commercial establishments or for different areas or for different times of the year."

Amendment of section 46. 4. In section 46 of the principal Act, in clause (b), for the words "the Delhi Improvement Trust, the Joint Water and Sewage Board, the Delhi State Electricity Board, the Delhi Transport Authority", the words "the Delhi Development Authority, the Delhi Water Supply and Sewage Disposal Undertaking, the Delhi Electric Supply Undertaking and the Delhi Transport Undertaking of the Municipal Corporation of Delhi," shall be substituted.

Amendment of section 47. 5. In section 47 of the principal Act,—

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

"(1) The Government may, after previous publication, make, by notification in the Official Gazette, rules to carry out the purposes of this Act.":

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

"(cc) the manner in which inquiry under sub-section (2) of section 15 shall be held;";

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

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

THE APPROPRIATION (RAILWAYS) No. 3 ACT, 1961

No. 22 OF 1961

[15th May, 1961]

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, 1959, in excess of the amounts granted for those services and for that year.

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

1. This Act may be called the Appropriation (Railways) No. 3 Act, 1961. Short title.

2. From and out of the Consolidated Fund of India, the sums specified in column 3 of the Schedule amounting in the aggregate to the sum of fifty-eight lakhs, thirty-two thousand and fifty-three rupees shall be deemed to have been authorised to be paid and applied to meet the amount spent for defraying the charges in respect of the services relating to railways specified in column 2 of the Schedule during the financial year ended on the 31st day of March, 1959, in excess of the amounts granted for those services and for that year. Issue of Rs. 58,32,053 out of the Consolidate Fund of India to meet certain expenditure for the year ended on the 31st March, 1959.

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, 1959. Appropriation.

## THE SCHEDULE

(See sections 2 and 3)

1	2	3		
		Sums aggregating to		
No. of Vote	Services and purposes	Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
5	Working Expenses—Repairs and Maintenance	..	347	347
6	Working Expenses—Operating Staff	..	2,618	2,618
8	Working Expenses—Operation other than Staff and Fuel	21,95,125	..	21,95,125
9	Working Expenses—Miscellaneous Expenses	..	26,619	26,619
12	Dividend payable to General Revenues	36,06,932	..	36,06,932
19	Miscellaneous Charges—Development Fund	412	..	412
	TOTAL	58,02,469	29,584	58,32,053

*Not Corrected: See India Code vol. 111 B, Pt. 10, P. 255*

## THE CRIMINAL LAW AMENDMENT ACT, 1961

No. 23 OF 1961

[17th May, 1961]

### An Act to supplement the criminal law.

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

1. (1) This Act may be called the Criminal Law Amendment Act, 1961. Short title and extent.

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

2. Whoever by words either spoken or written, or by signs, or by visible representation or otherwise, questions the territorial integrity or frontiers of India in a manner which is, or is likely to be, prejudicial to the interests of the safety or security of India, shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both. Questioning the territorial integrity or frontiers of India in a manner prejudicial to the interests of safety and security of India.

3. (1) If the Central Government considers that in the interests of the safety or security of India or in the public interest, it is necessary or expedient so to do, it may, by notification in the Official Gazette, declare any area adjoining the frontiers of India to be a notified area; and thereupon, for so long as the notification is in force, such area shall be a notified area for the purposes of this section. Statements, etc., in a notified area prejudicial to maintenance of public order, etc., therein or to safety or security of India and regulation of entry of persons in such area.

(2) Whoever makes, publishes or circulates in any notified area any statement, rumour or report which is, or is likely to be, prejudicial to the maintenance of public order or essential supplies or services in the said area or to the interests of the safety or security of India, shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

(3) On and after such day as may be specified in, and subject to any exemptions for which provision may be made by, a notification issued under sub-section (1), no person who was not immediately before the said day a resident in the area declared to be a notified area by the notification shall enter or attempt to enter that area or be therein except in accordance with the terms of a permit in writing granted to him by a person, not below the rank of a magistrate of the first class, specified in the said notification.

(4) Any police officer, not below the rank of sub-inspector of police, may search any person entering or attempting to enter, or being in, or leaving, a notified area and any vehicle, vessel, animal or article brought in by such person, and may, for the purpose of the search, detain such person, vehicle, vessel, animal or article:

Provided that no woman shall be searched in pursuance of this sub-section except by a woman authorised in this behalf by the police officer.

(5) If any person is in a notified area in contravention of the provisions of sub-section (3), then, without prejudice to any other proceedings which may be taken against him, he may be removed therefrom by or, under the direction of any police officer on duty in the notified area, not below the rank of sub-inspector of police.

(6) If any person enters or attempts to enter a notified area or is therein in contravention of any of the provisions of sub-section (3), he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Power to declare certain publications forfeited and to issue search warrants for the same.

4. (1) Where any newspaper or book as defined in the Press and Registration of Books Act, 1867, or any other document, wherever printed, appears to the State Government to contain any matter the publication of which is punishable under section 2 or sub-section (2) of section 3, the State Government may, by notification in the Official Gazette, stating the grounds of its opinion, declare every copy of the issue of the newspaper containing such matter and every copy of such book or other document to be forfeited to the Government, and thereupon any police officer may seize the same wherever found and any magistrate may by warrant authorise any police officer not below the rank of sub-inspector to enter upon and search for the same in any premises where any copy of such issue or any copy of such book or other document may be or may be reasonably suspected to be.

(2) The powers conferred by sub-section (1) on the State Government may also be exercised by the Central Government.

*Not Correcled : See India Code*

6F 1961]

Criminal Law Amendment

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(3) In sub-section (1) "document" includes also any painting, drawing or photograph, or other visible representation.

5. (1) Any person having any interest in any newspaper, book or other document in respect of which an order of forfeiture has been made under section 4 may, within two months from the date of such order, apply to the High Court to set aside such order on the ground that the issue of the newspaper, or the book or other document in respect of which the order was made did not contain any matter of such a nature as is referred to in sub-section (1) of section 4.

5 of 1898. (2) The provisions of sections 99C to 99F of the Code of Criminal Procedure, 1898, shall apply in relation to an application under sub-section (1) as they apply in relation to an application under section 99B of that Code and the reference in section 99D to seditious or other matter of such a nature as is referred to in sub-section (1) of section 99A of that Code shall be construed as a reference to any matter of such a nature as is referred to in sub-section (1) of section 4 of this Act.

(3) No order passed or action taken under section 4 shall be called in question in any court otherwise than in accordance with the provisions of this section.

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Rep. by Act 52 of 1964, S. 2 of Sch. I (w.c.f. 29.12.64)

THE COAL MINES (CONSERVATION AND SAFETY)  
AMENDMENT ACT, 1961

No. 24 OF 1961

[17th May, 1961]

An Act to amend the Coal Mines (Conservation and Safety)  
Act, 1952.

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

- Short title. 1. This Act may be called the Coal Mines (Conservation and Safety) Amendment Act, 1961.
- Amendment of section 3. 2. In section 3 of the Coal Mines (Conservation and Safety) Act, 1952 (hereinafter referred to as the principal Act), after clause (h), 12 of 1952 the following clauses shall be inserted, namely:—
- ‘(hh) “railway” shall have the meaning assigned to it in the Indian Railways Act, 1890; 9 of 1890.
- (hhh) “safety in coal mines” includes the safety of any railway situated on the surface above a coal mine;’
- Amendment of section 8. 3. In section 8 of the principal Act, in sub-section (1),—
- (a) in clause (a), for the words “not exceeding one rupee per ton”, the words “not exceeding four rupees per ton” shall be substituted; and
- (b) for the *Explanation* to clause (b), the following *Explanation* shall be substituted, namely:—
- “*Explanation*.—Coal of Selected Grade A, Selected Grade B and Grade I means coal graded as such by the Board in accordance with the specifications laid down by the Central Government from time to time.”
- Amendment of section 13. 4. In section 13 of the principal Act, in clause (a) of sub-section (3), after the words “or the mine”, the words “or a railway” shall be inserted.

*Rep. G Act 52 of 1964*

[ACT 24 OF 1961]

*Coal Mines (Conservation and Safety)  
Amendment*

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5. In section 17 of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely:—

Amendment  
of section  
17.

“(4) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and, if, before the expiry of the session in which it is so laid or the session immediately following, 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 ADVOCATES ACT, 1961

ARRANGEMENT OF SECTIONS

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5. Bar Council to be body corporate.
6. Functions of State Bar Councils.
7. Functions of Bar Council of India.
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9. Disciplinary committees.
10. Constitution of Committees other than disciplinary committees.
11. Staff of Bar Council.
12. Accounts and audit.
13. Vacancies in Bar Councils and committees thereof not to invalidate action taken.
14. Election to Bar Councils not to be questioned on certain grounds.
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59. Removal of difficulties.
60. Power of Central Government to make rules.

# THE ADVOCATES ACT, 1961

No. 25 OF 1961

[19th May, 1961]

An Act to amend and consolidate the law relating to legal practitioners and to provide for the constitution of Bar Councils and an All-India Bar.

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

## CHAPTER I

### PRELIMINARY

1. (1) This Act may be called the Advocates Act, 1961.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date<sup>1</sup> as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.
2. In this Act, unless the context otherwise requires,—
  - (a) "advocate" means an advocate entered in any roll under the provisions of this Act;
  - (b) "appointed day", in relation to any provision of this Act, means the day on which that provision comes into force;
  - (c) "attorney" includes a solicitor;
  - (d) "Bar Council" means a Bar Council constituted under this Act;
  - (e) "Bar Council of India" means the Bar Council constituted under section 4 for the territories to which this Act extends;

Short title,  
extent and  
commence-  
ment.

Definitions.

1. The provisions of the Act have been brought into force as under:—

Date	Provisions	Notification
16-8-1961	Chap. I, II and VII.	S.O. 1870, dated 7-8-1961, Gazette of India, Extraordinary, Pt. II, Sec. 3 (ii), p. 1237.
1-12-1961	Chap. III and Section 50 (2).	S.O. 2790, dated 24-11-1961, <i>ibid.</i> , p. 1723.
15-12-1961	Section 50 (1).	S.O. 2919, dated 13-12-1961, <i>ibid.</i> , p. 1745.
24-1-1962	Sections 51 and 52	S.O. 297, dated 24-1-1962, <i>ibid.</i> , p. 169.
29-3-1962	Section 46.	S.O. 958, dated 29-3-1962, <i>ibid.</i> , p. 589.

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[4-1-1963, Section 32 and chap. VI (Remaining provisions) S.O. 50 dated 4-1-1963, *ibid.* p. 1.

(f) "common roll" means the common roll of advocates, prepared and maintained by the Bar Council of India under section 20;

(g) "High Court", except in sub-section (1) of section 34 and in sections 42 and 43, does not include a court of the Judicial Commissioner, and, in relation to a State Bar Council, means,—

(i) in the case of a Bar Council constituted for a State or for a State and one or more Union territories, the High Court for the State;

(ii) in the case of the Bar Council constituted for Delhi, the High Court of Punjab;

(h) "law graduate" means a person who has obtained a bachelor's degree in law from any University established by law in India;

(i) "legal practitioner" means an advocate, vakil or attorney of any High Court, a pleader, mukhtar or revenue agent;

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

(k) "roll" means a roll of advocates prepared and maintained under this Act;

(l) "State" does not include a Union territory;

(m) "State Bar Council" means a Bar Council constituted under section 3;

(n) "State roll" means a roll of advocates prepared and maintained by a State Bar Council under section 17.

## CHAPTER II

### BAR COUNCILS

State Bar  
Councils.

3. (1) There shall be a Bar Council—

(a) for each of the States of Andhra Pradesh, Bihar, Gujarat, Madhya Pradesh, Madras, Maharashtra, Mysore, Orissa, Rajasthan and Uttar Pradesh, to be known as the Bar Council of that State;

~~(b) for the State of Assam and the Union territory of Manipur, to be known as the Bar Council of Assam;~~

(c) for the State of Kerala and the Union territory of Laccadive, Minicoy and Amindivi Islands, to be known as the Bar Council of Kerala;

(d) for the State of Punjab and the Union territory of Himachal Pradesh, to be known as the Bar Council of Punjab;

↳ Subs. by Act 27 of 1962, s. 14 (wef 1-12-63)

(e) for the State of West Bengal and the Union territories of Tripura and the Andaman and Nicobar Islands, to be known as the Bar Council of West Bengal; and

(f) for the Union territory of Delhi, to be known as the Bar Council of Delhi.

(2) A State Bar Council shall consist of the following members, namely:—

(a) in the case of the State Bar Council of Delhi, the Additional Solicitor-General of India, *ex-officio*; and in the case of any other State Bar Council, the Advocate-General of the State, *ex-officio*;

(b) in the case of the Bar Council of Assam, the Bar Council of Orissa and the Bar Council of Delhi, fifteen members and in every other case, twenty members, elected in accordance with the system of proportional representation by means of the single transferable vote from amongst advocates on the ~~roll of the State Bar Council.~~ [electoral roll of the State Bar Council] ✓

(3) There shall be a Chairman and a Vice-Chairman of each State Bar Council elected by the Council in such manner as may be prescribed.

4. (1) There shall be a Bar Council for the territories to which this Act extends to be known as the Bar Council of India which shall consist of the following members, namely:—

(a) the Attorney-General of India, *ex-officio*;

(b) the Solicitor-General of India, *ex-officio*;

(c) one member elected by each State Bar Council from amongst its members.

(2) There shall be a Chairman and a Vice-Chairman of the Bar Council of India elected by the Council in such manner as may be prescribed.

5. Every Bar Council shall be a body corporate having perpetual succession and a common seal, with power to acquire and hold property, both movable and immovable, and to contract, and may by the name by which it is known sue and be sued.

6. (1) The functions of a State Bar Council shall be—

(a) to admit persons as advocates on its roll;

(b) to prepare and maintain such roll;

Functions of  
State Bar  
Councils.

1/ July, added a In. by Act 21 of 1964, S. 2 (w. of 16.5.64)  
2/ Ins. by S. 3, cl. d

(c) to entertain and determine cases of misconduct against advocates on its roll;

(d) to safeguard the rights, privileges and interests of advocates on its roll;

(e) to promote and support law reform;

(f) to manage and invest the funds of the Bar Council;

(g) to provide for the election of its members;

(h) to perform all other functions conferred on it by or under this Act;

(i) to do all other things necessary for discharging the aforesaid functions.

(2) A State Bar Council may constitute a fund in the prescribed manner for the purpose of giving financial assistance to indigent or disabled advocates.

**Functions of  
Bar Council  
of India.**

7. The functions of the Bar Council of India shall be—

(a) to prepare and maintain a common roll of advocates;

(b) to lay down standards of professional conduct and etiquette for advocates;

(c) to lay down the procedure to be followed by its disciplinary committee and the disciplinary committee of each State Bar Council;

(d) to safeguard the rights, privileges and interests of advocates;

(e) to promote and support law reform;

(f) to deal with and dispose of any matter arising under this Act, which may be referred to it by a State Bar Council;

(g) to exercise general supervision and control over State Bar Councils;

(h) to promote legal education and to lay down standards of such education in consultation with the Universities in India imparting such education and the State Bar Councils;

(i) to recognise Universities whose degree in law shall be a qualification for enrolment as an advocate and for that purpose to visit and inspect Universities;

(j) to manage and invest the funds of the Bar Council;

(k) to provide for the election of its members;

(l) to perform all other functions conferred on it by or under this Act;

(m) to do all other things necessary for discharging the aforesaid functions.

[State Bar Council]

8. The term of office of the elected members of a Bar Council shall be six years, but as nearly as possible one-third of the members first elected to each such Council shall retire on the expiration of every second year in the prescribed manner, and the vacancies so caused shall be filled by the election of new members in the prescribed manner. Term of office of members of State Bar Council.

~~9. (1) A State Bar Council shall constitute one or more disciplinary committees, each of which shall consist of five persons of whom three shall be persons elected by the Council from amongst its members and two shall be persons elected by the Council from amongst advocates on its roll who are not members of the Council.~~ Disciplinary committees.

(2) The Bar Council of India shall constitute a disciplinary committee consisting of five persons of whom three shall be persons elected by the Council from amongst its members and two shall be persons elected by the Council from amongst advocates on the common roll who are not members of the Council.

10. (1) A State Bar Council shall constitute the following standing committees, namely:— Constitution of committees other than disciplinary committees.

(a) an executive committee consisting of five members elected by the Council from amongst its members;

(b) an enrolment committee consisting of three members elected by the Council from amongst its members.

(2) The Bar Council of India shall constitute the following standing committees, namely:—

(a) an executive committee consisting of nine members elected by the Council from amongst its members;

(b) a legal education committee consisting of ten members, of whom five shall be persons elected by the Council from amongst its members and five shall be persons co-opted by the Council who are not members thereof.

(3) A State Bar Council and the Bar Council of India may constitute from amongst its members such other committees as it may deem necessary for the purpose of carrying out the provisions of this Act.

1 Sub. by Act 21 of 1964, s. 4 (w.e.f. 16.5.64)  
2 Sub. by S. 5, i/a  
3 Ins. by S. 6, i/a

Staff of Bar Council.

11. (1) Every Bar Council shall appoint a secretary and may appoint an accountant and such number of other persons on its staff as it may deem necessary.

(2) The secretary and the accountant, if any, shall possess such qualifications as may be prescribed.

Accounts and audit.

12. (1) Every Bar Council shall cause to be maintained such books of accounts and other books in such form and in such manner as may be prescribed.

(2) The accounts of a Bar Council shall be audited by auditors duly qualified to act as auditors of companies under the Companies Act, 1956, at such times and in such manner as may be prescribed. 1 of 1956.

(3) As soon as the accounts of a State Bar Council have been audited, that Bar Council shall send a copy of such accounts together with a copy of the report of the auditors thereon, to the Bar Council of India.

Vacancies in Bar Councils and committees thereof not to invalidate action taken.

13. No act done by a Bar Council or any committee thereof shall be called in question on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Council or committee, as the case may be.

Election to Bar Councils not to be questioned on certain grounds.

14. No election of a member to a Bar Council shall be called in question on the ground merely that due notice thereof has not been given to any person entitled to vote thereat, if notice of the date has, not less than thirty days before that date, been published in the Official Gazette.

Power to make rules.

15. (1) A Bar Council may 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—

~~(a) the manner in which the election of members of the Bar Council shall be held and the manner in which results of elections shall be published;~~

(b) in the case of a State Bar Council, the constitution of a fund for giving financial assistance to indigent or disabled advocates;

1/5 July, by Act 21 of 1964, S.7 (w.e.f. 16.5.64).

(c) the manner of election of the Chairman and the Vice-Chairman of the Bar Council;

(d) the manner in which and the authority by which doubts and disputes as to the validity of an election to the Bar Council or to the office of the Chairman or Vice-Chairman shall be finally decided;

[State Bar Council]

(e) the manner in which the order of retirement by rotation of the members of the ~~Bar Council~~ shall be determined;

(f) the filling of casual vacancies in the Bar Council;

(g) the powers and duties of the Chairman and the Vice-Chairman of the Bar Council;

(h) the summoning and holding of meetings of the Bar Council, the times and places where such meetings are to be held, the conduct of business thereat, and the number of members necessary to constitute a quorum;

(i) the constitution and functions of any committee of the Bar Council and the term of office of members of any such committee;

(j) the summoning and holding of meetings, the conduct of business of any such committee, and the number of members necessary to constitute a quorum;

(k) the qualifications and the conditions of service of the secretary, the accountant and other employees of the Bar Council;

(l) the maintenance of books of accounts and other books by the Bar Council;

(m) the appointment of auditors and the audit of the accounts of the Bar Council;

(n) the management and investment of the funds of the Bar Council.

(3) No rules made under this section by a State Bar Council shall have effect unless they have been approved by the Bar Council of India.

### CHAPTER III

#### ADMISSION AND ENROLMENT OF ADVOCATES

16. (1) There shall be two classes of advocates, namely, senior advocates and other advocates.

Senior and other advocates.

↳ July. 6, Act-21 of 1964, 3.7 (cor. of 16.5.64).

(2) An advocate may, with his consent, be designated as senior advocate if the Supreme Court or a High Court is of opinion that by virtue of his ability, experience and standing at the Bar he is deserving of such distinction.

(3) Senior advocates shall, in the matter of their practice, be subject to such restrictions as the Bar Council of India may, in the interests of the legal profession, prescribe.

(4) An advocate of the Supreme Court who was a senior advocate of that Court immediately before the appointed day shall, for the purposes of this section, be deemed to be a senior advocate.

State Bar  
Councils to  
maintain  
roll of  
advocates.

17. (1) Every State Bar Council shall prepare and maintain a roll of advocates in which shall be entered the names and addresses of—

(a) all persons who were entered as advocates on the roll of any High Court under the Indian Bar Councils Act, 1926,<sup>38 of 1926.</sup> immediately before the appointed day and who, within the prescribed time, express an intention in the prescribed manner to practise within the jurisdiction of the Bar Council;

(b) all other persons who are admitted to be advocates on the roll of the State Bar Council under this Act on or after the appointed day.

(2) Each such roll of advocates shall consist of two parts, the first part containing the names of senior advocates and the second part, the names of other advocates.

(3) Entries in each part of the roll of advocates prepared and maintained by a State Bar Council under this section shall be in the order of seniority, ~~and such seniority shall be determined as follows:—~~

(a) the seniority of an advocate referred to in clause (a) of sub-section (1) shall be determined in accordance with his date of enrolment under the Indian Bar Councils Act, 1926;<sup>38 of 1926.</sup>

(b) the seniority of any person who was a senior advocate of the Supreme Court immediately before the appointed day shall, for the purposes of the first part of the State roll, be determined in accordance with such principles as the Bar Council of India may specify;

<sup>1</sup> Added by Act 21 of 1964 s. 8 (w. ef. 16.5.64)  
<sup>2</sup> Subs. by s. 9, *ibid*

(c) notwithstanding anything contained in clause (a), the seniority of a vakil, pleader or an attorney who was enrolled as an advocate immediately before the appointed day, or who is enrolled as an advocate after that day, shall be determined in accordance with the date of his entry in the register of vakils, pleaders or attorneys, as the case may be;

(d) the seniority of any other person who, on or after the appointed day, is enrolled as a senior advocate or is admitted as an advocate shall be determined by the date of such enrolment or admission, as the case may be.

(4) No person shall be enrolled as an advocate on the roll of more than one State Bar Council.

18. (1) Notwithstanding anything contained in section 17, any person whose name is entered as an advocate on the roll of any State Bar Council may make an application in the prescribed form to the Bar Council of India for the transfer of his name from the roll of that State Bar Council to the roll of any other State Bar Council and, on receipt of any such application the Bar Council of India shall direct that the name of such person shall, without the payment of any fee, be removed from the roll of the first mentioned State Bar Council and entered in the roll of the other State Bar Council and the State Bar Councils concerned shall comply with such direction.

Transfer of name from one State roll to another.

(2) For the removal of doubts it is hereby declared that where on an application made by an advocate under sub-section (1), his name is transferred from the roll of one State Bar Council to that of another, he shall retain the same seniority in the latter roll to which he was entitled in the former roll.

19. Every State Bar Council shall send to the Bar Council of India an authenticated copy of the roll of advocates prepared by it for the first time under this Act and shall thereafter communicate to the Bar Council of India all alterations in, and additions to, any such roll, as soon as the same have been made.

Bar Councils to send copies of rolls of advocates to the Bar Council of India.

20. (1) The Bar Council of India shall prepare and maintain a common roll of advocates which shall comprise the entries made in all State rolls and shall include the names of all advocates entitled as of right to practise in the Supreme Court immediately before the appointed day whose names are not entered in any State roll.

Common roll of advocates.

(2) The common roll of advocates shall consist of two parts, the first part containing the names of senior advocates, and the second part, the names of other advocates.

! Added by Act 21 of 1964, S. 10 (w.e.f. 16.5.64)

~~(3) Entries in each part of the common roll shall be in the order of seniority and such seniority shall be determined as follows:—~~

(a) the seniority of an advocate enrolled in a State roll shall be determined in accordance with his seniority in that roll;

(b) the seniority of any person who was a senior advocate of the Supreme Court immediately before the appointed day and whose name is not entered in any State roll shall, for the purposes of the first part of the common roll, be determined in accordance with such principles as the Bar Council of India may specify in this behalf;

(c) the seniority of any person who was an advocate (but not a senior advocate) of the Supreme Court immediately before the appointed day and whose name is not entered in any State roll shall, for the purposes of the second part of the common roll, be determined in accordance with the date of his enrolment as an advocate of the Supreme Court.

(4) There shall be entered in the common roll of advocates all alterations and additions communicated to the Bar Council of India under section 19 by a State Bar Council.

Disputes  
regarding  
seniority.

21. (1) Where the date of seniority of two or more persons is the same, the one senior in age shall be reckoned as senior to the other.

(2) Subject as aforesaid, if any dispute arises with respect to the seniority of any person, it shall be referred,—

(a) if the dispute relates to seniority in a State roll, to the State Bar Council;

(b) if the dispute relates to seniority in the common roll, to the Bar Council of India;

and the decision of the State Bar Council or the Bar Council of India, as the case may be, in respect of such dispute shall be final.

Certificate of  
enrolment.

~~22. There shall be issued a certificate of enrolment in the prescribed form to every person whose name is entered in any roll of advocates maintained under this Act.~~

Right of pre-  
audience.

23. (1) The Attorney-General of India shall have pre-audience over all other advocates.

(2) Subject to the provisions of sub-section (1), the Solicitor-General of India shall have pre-audience over all other advocates.

(3) Subject to the provisions of sub-section (1) and (2), the Additional Solicitor-General of India shall have pre-audience over all other advocates.

1 Sub. by Act 21 of 1964, S. 11 (w.e.f. 16.5.64)  
2 Sub. by S. 12, i.b.a.

(4) Subject to the provisions of sub-sections (1), (2) and (3), the Advocate-General of any State shall have pre-audience over all other advocates, and the right of pre-audience among Advocates-General *inter se* shall be determined by their respective seniority.

(5) Subject as aforesaid—

(i) senior advocates shall have pre-audience over other advocates, and

(ii) the right of pre-audience of senior advocates *inter se* and other advocates *inter se* shall be determined by their respective seniority.

24. (1) Subject to the provisions of this Act, and the rules made thereunder, a person shall be qualified to be admitted as an advocate on a State roll, if he fulfils the following conditions, namely:— Persons who may be admitted as advocates on a State roll.

(a) he is a citizen of India:

Provided that subject to the other provisions contained in this Act, a national of any other country may be admitted as an advocate on a State roll, if citizens of India, duly qualified, are permitted to practise law in that other country;

(b) he has completed the age of twenty-one years;

[ 28<sup>th</sup> day of February 1963

(c) he has obtained a degree in law—

(i) before the appointed day, from any University in the territory of India; or

[ 28<sup>th</sup> day of February 1961

(ii) before the 15th day of August, 1947, from any University in any area which was comprised before that date within India as defined by the Government of India Act, 1935; or

(iii) after the appointed day, from any University in the territory of India ~~or elsewhere~~, if the degree is recognised for the purposes of this Act by the Bar Council of India; or

he is a barrister;

(d) he has undergone a course of training in law and passed an examination ~~after such training~~ both of which shall be prescribed by the State Bar Council:

Provided that this clause shall not apply to—

~~(i) a barrister who has received practical training in England or a person who has obtained a degree in law from any University in India before the appointed day;~~

↓ Subs. by Act No. 25 of 1962, s. 2 (Retrospectively)  
 ↓ Subs. by Act No. 32 of 1962, s. 2 (Retrospectively)  
 ↓ Amended, vis & Subs. by Act 21 of 1964 s. 13 [w.e.f. 16.5.64].

[ is or has been a member ]

(ii) any person who has for at least two years held a judicial office in the territory of India or is a member of the Central Legal Service;

(iii) any person who has for at least two years held a judicial office in any area which was comprised before the 15th day of August, 1947, within India as defined in the Government of India Act, 1935, or has been an advocate of any High Court in any such area;

(iv) any person who has practised before any High Court and who has discontinued practice by reason of his taking up employment under the Government, a local authority or any other person; and

(v) any other class of persons who by reason of their legal training or experience are declared by the Bar Council of India to be exempt from the provisions of this clause;

(e) he fulfils such other conditions as may be specified in the rules made by the State Bar Council under this Chapter;

(f) he has paid an enrolment fee of two hundred and fifty rupees to the State Bar Council.

2 [a vakil or a pleader who is a law graduate]

(2) Notwithstanding anything contained in sub-section (1), a vakil, pleader or an attorney who is a law graduate, or who is not a law graduate but was entitled to be enrolled as an advocate of a High Court immediately before the appointed day under any law then in force, may be admitted as an advocate on a State roll if he—

(a) makes an application for such enrolment in accordance with the provisions of this Act, not later than two years from the appointed day; and

(b) fulfils the conditions specified in clauses (a), (b), (e) and (f) of sub-section (1).

Authority to whom applications for enrolment may be made.

25. An application for admission as an advocate shall be made in the prescribed form to the State Bar Council within whose jurisdiction the applicant proposes to practise.

Disposal of applications for admission as an advocate.

26. (1) A State Bar Council shall refer every application for admission as an advocate to its enrolment committee, and subject to the provisions of sub-sections (2) and (3), such committee shall dispose of the application in the prescribed manner.

Amend. ins.

- 1 Subs. by Act 14 of 1962, S. 2, Cw. C. F. 30.3.1962)
- 2 Rules + ins. by Act 21 of 1964, S. 13 (w. ef. 16.5.64)
- 3 Ins. & added by S. 14, ibid.

(2) Where the enrolment committee of a State Bar Council proposes to refuse any such application, it shall refer the application for opinion to the Bar Council of India and every such reference shall be accompanied by a statement of the grounds in support of the refusal of the application.

(3) The enrolment committee of a State Bar Council shall dispose of any application referred to the Bar Council of India under sub-section (2) in conformity with the opinion of the Bar Council of India.

27. Where a State Bar Council has refused the application of any person for admission as an advocate on its roll, no other State Bar Council shall entertain an application for admission of such person as an advocate on its roll, except with the previous consent in writing of the State Bar Council which refused the application and of the Bar Council of India.

Application once refused not to be entertained by another Bar Council except in certain circumstances.

28. (1) A State Bar Council may make rules to carry out the purposes of this Chapter.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the time within which and the manner in which an intention to practise within the jurisdiction of the Bar Council shall be expressed;

(b) a course of practical training in law and the examination to be passed after such training for admission as an advocate on the roll of the Bar Council;

(c) the form in which an application shall be made to the Bar Council for admission as an advocate on its roll and the manner in which such application shall be disposed of by the enrolment committee of the Bar Council;

(d) the conditions subject to which a person may be admitted as an advocate on any such roll;

(e) the instalments in which the enrolment fee may be paid.

(3) No rules made under this Chapter shall have effect unless they have been approved by the Bar Council of India.

#### CHAPTER IV

##### RIGHT TO PRACTISE

29. Subject to the provisions of this Act and any rules made thereunder, there shall, as from the appointed day, be only one class of persons entitled to practise the profession of law, namely, advocates.

Advocates to be the only recognised class of persons entitled to practise law.

*1964*  
 Subs. by Act 21 of 1964, s. 14 (w. ef. 16.5.64)  
 Subs. by s. 15, *ibid*  
 Omitted by s. 16, *ibid*

Right of advocates to practise. 30. Subject to the provisions of this Act, every advocate whose name is entered in the common roll shall be entitled as of right to practise throughout the territories to which this Act extends,—

(i) in all courts including the Supreme Court;

(ii) before any tribunal or person legally authorised to take evidence; and

(iii) before any other authority or person before whom such advocate is by or under any law for the time being in force entitled to practise.

Special provision for attorneys. 31. Notwithstanding anything contained in sections 29 and 30, the High Court at Calcutta or the High Court at Bombay may provide for the admission of proper persons to be attorneys and shall have power to remove or to suspend from practice on reasonable cause, any such attorney.

Power of court to permit appearances in particular cases. 32. Notwithstanding anything contained in this Chapter, any Court, authority or person may permit any person, not enrolled as an advocate under this Act, to appear before it or him in any particular case.

Advocates alone entitled to practise. 33. Except as otherwise provided in this Act or in any other law for the time being in force, no person shall, on or after the appointed day, be entitled to practise in any court or before any authority or person unless he is enrolled as an advocate under this Act.

Power of High Courts to make rules. 34. (1) The High Court may make rules laying down the conditions subject to which an advocate shall be permitted to practise in the High Court and the courts subordinate thereto.

(2) Without prejudice to the provisions contained in sub-section (1), the High Court at Calcutta and the High Court at Bombay may make rules—

(i) providing for the qualification and admission of proper persons to be attorneys;

(ii) declaring what shall be deemed to be the functions, powers and duties of such attorneys and the procedure to be followed in removing or suspending any such attorney from practice;

(iii) determining the persons who shall be entitled respectively to plead and to act in the High Court in the exercise of its original jurisdiction.

(3) Until rules are made under this section, any rules made by a High Court under its Letters Patent or any other law relating to any of the matters specified in this section which were in force immediately before the appointed day, shall continue in force so far as consistent with this Act, and shall be deemed to be rules made under this section.

## CHAPTER V

### CONDUCT OF ADVOCATES

35. (1) Where on receipt of a complaint or otherwise a State Bar Council has reason to believe that any advocate on its roll has been guilty of professional or other misconduct, it shall refer the case for disposal to its disciplinary committee. Punishment  
of advocates  
for misconduct.

(2) The disciplinary committee of a State Bar Council, if it does not summarily reject the complaint, shall fix a date for the hearing of the case and shall cause a notice thereof to be given to the advocate concerned and to the Advocate-General of the State.

(3) The disciplinary committee of a State Bar Council after giving the advocate concerned and the Advocate-General an opportunity of being heard, may make any of the following orders, namely:—

(a) dismiss the complaint or, where the proceedings were initiated at the instance of the State Bar Council, direct that the proceedings be filed;

(b) reprimand the advocate;

(c) suspend the advocate from practice for such period as it may deem fit;

(d) remove the name of the advocate from the State roll of advocates.

(4) Where an advocate is suspended from practice under clause (c) of sub-section (3), he shall, during the period of suspension, be debarred from practising in any court or before any authority or person in India.

[Explanation.—In this section, the expressions “Advocate-General” and “Advocate-General of the State” shall, in relation to the Union territory of Delhi, mean the Additional Solicitor General of India.]

↓ Ins. Added by Act-21 of 1964, S. 17 (w.e.f. 16.5.64).

Disciplinary  
powers of  
Bar Council  
of India.

36. (1) Where on receipt of a complaint or otherwise the Bar Council of India has reason to believe that any advocate on the common roll whose name is not entered on any State roll has been guilty of professional or other misconduct, it shall refer the case for disposal to its disciplinary committee.

(2) Notwithstanding anything contained in this Chapter, the disciplinary committee of the Bar Council of India may, of its own motion, withdraw for inquiry before itself any proceedings for disciplinary action against any advocate pending before the disciplinary committee of any State Bar Council and dispose of the same.

(3) The disciplinary committee of the Bar Council of India, in disposing of any case under this section, shall observe, so far as may be, the procedure laid down in section 35, the references to the Advocate-General in that section being construed as references to the Attorney-General of India.

(4) In disposing of any proceedings under this section the disciplinary committee of the Bar Council of India may make any order which the disciplinary committee of a State Bar Council can make under sub-section (3) of section 35, and where any proceedings have been withdrawn for inquiry before the Bar Council of India, the State Bar Council concerned shall give effect to any such order.

Appeal to  
the Bar  
Council  
of  
India.

37. (1) Any person aggrieved by an order of the disciplinary committee of a State Bar Council made ~~under sub-section (3) of section 35~~ <sup>under section 35</sup> may, within sixty days of the date of the communication of the order to him, prefer an appeal to the Bar Council of India.

(2) Every such appeal shall be heard by the disciplinary committee of the Bar Council of India which may pass such order thereon as it deems fit.

Appeal to  
the Supreme  
Court.

38. Any person aggrieved by an order made by the disciplinary committee of the Bar Council of India under section 36 or section 37 may, within sixty days of the date on which the order is communicated to him, prefer an appeal to the Supreme Court and the Supreme Court may pass such order thereon as it deems fit.

Application  
of sections 5  
and 12 of the  
Indian Limi-  
tation Act.

39. The provisions of sections 5 and 12 of the Indian Limitation Act, 1908 shall, so far as may be, apply to appeals under section 37 and section 38. 9 of 1908.

Stay  
of  
order.

40. An appeal, made under section 37 or section 38, shall not operate as a stay of the order appealed against, but the disciplinary committee of the Bar Council of India, or the Supreme Court, as the case may be, may, for sufficient cause, direct the stay of such order on such terms and conditions as it may deem fit.

↓ Sub. G. Act 21 of 1964, S. 18 (w. of 16.5.64).

41. (1) Where an order is made under this Chapter reprimanding or suspending an advocate, a record of the punishment shall be entered against his name—

Alteration in roll of advocates.

(a) in the case of an advocate whose name is entered in a State roll, in that roll;

(b) in the case of an advocate whose name is entered in the common roll and not in any State roll, in the common roll;

and where any order is made removing an advocate from practice, his name shall be struck off the State roll or the common roll, as the case may be.

(2) Where in respect of any advocate a record of punishment is entered in a State roll or where the name of an advocate is struck off any such roll, a record of such punishment shall also be entered in the common roll, or, as the case may be, his name shall be struck off the common roll.

(3) Where any advocate is suspended or removed from practice, the certificate granted to him under section 22, in respect of his enrolment shall be recalled.

42. (1) The disciplinary committee of a Bar Council shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1903, in respect of the following matters, namely:—

Powers of disciplinary committee.

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

(b) requiring discovery and production of any documents;

(c) receiving evidence on affidavits;

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

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

(f) any other matter which may be prescribed:

Provided that no such disciplinary committee shall have the right to require the attendance of—

(a) any presiding officer of a court except with the previous sanction of the High Court to which such court is subordinate;

(b) any officer of a revenue court except with the previous sanction of the State Government.

(2) All proceedings before a disciplinary committee of a Bar Council shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code, and every such disciplinary committee shall be deemed to be a civil court for the purposes of sections 480, 482 and 485 of the Code of Criminal Procedure, 1898. 45 of 1860. 5 of 1898.

(3) For the purposes of exercising any of the powers conferred by sub-section (1), a disciplinary committee may send to any civil court in the territories to which this Act extends, any summons or other process, for the attendance of a witness or the production of a document required by the committee or any commission which it desires to issue, and the civil court shall cause such process to be served or such commission to be issued, as the case may be, and may enforce any such process as if it were a process for attendance or production before itself.

Cost of proceedings before a disciplinary committee.

43. The disciplinary committee of a Bar Council may make such order as to the costs of any proceedings before it as it may deem fit and any such order shall be executable as if it were an order—

(a) in the case of an order of the disciplinary committee of the Bar Council of India, of the Supreme Court;

(b) in the case of an order of the disciplinary committee of a State Bar Council, of the High Court.

Review of orders by disciplinary committee.

44. The disciplinary committee of a Bar Council may of its own motion or otherwise review any order passed by it under this Chapter:

Provided that no such order of review of the disciplinary committee of a State Bar Council shall have effect unless it has been approved by the Bar Council of India.

## CHAPTER VI

### MISCELLANEOUS

Penalty for persons illegally practising in courts and before other authorities.

45. Any person who practises in any court or before any authority or person, in or before whom he is not entitled to practise under the provisions of this Act, shall be punishable with imprisonment for a term which may extend to six months.

Payment of part of enrolment fees to the Bar Council of India.

46. Every State Bar Council shall, before the thirtieth day of April in each financial year, pay to the Bar Council of India a sum equivalent to forty per cent. of the total of the enrolment fees realised by it under this Act during the financial year immediately preceding that year.

47. (1) Where any country, specified by the Central Government in this behalf by notification in the Official Gazette, prevents citizens of India from practising the profession of law or subjects them to unfair discrimination in that country, no subject of any such country shall be entitled to practise the profession of law in India. Reciprocity.

(2) Subject to the provisions of sub-section (1), the Bar Council of India may prescribe the conditions, if any, subject to which foreign qualifications in law obtained by persons other than citizens of India shall be recognised for the purpose of admission as an advocate under this Act.

48. No suit or other legal proceeding shall lie against any Bar Council or any committee thereof or a member of a Bar Council for any act in good faith done or intended to be done in pursuance of the provisions of this Act or of any rules made thereunder. Indemnity against legal proceedings.

49. The Bar Council of India may make rules for discharging its functions under this Act, and, in particular, such rules may prescribe— General power of the Bar Council of India to make rules.

~~(a) the manner in which the name of an advocate may be prevented from being entered in more than one State roll;~~

(b) the form in which an application shall be made for the transfer of the name of an advocate from one State roll to another;

(c) the standards of professional conduct and etiquette to be observed by advocates;

(d) the standards of legal education to be observed by Universities in India and the inspection of Universities for that purpose;

(e) the foreign qualifications in law obtained by persons other than citizens of India which shall be recognised for the purpose of admission as an advocate under this Act;

(f) the procedure to be followed by the disciplinary committee of a State Bar Council and by its own disciplinary committee;

(g) the restrictions in the matter of practice to which senior advocates shall be subject;

(h) the fees which may be levied in respect of any matter under this Act;

~~(i) general principles for guidance of State Bar Councils:~~

Provided that no rules made with reference to clause (e) shall have effect unless they have been approved by the Central Government.

1 Ins. by Act 21 of 1964, s. 19 (w.o.f. 16.5.64).

2 Subs. by s. 20, *ibid*

3 Ins. by s. 21, *ibid*

4 Subs. by Act 52 of 1964, s. 3 & Sch. II (w.o.f. 29.12.64).

Repeal of  
certain  
enactments.

50. (1) On the date on which a State Bar Council is constituted under this Act, the provisions of sections 3 to 7 (inclusive), subsections (1), (2) and (3) of section 9, section 15 and section 20 of the Indian Bar Councils Act, 1926, shall stand repealed in the territory for which the State Bar Council is constituted.

38 of 1926.

(2) On the date on which Chapter III comes into force, the following shall stand repealed, namely:—

(a) sections 6, 7, 18 and 37 of the Legal Practitioners Act, 1879, and so much of sections 8, 9, 16, 17, 19 and 41 of that Act as relate to the admission and enrolment of legal practitioners; 18 of 1879.

(b) sections 3, 4 and 6 of the Bombay Pleaders Act, 1920; Bombay Act 17 of 1920.

(c) so much of section 8 of the Indian Bar Councils Act, 1926, as relates to the admission and enrolment of legal practitioners; 38 of 1926.

(d) the provisions of the Letters Patent of any High Court and of any other law in so far as they relate to the admission and enrolment of legal practitioners.

(3) On the date on which Chapter IV comes into force, the following shall stand repealed, namely:—

(a) sections 4, 5, 10 and 20 of the Legal Practitioners Act, 1879, and so much of sections 8, 9, 19 and 41 of that Act as confer on legal practitioners the right to practise in any court or before any authority or person; 18 of 1879.

(b) sections 5, 7, 8 and 9 of the Bombay Pleaders Act, 1920; Bombay Act 17 of 1920.

(c) section 14 of the Indian Bar Councils Act, 1926, and so much of sections 8 and 15 of that Act as confer on legal practitioners the right to practise in any court or before any authority or person; 38 of 1926.

(d) the Supreme Court Advocates (Practice in High Courts) Act, 1951; 18 of 1951.

(e) the provisions of the Letters Patent of any High Court and of any other law conferring on legal practitioners the right to practise in any court or before any authority or person.

(4) On the date on which Chapter V comes into force, the following shall stand repealed, namely:—

(a) sections 12 to 15 (inclusive), sections 21 to 24 (inclusive) and sections 39 and 40 of the Legal Practitioners Act, 1879, and so much of sections 16, 17 and 41 of that Act as relate to the suspension, removal or dismissal of legal practitioners; 18 of 1879.

Bombay Act  
17 of 1920.

(b) sections 24 to 27 (inclusive) of the Bombay Pleaders Act, 1920;

38 of 1926.

(c) sections 10 to 13 (inclusive) of the Indian Bar Councils Act, 1926;

(d) the provisions of the Letters Patent of any High Court and of any other law in so far as they relate to the suspension, removal or dismissal of legal practitioners.

(5) When the whole of this Act has come into force—

18 of 1879.

(a) the remaining provisions of the Acts referred to in this section which do not stand repealed by virtue of any of the foregoing provisions of this section (except sections 1, 3 and 36 of the Legal Practitioners Act, 1879) shall stand repealed;

(b) the enactments specified in the Schedule shall stand repealed to the extent mentioned therein.

51. On and from the appointed day, references in any enactment to an advocate enrolled by a High Court in any form of words shall be construed as references to an advocate enrolled under this Act. Rule of construction.

52. Nothing in this Act shall be deemed to affect the power of the Supreme Court to make rules under article 145 of the Constitution— Saving.

(a) for laying down the conditions subject to which a senior advocate shall be entitled to practise in that Court;

(b) for determining the persons who shall be entitled to act in that Court.

## CHAPTER VII

### TEMPORARY AND TRANSITIONAL PROVISIONS

53. Notwithstanding anything contained in this Act, the elected members of a State Bar Council, constituted for the first time under this Act, shall be elected by and from amongst advocates, vakils, pleaders and attorneys who, on the date of the election, are entitled as of right to practise in the High Court and are ordinarily practising within the territory for which the Bar Council is to be constituted. Elections to first State Bar Council.

*Explanation.*—Where the territory for which the Bar Council is to be constituted includes a Union territory, the expression “High Court” shall include the Court of the Judicial Commissioner of that Union territory.

Term of office of members of first Bar Council of India and State Bar Councils.

140 Cxxx'  
54. Notwithstanding anything contained in this Act, the term of office of the ~~nominated and elected members of the Bar Council of India~~ and a State Bar Council constituted for the first time, shall be two years from the date of the first meeting of the Council.

Rights of certain existing legal practitioners not affected.

55. Notwithstanding anything contained in this Act,—

(a) every pleader or vakil practising as such immediately before the date on which Chapter IV comes into force (hereinafter in this section referred to as the said date) by virtue of the provisions of the Legal Practitioners Act, 1879, the Bombay Pleaders Act, 1920, or any other law who does not elect to be, or is not qualified to be, enrolled as an advocate under this Act;

(b) every attorney practising as such immediately before the said date by virtue of the provisions of the Legal Practitioners Act, 1879, or any other law who does not elect to be, or is not qualified to be, enrolled as an advocate under this Act;

~~(c) every mukhtar and revenue agent practising as such immediately before the said date by virtue of the provisions of the Legal Practitioners Act, 1879, or any other law;~~

shall, notwithstanding the repeal by this Act of the relevant provisions of the Legal Practitioners Act, 1879, the Bombay Pleaders Act, 1920, or other law, continue to enjoy the same rights as respects practice in any court or revenue office or before any authority or person and be subject to the disciplinary jurisdiction of the same authority which he enjoyed or, as the case may be, to which he was subject immediately before the said date and accordingly the relevant provisions of the Acts or law aforesaid shall have effect in relation to such persons as if they had not been repealed.

Dissolution of existing Bar Councils.

56. (1) On the constitution under this Act of a State Bar Council, other than the Bar Council of Delhi (hereinafter referred to as the new Bar Council)—

(a) all properties and assets vesting in the corresponding Bar Council shall vest in the new Bar Council;

(b) all rights, liabilities, and obligations of the corresponding Bar Council, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations respectively of the new Bar Council;

↓ omitted by Act 14 of 1962, S.S. (W.C.B. S.O.S. 1962)  
2 omitted + corr. by Act 21 of 1964, S. 22 (Retrospectively)  
3 Sub. by 523, v.l.d. (C.I. of 16.5.64).

(c) all proceedings pending before the corresponding Bar Council in respect of any disciplinary matter or otherwise shall stand transferred to the new Bar Council.

(2) In this section, "corresponding Bar Council" in relation to a State Bar Council, other than the Bar Council of Delhi, means the Bar Council for the High Court in the territory for which the State Bar Council is constituted under this Act.

57. Until a Bar Council is constituted under this Act, the power of that Bar Council to make rules under this Act shall be exercised—

Power to make rules pending the constitution of a Bar Council.

(a) in the case of the Bar Council of India, by the Supreme Court;

(b) in the case of a State Bar Council, by the High Court.

THE SCHEDULE

[See section 50 (5)]

REPEAL OF CERTAIN ENACTMENTS

Short title	Extent of repeal
1. The Legal Practitioners (Women) Act, 1923 (23 of 1923).	The whole.
2. The Legal Practitioners (Fees) Act, 1926 (21 of 1926).	The whole.
3. The States Reorganisation Act, 1956 (37 of 1956).	Section 53.
4. The Bombay Reorganisation Act, 1960 (11 of 1960).	Section 31.

1 Ins. by Act 14 of 1962, S. 4 (retrospectively)  
 2 Subs. by ~~Act~~ and ins. by Act 32 of 1962, S. 3 (retrospectively)  
 3 Ins. by Act 32 of 1962, S. A (w.e.f. 14.9.1962)  
 4 Subs. by Act 21 of 1964, S. 24 (w.e.f. 16.5.64)  
 5 Ins. by S. 25, ch. 2  
 7

*Not Corrected: See India Code, vol. IV/3, pt. VI, p. 13*

## THE SALAR JUNG MUSEUM ACT, 1961

### ARRANGEMENT OF SECTIONS

#### CHAPTER I

##### PRELIMINARY

##### SECTIONS

1. Short title and commencement.
2. Declaration of Salar Jung Museum together with Salar Jung Library as an institution of national importance.
3. Definitions.

#### CHAPTER II

##### SALAR JUNG MUSEUM BOARD

4. Establishment and incorporation of the Board.
5. Composition of the Board.
6. Term of office.
7. Temporary absence of member.
8. Duty of Government nominating persons, etc.
9. Meeting of the Board.
10. Temporary association of persons with the Board for particular purposes.
11. Authentication of orders and other instruments of the Board.
12. Staff of the Board.
13. Transfer of service of existing employees to the Board.
14. Location of museum.

#### CHAPTER III

##### FUNCTIONS OF THE BOARD

15. Duties of the Board.
16. Powers of the Board.

#### CHAPTER IV

##### FINANCE, ACCOUNTS, AUDIT AND REPORTS

17. Vesting of property.
18. Grants by Central Government to the Board.
19. Fund of the Board.

*Not corrected: See India Code.*

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**SECTIONS**

- 20. Budget.
- 21. Accounts and audit.
- 22. Returns and reports.

**CHAPTER V**

**MISCELLANEOUS**

- 23. Power of Central Government to issue directions to the Board.
- 24. Delegation of powers and duties.
- 25. Officers and employees of the Board to be public servants.
- 26. Protection of action taken under Act.
- 27. Power of Central Government to make rules.
- 28. Power of Board to make regulations.

**THE SCHEDULE.**

*Not Corrected: See India Code vol. IV. Pt. VI. P. 133*

## THE SALAR JUNG MUSEUM ACT, 1961

No. 26 OF 1961

[19th May, 1961]

An Act to declare the Salar Jung Museum together with the Salar Jung Library at Hyderabad to be an institution of national importance and to provide for its administration and certain other connected matters.

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

### CHAPTER I

#### PRELIMINARY

Short title and commencement.

1. (1) This Act may be called the Salar Jung Museum Act, 1961.

(2) It shall come into force on such date<sup>1</sup> as the Central Government may, by notification in the Official Gazette, appoint.

Declaration of Salar Jung Museum together with Salar Jung Library as an institution of national importance.

2. It is hereby declared that the Salar Jung Museum together with the Salar Jung Library at Hyderabad in the State of Andhra Pradesh is an institution of national importance.

Definitions.

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

(a) "Board" means the Board established under section 4;

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

(c) "Fund" means the fund referred to in section 19;

<sup>1</sup>1-7-1961, *vide* Notification No. G.S.R. 817, dated 15-6-1961, Gazette of India, Part II, Sec. 3 (i), p. 897.

*Not Corrected, See India Code*

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(d) "member" means a member of the Board and includes the Chairman;

(e) "museum" means the Salar Jung Museum together with the Salar Jung Library, declared to be an institution of national importance under this Act;

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

(g) "State Government" means the Government of Andhra Pradesh.

## CHAPTER II

### SALAR JUNG MUSEUM BOARD

4. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established for the purposes of this Act a Board to be known as the Salar Jung Museum Board. Establishment and incorporation of the Board.

(2) The Board shall be a body corporate with the name aforesaid, having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract, and may by that name sue and be sued.

(3) Notwithstanding anything contained in sub-section (2), the Board shall not, except with the previous approval of the Central Government, sell or otherwise dispose of any article or thing specified in Part I or Part II of the Schedule.

5. (1) The Board shall consist of the following persons, namely:— Composition of the Board.

(a) the Governor of Andhra Pradesh, *ex officio* Chairman;

(b) the Secretary to the Government of India in the Ministry concerned with matters relating to the museum, *ex officio*;

(c) the Mayor of the Corporation of Hyderabad, *ex officio*;

(d) the Vice-Chancellor of the Osmania University, *ex officio*;

(e) the Accountant-General, Andhra Pradesh, *ex officio*;

(f) a person to be nominated by the Central Government, who shall be a member of the family of the late Nawab Salar Jung Bahadur who died on the 2nd day of March, 1949;

(g) three persons to be nominated by the Central Government who shall as far as possible be persons having knowledge of, and experience in, matters relating to the administration of museums and libraries;

(h) two persons to be nominated by the State Government.

(2) Every nomination under this section shall take effect as soon as it is notified by the Central Government in the Official Gazette.

6. (1) The term of office of nominated members shall be such as may be prescribed.

Term of office.

(2) Any nominated member may resign his office by giving notice in writing to the Central Government, and on such resignation being notified by the Central Government in the Official Gazette, shall be deemed to have vacated his office.

(3) A casual vacancy created by the resignation of a nominated member under sub-section (2) or for any other reason may be filled by fresh nomination.

(4) An outgoing member shall be eligible for renomination.

Temporary absence of member.

7. (1) If any nominated member is by infirmity or otherwise rendered temporarily 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 or the State Government, as the case may be, may nominate another person to act in his place during his absence.

(2) No act of the Board shall be invalid merely by reason of—

(a) any vacancy in, or defect in the constitution of, the Board, or

(b) any defect in the nomination of a person acting as a member thereof, or

(c) any irregularity in its procedure not affecting the merits of the case.

Duty of Government nominating persons, etc.

8. (1) Before nominating a person to be a member of the Board, the Central Government or the State Government, as the case may be, shall satisfy itself that the person will have no such financial or other interest as is likely to affect prejudicially the exercise or performance by him of his functions as a member of the Board, and the Central Government or the State Government, as the case may be, shall also satisfy itself from time to time with respect to every

*Mr. Corcoran: See India Code.*

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member of the Board nominated by it that he has no such interest; and any person who is or whom the Central Government or the State Government, as the case may be, proposes to nominate, and who has consented to be, a member of the Board shall, whenever requested by the Central or State Government so to do, furnish to it such information as that Government considers necessary for the performance by it of its duties under this sub-section.

(2) A nominated member who is in any way, directly or indirectly, interested in a contract made, or proposed to be made, by the Board shall, as soon as possible, after relevant circumstances have come to his knowledge, disclose the nature of his interest at a meeting of the Board and the disclosure shall be recorded in the minutes of the Board and the member shall not take any part after the disclosure in any deliberation or decision of the Board with respect to that contract.

9. (1) The Board shall meet at such times and places and shall, subject to the provisions of sub-sections (2), (3) and (4), observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at meetings) as may be provided by regulations made under this Act. <sup>Meeting of the Board.</sup>

(2) The Chairman or, in his absence, any member chosen by the members present from among themselves, shall preside at a meeting of the Board.

(3) If any of the members referred to in clauses (b), (c), (d) and (e) of section 5 is unable to attend any meeting of the Board, he may, with the previous approval of the Chairman, authorise any person in writing to do so.

(4) All questions at a meeting of the Board shall be decided by a majority of the votes of the members present and voting and in the case of an equality of votes, the Chairman or, in his absence, the member presiding shall have a second or casting vote.

10. (1) The Board may associate with itself in such manner and for such purposes as may be provided by regulations made under this Act any person whose assistance or advice it may desire in performing any of its functions under this Act. <sup>Temporary association of persons with the Board for particular purposes.</sup>

(2) A person associated with it by the Board under sub-section (1) for any purpose shall have the right to take part in the discussions of the Board relating to that purpose, but shall not by virtue of this section be entitled to vote.

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Authentica-  
tion of orders  
and other  
instruments  
of the Board.

11. All orders and decisions of the Board shall be authenticated by the signature of the Chairman or any other member authorised by the Board in this behalf, and all other instruments issued by the Board shall be authenticated by the signature of an officer of the Board authorised in like manner in this behalf.

Staff of the  
Board.

12. (1) Subject to the provisions of sub-section (2), the Board may, for the purpose of enabling it efficiently to perform its functions under this Act, appoint such number of officers and other employees as it may think fit.

(2) The recruitment and conditions of service of such officers and employees shall be such as may be provided by regulations made under this Act.

Transfer of  
service of  
existing em-  
ployees to  
the Board.

13. Subject to the provisions of this Act, every person employed in the museum immediately before the date of establishment of the Board shall, on and from such date, become an employee of the Board with such designation as the Board may determine and shall hold his office or service therein by the same tenure, at the same remuneration and upon the same terms and conditions as he would have held the same on such date if the Board had not been established and shall continue to do so unless and until his employment in the Board is terminated or until such tenure, remuneration and terms and conditions are duly altered by the Board:

Provided that the tenure, remuneration and terms and conditions of service of any such person shall not be altered to his disadvantage without the previous approval of the Central Government.

Location of  
museum.

14. The museum shall be located at Hyderabad.

### CHAPTER III

#### FUNCTIONS OF THE BOARD

Duties of the  
Board.

15. (1) It shall be the general duty of the Board to manage the museum efficiently and to plan, promote, organise and implement programmes for the development of the museum and to perform such other functions as the Central Government may, from time to time, assign to the Board.

(2) In particular, and without prejudice to the generality of the foregoing provision, the Board may take such steps as it thinks fit—

(a) for providing for instruction and research in matters relating to museums and libraries and for the advancement of learning and dissemination of knowledge in such matters; and

*My Concern: See India Code*

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(b) to do all such other things as may be necessary for the discharge of its functions under this Act.

16. (1) Subject to such conditions and restrictions as the Central Government may think fit to impose, the Board may exercise all such powers as may be necessary or expedient for the purpose of carrying out its duties under this Act. Powers of the Board.

(2) Subject to such regulations as may be made by the Board in this behalf, the Board may, from time to time,—

(a) purchase or otherwise acquire such articles or things as may, in the opinion of the Board, be worthy of preservation in the museum; or

(b) exchange, sell, or destroy any such article or thing as is purchased or acquired under clause (a); or

(c) lend within India any article or thing specified in Part I or Part II of the Schedule, or lend, whether within or without India, any such article or thing as is purchased or acquired under clause (a).

#### CHAPTER IV

##### FINANCE, ACCOUNTS, AUDIT AND REPORTS

17. The properties specified in Parts I, II and III of the Schedule, being properties which by virtue of the decree passed in C.S. No. 13 of 1958 on the file of the High Court of Andhra Pradesh vested absolutely in the Central Government, shall, on and from the date of the establishment of the Board, vest in the Board. Vesting of property.

18. For the purpose of enabling the Board to discharge its functions efficiently under this Act, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Board in each financial year such sums of money as that Government considers necessary by way of grant, loan or otherwise. Grants by Central Government to the Board.

19. (1) The Board shall maintain a Fund to which shall be credited— Fund of the Board.

(a) all moneys paid by the Central Government;

(b) all fees and other charges levied under this Act;

(c) all moneys received by the Board by way of grant, gift, donation, benefaction, bequest, subscription, contribution or transfer;

(d) all other moneys received by the Board in any other manner or from any other source.

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

(3) A sum of money not exceeding such amount as may be provided by regulations made under this Act may be kept in current account with any scheduled bank as defined in section 2 of the Reserve Bank of India Act, 1934 or any other bank approved by the Central Government in this behalf, but any moneys in excess of that sum shall be deposited in the Reserve Bank of India or with the agents of the Reserve Bank of India or invested in such manner as may be approved by the Central Government. <sup>2 of 1934.</sup>

**Budget.** 20. (1) The Board shall, by such date in each year as may be specified by the Central Government, submit to it for approval a budget for the next financial year in the form specified by it, showing the estimated receipts and expenditure, and the sums which would be required from the Central Government during the next financial year.

(2) If any sum granted by the Central Government remains wholly or partly unspent in any financial year, the unspent sum may be carried forward to the next financial year and taken into account in determining the sum to be provided by the Central Government for that year.

(3) Subject to the provisions of sub-section (4), no sum shall be expended by or on behalf of the Board, unless the expenditure is covered by provision in the budget approved by the Central Government.

(4) Subject to such conditions and restrictions as the Central Government may think fit to impose, the Board may sanction any re-appropriation from one head of expenditure to another or from a provision made for one purpose to that for another purpose.

**Accounts  
and audit.**

21. (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance sheet in such form as may be specified, and in accordance with such general directions as may be issued by the Central Government in consultation with the Comptroller and Auditor-General of India.

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(2) The accounts of the Board shall be audited annually by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Board shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of Government accounts, and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office of the board, and the museum.

(4) The accounts of the Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government.

22. (1) The Board shall furnish to the Central Government at such time and in such form and in such manner as the Central Government may direct, such returns, statements and particulars as the Central Government may from time to time require. Returns and reports.

(2) Without prejudice to the provisions of sub-section (1), the Board shall, as soon as possible after the commencement of each financial year, submit to the Central Government within such time as may be specified by the Central Government a report giving a true and full account of the activities of the Board during the previous financial year and an account of the activities likely to be undertaken during the current financial year.

## CHAPTER V

### MISCELLANEOUS

23. (1) In the discharge of its functions under this Act, the Board shall be bound by such directions on questions of policy as the Central Government may give to it from time to time: Power of Central Government to issue directions to the Board.

Provided that the Board shall be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

Delegation  
of powers  
and duties.

24. The Board may, by general or special order in writing, direct that all or any of the powers or duties which may be exercised or discharged by it shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised or discharged also by any member, officer or employee of the Board specified in this behalf in the order.

Officers and  
employees of  
the Board to  
be public  
servants.

25. All officers and employees of the Board shall, when acting or purporting to act in pursuance of the provisions of this Act or of any rule or regulation made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

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Protection  
of action  
taken under  
Act.

26. No suit, prosecution or other legal proceeding shall lie against the Board or any member, officer or employee of the Board for anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or regulation made thereunder.

Power of  
Central  
Government  
to make  
rules.

27. (1) The Central Government may, after consultation with the Board, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.

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

(a) the term of office of, and the manner of filling casual vacancies among, the members nominated under clauses (f), (g) and (h) of sub-section (1) of section 5;

(b) the travelling and other allowances payable to a member other than the Chairman;

(c) the disqualifications for membership of the Board and the procedure to be followed in removing a member who is or becomes subject to any disqualification;

(d) the conditions subject to which, and the mode in which, contracts may be entered into by or on behalf of the Board;

(e) the fees to be levied for admission to the museum;

(f) any other matter which has to be, or may be, prescribed.

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

*Not Corrected: See India Code.*

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comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, 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.

28. (1) The Board may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations, not inconsistent with this Act and the rules made thereunder, for enabling it to discharge its functions under this Act.

Power of Board 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 conditions and restrictions subject to which articles and things vested in the Board may be given on loan;

(b) the recruitment and conditions of service of officers and employees of the Board;

(c) the time and place of meetings of the Board, the procedure to be followed in regard to the transaction of business at such meetings and the quorum necessary for the transaction of business at a meeting;

(d) the maintenance of minutes of meetings of the Board and the transmission of copies thereof to the Central Government;

(e) the appointment of sub-committees, or the association of persons by the Board, for the purpose of assisting or advising it in performing its functions under this Act;

(f) the persons by whom, and the manner in which, payments, deposits and investments may be made on behalf of the Board;

(g) the maximum amount that may be kept in the current account;

(h) the maintenance of registers and accounts;

(i) the compilation of catalogues and inventories of the books, manuscripts and other articles and things in the museum;

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(j) the steps to be taken for the preservation of the books, manuscripts and other articles and things in the museum;

(k) the general management of the museum;

(l) the fees to be levied for purposes other than admission to the museum;

(m) any other matter in respect of which provision is, in the opinion of the Board, necessary for the performance of its functions under this Act.

(3) The Central Government may, after consultation with the Board, by notification in the Official Gazette, amend, vary or rescind any regulation which it has approved; and thereupon the regulation shall have effect accordingly, but without prejudice to the exercise of the powers of the Board under sub-sections (1) and (2).

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## THE SCHEDULE

(See section 17)

### PART I

All the antiques, curios, cabinets, works of art, statues, paintings, furniture and all other articles, included in the list marked A annexed to the compromise petition dated the 2nd day of December, 1958 filed in C.S. No. 13 of 1958 in the High Court of Andhra Pradesh, in terms of which a decree was passed in that suit on the 5th day of March, 1959.

### PART II

The entire library including books, qatas and manuscripts in all languages whether printed or handwritten on paper or other material, included in the list marked B annexed to the said compromise petition.

### PART III

The land admeasuring about 28,390 sq. yds. described and delineated in the plan marked C annexed to the said compromise petition.

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*Not Corrected; See India Code, Vol. V. Pt. III, P. 343*

## THE MOTOR TRANSPORT WORKERS ACT, 1961

### ARRANGEMENT OF SECTIONS

#### CHAPTER I

##### PRELIMINARY

#### SECTIONS

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

#### CHAPTER II

##### REGISTRATION OF MOTOR TRANSPORT UNDERTAKINGS

3. Registration of motor transport undertaking.

#### CHAPTER III

##### INSPECTING STAFF

4. Chief inspector and inspectors.
5. Powers of the inspectors.
6. Facilities to be afforded to inspectors.
7. Certifying surgeons.

#### CHAPTER IV

##### WELFARE AND HEALTH

8. Canteens.
9. Rest rooms.
10. Uniforms.
11. Medical facilities.
12. First-aid facilities.

## CHAPTER V

## HOURS AND LIMITATIONS OF EMPLOYMENT

## SECTIONS

13. Hours of work for adult motor transport workers.
14. Hours of work for adolescents employed as motor transport workers.
15. Daily intervals for rest.
16. Spread-over.
17. Split duty.
18. Notice of hours of work.
19. Weekly rest.
20. Compensatory day of rest.

## CHAPTER VI

## EMPLOYMENT OF YOUNG PERSONS

21. Prohibition of employment of children.
22. Adolescents employed as motor transport workers to carry tokens.
23. Certificate of fitness.
24. Power to require medical examination.

## CHAPTER VII

## WAGES AND LEAVE

25. Act 4 of 1936 to apply to payment of wages to motor transport workers.
26. Extra wages for overtime.
27. Annual leave with wages.
28. Wages during leave period.

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CHAPTER VIII

PENALTIES AND PROCEDURE

SECTIONS

29. Obstructions.

30. Use of false certificate of fitness.

31. Contravention of provisions regarding employment of motor transport workers.

32. Other offences.

33. Enhanced penalty after previous conviction.

34. Offences by companies.

35. Cognizance of offences.

36. Limitation of prosecutions.

CHAPTER IX

MISCELLANEOUS

37. Effect of laws and agreements inconsistent with this Act.

38. Exemptions.

39. Powers to give directions.

40. Power to make rules.

NOT Corrected: See India Code vol. 7 Pt. IV. p. 343

## THE MOTOR TRANSPORT WORKERS ACT, 1961

NO. 27 OF 1961

[20th May, 1961]

An Act to provide for the welfare of motor transport workers and to regulate the conditions of their work.

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

### CHAPTER I

#### PRELIMINARY

Short title, extent, commencement and application.

1. (1) This Act may be called the Motor Transport Workers Act, 1961.

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

(3) It shall come into force on such date<sup>1</sup> not being later than the 31st day of March, 1962, as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States.

(4) It applies to every motor transport undertaking employing five or more motor transport workers:

4 The Act has been brought into force as follows:—

State	Date	Notification
Madhya Pradesh	26-1-1962	S.O. 296, dated 23-1-1962, Gazette of India, Extraordinary, Pt. II, Sec. 3 (ii), p. 167
Assam	}	
Kerala		
Mysore		
Orissa		
Punjab		
Andaman & Nicobar Islands		
Delhi		
Himachal Pradesh		
West Bengal		
Madras		1-2-1962
Maharashtra	}	
Uttar Pradesh		
Andhra Pradesh	1-2-1962	S.O. 310, dated 30-1-1962, <i>ibid.</i> , Extraordinary, p. 189
Rajasthan	1-2-1962	S.O. 382, dated 31-1-1962, <i>ibid.</i> , Extraordinary, p. 197.
Tripura	15-2-1962	S.O. 468, dated 9-2-1962, <i>ibid.</i> , Extraordinary, p. 399.
Bihar	1-3-1962	S.O. 573, dated 16-2-1962, <i>ibid.</i> , p. 530.
Gujarat } Manipur }	31-3-1962	S.O. 781, dated 9-3-1962 <i>ibid.</i> , p. 703.

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Provided that the State Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply all or any of the provisions of this Act to any motor transport undertaking employing less than five motor transport workers.

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

(a) "adolescent" means a person who has completed his fifteenth year but has not completed his eighteenth year;

(b) "adult" means a person who has completed his eighteenth year;

(c) "child" means a person who has not completed his fifteenth year;

(d) "day" means a period of twenty-four hours beginning at midnight:

Provided that where a motor transport worker's duty commences before midnight but extends beyond midnight, the following day for him shall be deemed to be the period of twenty-four hours beginning when such duty ends, and the hours he has worked after midnight shall be counted in the previous day;

(e) "employer" means, in relation to any motor transport undertaking, the person who, or the authority which, has the ultimate control over the affairs of the motor transport undertaking, and where the said affairs are entrusted to any other person whether called a manager, managing director, managing agent or by any other name, such other person;

(f) "hours of work" means the time during which a motor transport worker is at the disposal of the employer or of any other person entitled to claim his services and includes—

(i) the time spent in work done during the running time of the transport vehicle;

(ii) the time spent in subsidiary work; and

(iii) periods of mere attendance at terminals of less than fifteen minutes;

*Explanation.*—For the purposes of this clause—

(1) "running time" in relation to a working day means the time from the moment a transport vehicle starts functioning at the beginning of the working day until the moment when the transport vehicle ceases to function at the end of the working day, excluding any time during which the running of the transport vehicle is interrupted for a period exceeding such duration as may be prescribed during which period the persons

who drive, or perform any other work in connection with the transport vehicle are free to dispose of their time as they please or are engaged in subsidiary work;

(2) "subsidiary work" means work in connection with a transport vehicle, its passengers or its load which is done outside the running time of the transport vehicle, including in particular—

(i) work in connection with accounts, the paying in of cash, the signing of registers, the handing in of service sheets, the checking of tickets and other similar work;

(ii) the taking over and garaging of the transport vehicle;

(iii) travelling from the place where a person signs on to the place where he takes over the transport vehicle and from the place where he leaves the transport vehicle to the place where he signs off;

(iv) work in connection with the upkeep and repair of the transport vehicle; and

(v) the loading and unloading of the transport vehicle;

(3) "period of mere attendance" means the period during which a person remains at his post solely in order to reply to possible calls or to resume action at the time fixed in the duty schedule;

(g) "motor transport undertaking" means a motor transport undertaking engaged in carrying passengers or goods or both by road for hire or reward, and includes a private carrier;

(h) "motor transport worker" means a person who is employed in a motor transport undertaking directly or through an agency, whether for wages or not, to work in a professional capacity on a transport vehicle or to attend to duties in connection with the arrival, departure, loading or unloading of such transport vehicle and includes a driver, conductor, cleaner, station staff, line checking staff, booking clerk, cash clerk, depot clerk, time-keeper, watchman or attendant, but except in section 8 does not include—

(i) any such person who is employed in a factory as defined in the Factories Act, 1948;

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(ii) any such person to whom the provisions of any law for the time being in force regulating the conditions of service of persons employed in shops or commercial establishments apply;

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

7 of 1916.

102 of 1956.

(j) "qualified medical practitioner" means a person having a certificate granted by an authority specified in the Schedule to the Indian Medical Degrees Act, 1916, or notified under section 3 of that Act or specified in the Schedules to the Indian Medical Council Act, 1956, and includes any person having a certificate granted under any Provincial or State Medical Council Act;

(k) "spread-over" means the period between the commencement of duty on any day and the termination of duty on that day;

4 of 1936.

(l) "wages" has the meaning assigned to it in clause (vi) of section 2 of the Payment of Wages Act, 1936;

(m) "week" means the period between midnight on Saturday night and midnight on the succeeding Saturday night;

1 of 1939.

(n) all other words and expressions used but not defined in this Act and defined in the Motor Vehicles Act, 1939, shall have the meanings respectively assigned to them in that Act.

## CHAPTER II

### REGISTRATION OF MOTOR TRANSPORT UNDERTAKINGS

3. (1) Every employer of a motor transport undertaking to which this Act applies shall have the undertaking registered under this Act. Registration of motor transport undertaking.

(2) An application for the registration of a motor transport undertaking shall be made by the employer to the prescribed authority in such form and within such time as may be prescribed.

(3) Where a motor transport undertaking is registered under this Act, there shall be issued to the employer a certificate of registration containing such particulars as may be prescribed.

## CHAPTER III

## INSPECTING STAFF

Chief ins-  
pector and  
inspectors.

4. (1) The State Government may, by notification in the Official Gazette, appoint for the State a duly qualified person to be the chief inspector and as many duly qualified persons to be inspectors subordinate to the chief inspector as it thinks fit.

(2) The chief inspector may declare the local limits within which inspectors shall exercise their powers under this Act, and may himself exercise the powers of an inspector within such local limits as may be assigned to him by the State Government.

(3) The chief inspector and all inspectors shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1863

Powers of the  
inspectors.

5. (1) Subject to such conditions and restrictions as the State Government may by general or special order impose, the chief inspector or an inspector may—

(a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act or rules made thereunder are being observed in the case of any motor transport undertaking, and for that purpose require the driver of a transport vehicle to cause the transport vehicle to stop and remain stationary so long as may reasonably be necessary;

(b) with such assistance, if any, as he thinks fit, enter, inspect and search any premises which he has reason to believe is under use or occupation of any motor transport undertaking at any reasonable time for the purpose of carrying out the objects of this Act;

(c) examine any motor transport worker employed in a motor transport undertaking or require the production of any register or other document maintained in pursuance of this Act, and take on the spot or otherwise statements of any person which he may consider necessary for carrying out the purposes of this Act;

(d) seize or take copy of such registers or documents or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed by an employer;

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(e) exercise such other powers as may be prescribed:

Provided that no person shall be compelled under this subsection to answer any question or make any statement tending to incriminate himself.

5 of 1898.

(2) The provisions of the Code of Criminal Procedure, 1898, shall, so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 98 of the said Code.

6. Every employer shall afford the chief inspector and an inspector all reasonable facilities for making any entry, inspection, examination or inquiry under this Act. <sup>Facilities to be afforded to inspectors.</sup>

7. (1) The State Government may appoint qualified medical practitioners to be certifying surgeons for the purposes of this Act within such local limits or for such motor transport undertakings or class of motor transport undertakings as it may assign to them respectively. <sup>Certifying surgeons.</sup>

(2) The certifying surgeon shall perform such duties as may be prescribed in connection with—

(a) the examination and certification of motor transport workers;

(b) the exercise of such medical supervision as may be prescribed where adolescents are, or are to be, employed as motor transport workers in any work in any motor transport undertaking which is likely to cause injury to their health.

#### CHAPTER IV

#### WELFARE AND HEALTH

8. (1) The State Government may make rules requiring that in every place wherein one hundred motor transport workers or more employed in a motor transport undertaking ordinarily call on duty during every day, one or more canteens shall be provided and maintained by the employer for the use of the motor transport workers. <sup>Canteens</sup>

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the date by which the canteens shall be provided;

(b) the number of canteens that shall be provided and the standards in respect of construction, accommodation, furniture and other equipment of the canteens;

(c) the foodstuffs which may be served therein and the charges which may be made therefor;

(d) the constitution of a managing committee for a canteen and the representation of the motor transport workers in the management of the canteen.

(3) The State Government may, subject to such conditions as it may impose, delegate to the chief inspector the power to make rules with reference to clause (c) of sub-section (2).

**Rest rooms.**

9. (1) In every place wherein motor transport workers employed in a motor transport undertaking are required to halt at night, there shall be provided and maintained by the employer for the use of those motor transport workers such number of rest rooms or such other suitable alternative accommodation, as may be prescribed.

(2) The rest rooms or the alternative accommodation to be provided under sub-section (1) shall be sufficiently lighted and ventilated and shall be maintained in a clean and comfortable condition.

(3) The State Government may prescribe the standards in respect of construction, accommodation, furniture and other equipment of rest rooms or the alternative accommodation to be provided under this section.

**Uniforms.**

10. (1) The State Government may, by notification in the Official Gazette, make rules requiring an employer of a motor transport undertaking to provide for the drivers, conductors and line checking staff employed in that undertaking such number and type of uniforms, raincoats or other like amenities for their protection from rain or cold as may be specified in the rules.

(2) There shall be paid to the drivers, conductors and line checking staff by the employer an allowance for washing of uniforms provided under sub-section (1) at such rates as may be prescribed:

Provided that no such allowance shall be payable by an employer who has made at his own cost adequate arrangements for the washing of uniforms.

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11. There shall be provided and maintained by the employer so as to be readily available such medical facilities for the motor transport workers at such operating centres and halting stations as may be prescribed by the State Government. Medical facilities.

12. (1) There shall be provided and maintained by the employer so as to be readily accessible during all working hours a first-aid box equipped with the prescribed contents in every transport vehicle. First-aid facilities.

(2) Nothing except the prescribed contents shall be kept in a first-aid box.

(3) The first-aid box shall be kept in the charge of the driver or the conductor of the transport vehicle who shall be provided facilities for training in the use thereof.

## CHAPTER V

### HOURS AND LIMITATIONS OF EMPLOYMENT

13. No adult motor transport worker shall be required or allowed to work for more than eight hours in any day and forty-eight hours in any week: Hours of work for adult motor transport workers.

Provided that where any such motor transport worker is engaged in the running of any motor transport service on such long distance routes, or on such festive and other occasions as may be notified in the prescribed manner by the prescribed authority, the employer may, with the approval of such authority, require or allow such motor transport worker to work for more than eight hours in any day or forty-eight hours in any week but in no case for more than ten hours in a day and fifty-four hours in a week, as the case may be:

Provided further that in the case of a breakdown or dislocation of a motor transport service or interruption of traffic or act of God, the employer may, subject to such conditions and limitations as may be prescribed, require or allow any such motor transport worker to work for more than eight hours in any day or more than forty-eight hours in any week.

14. No adolescent shall be employed or required to work as a motor transport worker in any motor transport undertaking—

(a) for more than six hours a day including rest interval of half-an-hour; Hours of work for adolescents employed as motor transport workers.

(b) between the hours of 10 P.M. and 6 A.M.

Daily intervals for rest.

15. (1) The hours of work in relation to adult motor transport workers on each day shall be so fixed that no period of work shall exceed five hours and that no such motor transport worker shall work for more than five hours before he has had an interval for rest for at least half-an-hour:

Provided that the provisions of this sub-section in so far as they relate to interval for rest shall not apply to a motor transport worker who is not required to work for more than six hours on that day.

(2) The hours of work on each day shall be so fixed that a motor transport worker is, except in any case referred to in the second proviso to section 13, allowed a period of rest of at least nine consecutive hours between the termination of duty on any one day and the commencement of duty on the next following day.

Spread-over

16. (1) The hours of work of an adult motor transport worker shall, except in any case referred to in the second proviso to section 13, be so arranged that inclusive of interval for rest under section 15, they shall not spread-over more than twelve hours in any day.

(2) The hours of work of an adolescent motor transport worker shall be so arranged that inclusive of interval for rest under section 14, they shall not spread-over more than nine hours in any day.

Split duty.

17. Subject to the other provisions contained in this Act, the hours of work of a motor transport worker shall not be split into more than two spells on any day.

Notice of hours of work.

18. (1) There shall be displayed and correctly maintained by every employer a notice of hours of work in such form and manner as may be prescribed showing clearly for every day the hours during which motor transport workers may be required to work.

(2) Subject to the other provisions contained in this Act, no such motor transport worker shall be required or allowed to work otherwise than in accordance with the notice of hours of work so displayed.

Weekly rest.

19. (1) The State Government may, by notification in the Official Gazette, make rules providing for a day of rest in every period of seven days, which shall be allowed to all motor transport workers.

(2) Notwithstanding anything contained in sub-section (1), an employer may, in order to prevent any dislocation of a motor transport service, require a motor transport worker to work on any day

*Not Corrected. See India Code*

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of rest which is not a holiday so, however, that the motor transport worker does not work for more than ten days consecutively without a holiday for a whole day intervening.

(3) Nothing contained in sub-section (1) shall apply to any motor transport worker whose total period of employment including any day spent on leave is less than six days.

20. Where, as a result of any exemption granted to an employer under the provisions of this Act from the operation of section 19, a motor transport worker is deprived of any of the days of rest to which he is entitled under that section, the motor transport worker shall be allowed within the month in which the days of rest are due to him or within two months immediately following that month, compensatory days of rest of equal number to the days of rest so lost. Compensatory day of rest

## CHAPTER VI

### EMPLOYMENT OF YOUNG PERSONS

21. No child shall be required or allowed to work in any capacity in any motor transport undertaking. Prohibition of employment of children.

22. No adolescent shall be required or allowed to work as a motor transport worker in any motor transport undertaking unless— Adolescents employed motor transport workers to carry tokens.

(a) a certificate of fitness granted with reference to him under section 23 is in the custody of the employer; and

(b) such adolescent carries with him while he is at work a token giving a reference to such certificate.

23. (1) A certifying surgeon shall, on the application of any adolescent or his parent or guardian accompanied by a document signed by the employer or any other person on his behalf that such person will be employed as a motor transport worker in a motor transport undertaking if certified to be fit for that work, or on the application of the employer or any other person on his behalf with reference to any adolescent intending to work, examine such person and ascertain his fitness for work as a motor transport worker. Certificate of fitness.

(2) A certificate of fitness granted under this section shall be valid for a period of twelve months from the date thereof, but may be renewed.

(3) Any fee payable for a certificate under this section shall be paid by the employer and shall not be recoverable from the adolescent, his parent or guardian.

Power to  
require  
medical  
examination.

24. Where an inspector is of opinion that a motor transport worker working in any motor transport undertaking without a certificate of fitness is an adolescent, the inspector may serve on the employer a notice requiring that such adolescent motor transport worker shall be examined by a certifying surgeon and such adolescent motor transport worker shall not, if the inspector so directs, be employed or permitted to work in any motor transport undertaking until he has been so examined and has been granted a certificate of fitness under section 23.

## CHAPTER VII

### WAGES AND LEAVE

Act 4 of 1936  
to apply to  
payment of  
wages to  
motor trans-  
port workers.

25. The Payment of Wages Act, 1936, as in force for the time being, shall apply to motor transport workers engaged in a motor transport undertaking as it applies to wages payable in an industrial establishment as if the said Act had been extended to the payment of wages of such motor transport workers by a notification of the State Government under sub-section (5) of section 1 thereof, and as if a motor transport undertaking were an industrial establishment within the meaning of the said Act. 4 of 1936.

Extra wages  
for over-  
time.

26. (1) Where an adult motor transport worker works for more than eight hours in any day in any case referred to in the first proviso to section 13 or where he is required to work on any day of rest under sub-section (2) of section 19, he shall be entitled to wages at the rate of twice his ordinary rate of wages in respect of the overtime work or the work done on the day of rest, as the case may be.

(2) Where an adult motor transport worker works for more than eight hours in any day in any case referred to in the second proviso to section 13, he shall be entitled to wages in respect of the overtime work at such rates as may be prescribed.

(3) Where an adolescent motor transport worker is required to work on any day of rest under sub-section (2) of section 19, he shall be entitled to wages at the rate of twice his ordinary rate of wages in respect of the work done on the day of rest.

(4) For the purposes of this section, "ordinary rate of wages" in relation to a motor transport worker means his basic wages plus dearness allowance.

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27. (1) Without prejudice to such holidays as may be prescribed, every motor transport worker who has worked for a period of two hundred and forty days or more in a motor transport undertaking during a calendar year shall be allowed during the subsequent calendar year leave with wages for a number of days calculated at the rate of—

Annual  
leave with  
wages.

(a) if an adult, one day for every twenty days of work performed by him during the previous calendar year; and

(b) if an adolescent, one day for every fifteen days of work performed by him during the previous calendar year.

(2) A motor transport worker whose service commences otherwise than on the first day of January shall be entitled to leave with wages at the rate laid down in clause (a) or, as the case may be, clause (b) of sub-section (1) if he has worked for two-thirds of the total number of days in the remainder of the calendar year.

(3) If a motor transport worker is discharged or dismissed from service during the course of the year, he shall be entitled to leave with wages at the rate laid down in sub-section (1), even if he has not worked for the entire period specified in sub-section (1) or sub-section (2) entitling him to earned leave.

(4) In calculating leave under this section, fraction of leave of half a day or more shall be treated as one full day's leave, and fraction of less than half a day shall be omitted.

(5) If a motor transport worker does not in any one calendar year take the whole of the leave allowed to him under sub-section (1) or sub-section (2), as the case may be, any leave not taken by him shall be added to the leave to be allowed to him in the succeeding calendar year:

Provided that the total number of days of leave that may be carried forward to a succeeding year shall not exceed thirty in the case of an adult or forty in the case of an adolescent.

(6) In this section, "calendar year" means the year commencing on the first day of January.

*Explanation.*—For the purposes of this section, leave shall not include weekly holidays or holidays for festival or other similar occasions whether occurring during or at either end of the period of leave.

Wages during leave period.

28. (1) For the leave allowed to a motor transport worker under section 27, he shall be paid at the rate equal to the daily average of his total full time wages for the days on which he worked during the month immediately preceding his leave, exclusive of any over-time earnings and bonus, if any, but inclusive of dearness allowance and the cash equivalent of the advantage, if any, accruing by the concessional supply by the employer of foodgrains for the day on which he worked.

(2) A motor transport worker who has been allowed leave for not less than four days under section 27 shall, on an application made by him in this behalf to the employer, be paid in advance, before his leave begins, an approximate amount equivalent to the wages payable to him for the period of his leave and any amount so paid shall be adjusted against the wages due to him for the aforesaid period of leave.

(3) If a motor transport worker is not granted leave to which he is entitled under sub-section (3) of section 27, he shall be paid wages in lieu thereof at the rates specified in sub-section (1).

## CHAPTER VIII

### PENALTIES AND PROCEDURE

Obstructions.

29. (1) Whoever obstructs an inspector in the discharge of his duties under this Act or refuses or wilfully neglects to afford the inspector any reasonable facility for making any inspection, examination or inquiry authorised by or under this Act in relation to any motor transport undertaking 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.

(2) Whoever wilfully refuses to produce on the demand of an inspector any register or other document kept in pursuance of this Act, or prevents or attempts to prevent or does anything which he has reason to believe is likely to prevent any person from appearing before or being examined by an inspector acting in pursuance of his duties under this Act, 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.

Use of false certificate of fitness.

30. Whoever knowingly uses or attempts to use as a certificate of fitness granted to himself under section 23 a certificate granted to another person under that section, or having been granted a certificate of fitness to himself, knowingly allows it to be used, or an attempt to use it to be made, by another person, shall be

*ADD Cancelled: See India Code*

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punishable with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

31. Whoever, except as otherwise permitted by or under this Act, contravenes any provision of this Act or of any rules made thereunder, prohibiting, restricting or regulating the employment of persons in a motor transport undertaking, 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 in the case of a continuing contravention with an additional fine which may extend to seventy-five rupees for every day during which such contravention continues after conviction for the first such contravention.

32. Whoever wilfully disobeys any direction lawfully given by any person or authority empowered under this Act to give such direction or contravenes any of the provisions of this Act or of any rules made thereunder for which no other penalty is elsewhere provided by or under this Act 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.

33. If any person who has been convicted of any offence punishable under this Act is again guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both:

Provided that for the purposes of this section no cognizance shall be taken of any conviction made more than two years before the commission of the offence which is being punished.

34. (1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

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

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

neglect on the part of any director, manager, managing agent or any other officer of the company, such director, manager, managing agent or such other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

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

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

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

Cognizance  
of offences.

35. No court shall take cognizance of any offence under this Act except on complaint made by, or with the previous sanction in writing of, the inspector and no court inferior to that of a Presidency magistrate or a magistrate of the first class shall try any offence punishable under this Act.

Limitation of  
prosecutions.

36. No court shall take cognizance of an offence punishable under this Act unless the complaint thereof is made within three months from the date on which the alleged commission of the offence came to the knowledge of an inspector:

Provided that where the offence consists of disobeying a written order made by an inspector, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

## CHAPTER IX

### MISCELLANEOUS

Effect of  
laws and  
agreements  
inconsistent  
with this  
Act.

37. (1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the commencement of this Act:

Provided that where under any such award, agreement, contract of service or otherwise a motor transport worker is entitled to benefits in respect of any matter which are more favourable to him than those to which he would be entitled under this Act, the motor transport worker shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that he receives benefits in respect of other matters under this Act.

(2) Nothing contained in this Act shall be construed as precluding any motor transport worker from entering into an agreement with

*Mr. Corcoran: See India Act*

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an employer for granting him rights or privileges in respect of any matter which are more favourable to him than those to which he would be entitled under this Act.

38. (1) Nothing contained in this Act shall apply to or in relation to any transport vehicle—

(i) used for the transport of sick or injured persons;

(ii) used for any purpose connected with the security of India, or the security of a State, or the maintenance of public order.

(2) Without prejudice to the provisions of sub-section (1), the State Government may, by notification in the Official Gazette, direct that subject to such conditions and restrictions, if any, as may be specified in the notification, the provisions of this Act or the rules made thereunder shall not apply to—

(i) any motor transport workers who, in the opinion of the State Government, hold positions of supervision or management in any motor transport undertaking,

(ii) any part-time motor transport worker, and

(iii) any class of employers:

Provided that before issuing any order under this sub-section, the State Government shall send a copy thereof to the Central Government.

39. The Central Government may give directions to the Government of any State as to the carrying into execution in the State of the provisions contained in this Act. Powers to give directions.

40. (1) The State Government may, subject to the condition of previous publication, make rules to carry out the purposes of this Act: Power to make rules.

10 of 1897. Provided that the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897, shall not be less than six weeks from the date on which the draft of the proposed rules was published.

(2) In particular, and without prejudice to the generality of the foregoing power, any such rules may provide for—

(a) the form of application for the registration of a motor transport undertaking, the time within which and the authority to which such application may be made;

*Not Corrected: See India Code*

(b) the grant of a certificate of registration in respect of a motor transport undertaking and the fees payable for such registration;

(c) the qualifications required in respect of the chief inspector and inspector;

(d) the powers which may be exercised by inspectors and the manner in which such powers may be exercised;

(e) the medical supervision which may be exercised by certifying surgeons;

(f) appeals from any order of the chief inspector or inspector and the form in which, the time within which and the authorities to which, such appeals may be preferred;

(g) the time within which facilities required by this Act to be provided and maintained may be so provided;

(h) the medical facilities that should be provided for motor transport workers;

(i) the type of equipment that should be provided in the first-aid boxes;

(j) the manner in which long distance routes, festive and other occasions shall be notified by the prescribed authority;

(k) the conditions and limitations subject to which any motor transport worker may be required or allowed to work for more than eight hours in any day or more than forty-eight hours in any week in any case referred to in the second proviso to section 13;

(l) the form and manner in which notices of period of work shall be displayed and maintained;

(m) the rates of extra wages in respect of the over-time work done by a motor transport worker in any case referred to in the second proviso to section 13;

(n) the registers which should be maintained by employers and the returns, whether occasional or periodical, as in the opinion of the State Government may be required for the purposes of this Act; and

(o) any other matter which has to be, or may be, prescribed.

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Mr. Corbett: See India Code Vol. 11A. Pt. 17. P. 40E

## THE DOWRY PROHIBITION ACT, 1961

NO. 28 OF 1961

[20th May, 1961]

An Act to prohibit the giving or taking of dowry.

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

1. (1) This Act may be called the Dowry Prohibition Act, 1961.

Short title,  
extent and  
commence-  
ment.

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

J & K. Act  
XXXVI 1960

(3) It shall come into force on such date<sup>1</sup> as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, "dowry" means any property or valuable security given or agreed to be given either directly or indirectly—

Definition of  
"dowry".

(a) by one party to a marriage to the other party to the marriage; or

(b) by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person;

at or before or after the marriage as consideration for the marriage of the said parties, but does not include dower or *mahr* in the case of persons to whom the Muslim Personal Law (*Shariat*) applies

*Explanation I.*—For the removal of doubts, it is hereby declared that any presents made at the time of a marriage to either party to the marriage in the form of cash, ornaments, clothes or other articles, shall not be deemed to be dowry within the meaning of this section, unless they are made as consideration for the marriage of the said parties.

<sup>1</sup>1-7-1961, *vide* Notification No. S. O. 1410, dated 20-6-1961, Gazette of India, Extraordinary, Pt. II, Sec. 3 (ii), p. 1005.

*Explanation II.*—The expression “valuable security” has the same meaning as in section 30 of the Indian Penal Code.

Penalty for giving or taking dowry.

3. If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

Penalty for demanding dowry.

4. If any person, after the commencement of this Act, demands, directly or indirectly, from the parents or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both:

Provided that no court shall take cognizance of any offence under this section except with the previous sanction of the State Government or of such officer as the State Government may, by general or special order, specify in this behalf.

Agreement for giving or taking dowry to be void.

5. Any agreement for the giving or taking of dowry shall be void.

Dowry to be for the benefit of the wife or her heirs.

6. (1) Where any dowry is received by any person other than the woman in connection with whose marriage it is given, that person shall transfer it to the woman—

(a) if the dowry was received before marriage, within one year after the date of marriage; or

(b) if the dowry was received at the time of or after the marriage, within one year after the date of its receipt; or

(c) if the dowry was received when the woman was a minor, within one year after she has attained the age of eighteen years; and pending such transfer, shall hold it in trust for the benefit of the woman.

(2) If any person fails to transfer any property as required by sub-section (1) and within the time limited therefor, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both; but such punishment shall not absolve the person from his obligation to transfer the property as required by sub-section (1).

(3) Where the woman entitled to any property under sub-section (1) dies before receiving it, the heirs of the woman shall be entitled to claim it from the person holding it for the time being.

*NDV Corrected, see India Code*

OF 1961]

*Dowry Prohibition*

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(4) Nothing contained in this section shall affect the provisions of section 3 or section 4.

~~8 of 1895~~  
6 of 1898

7. Notwithstanding anything contained in the Code of Criminal Procedure, 1898,—

Cognizance of offences.

(a) no court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence under this Act;

(b) no court shall take cognizance of any such offence except on a complaint made within one year from the date of the offence;

(c) it shall be lawful for a presidency magistrate or a magistrate of the first class to pass any sentence authorised by this Act on any person convicted of an offence under this Act.

8. Every offence under this Act shall be non-cognizable, bailable and non-compoundable.

Offences to be non-cognizable, bailable and non-compoundable.

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

Power to make rules.

(2) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, 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.

Andhra Pradesh Act 1 of 1958.  
Bihar Act 25 of 1950.

10. The Andhra Pradesh Dowry Prohibition Act, 1958, and the Bihar Dowry Restraint Act, 1950, are hereby repealed.

Repeals.

*Rep. by Act 52 of 1964, S. 2 of Pt. I (w.e.f. 29.12.64)*  
**THE MARKING OF HEAVY PACKAGES  
(AMENDMENT) ACT, 1961**

No. 29 OF 1961

[25th August, 1961]

**An Act to amend the Marking of Heavy Packages Act, 1951.**

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

**Short title.** 1. This Act may be called the Marking of Heavy Packages (Amendment) Act, 1961.

**Substitution of new sections for sections 4 and 5.** 2. For sections 4 and 5 of the Marking of Heavy Packages Act, 1951, the following sections shall be substituted, namely:—

39 of 1951.

**Inspectors.** “4. (1) The Central Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be inspectors for the purposes of this Act and assign to each of them one or more areas to be specified in the notification, or to two or more of them the same area to be so specified.

(2) Every inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

**Powers of inspectors.** 5. Subject to any rules made by the Central Government in this behalf, an inspector appointed under sub-section (1) of section 4 may—

(a) enter, with such assistants as he considers necessary, and inspect any place or vessel and examine any packages found therein;

(b) if, on such examination, any heavy package is found not to have been marked in accordance with the provisions of section 3, direct that the package shall not be transported by sea or inland waterway until it has been marked in accordance with those provisions:

Provided that, instead of issuing any direction as aforesaid, the inspector may himself cause the package to

*Rep. by Act 52 of 1964, §.*

[ACT 29 OF 1961] *Marking of Heavy Packages (Amendment)* 179

be marked in accordance with the provisions of section 3; and in any such case, the expenses incurred by him for such marking shall be recoverable as an arrear of land revenue from the person consigning the package for transport.

6. (1) If any person contravenes—

Penalties.

(a) the provisions of section 3, or

(b) any direction given by an inspector under clause (b) of section 5,

he shall be punishable with fine which may extend to five hundred rupees.

(2) If any person wilfully obstructs an inspector in the exercise of his powers under this Act, he shall be punishable with fine which may extend to two hundred rupees.

7. (1) Where the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Offences by companies.

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

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

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

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

*Rep. by Act 52 of 1964.*

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

Cognizance  
of offences.

8. (1) No court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act.

(2) No court shall take cognizance of any offence under this Act except on a complaint in writing made by an inspector within six months of the date on which the offence is alleged to have been committed.

Protection  
of action  
taken in  
good faith.

9. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Power to  
make rules.

10. (1) The Central Government may, by notification in the Official Gazette, make rules providing for—

(a) the conditions as to the manner of marking of heavy packages, the manner of their packing and the type of covering to be used;

(b) the cases or circumstances in which the approximate weight of heavy packages instead of their correct weight may be marked;

(c) any other matter which has to be, or may be, provided for by rules.

(2) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, 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 DELHI (URBAN AREAS) TENANTS' RELIEF  
ACT, 1961

No. 30 OF 1961

[28th August, 1961]

An Act to provide relief to the tenants of land in the urban  
areas of the Union territory of Delhi.

Be it enacted by Parliament in the Twelfth Year of the Republic  
of India as follows:—

1. (1) This Act may be called the Delhi (Urban Areas) Tenants' Relief Act, 1961. Short title,  
extent and  
commence-  
ment.

(2) It extends to the areas in the Union territory of Delhi which, immediately before the 1st day of November, 1956, were included in a municipality or in a notified area under the provisions of the Punjab Municipal Act, 1911, or in a cantonment under the provisions of the Punjab Cantonnments Act, 1924, but shall not apply to the areas owned by the Central Government or the Delhi Development Authority constituted under the Delhi Development Act, 1957 or any local authority. Definitions.

Punjab Act 3  
of 1911.  
2 of 1924.  
61 of 1957.

(3) It shall come into force on such date as the Chief Commissioner may, by notification in the Official Gazette, appoint.

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

(a) "Chief Commissioner" means the Chief Commissioner of Delhi;

(b) "family" means—

(i) in relation to a person belonging to a joint Hindu family, every member of such family; and

(ii) in relation to any other person, the person, the wife or husband, as the case may be, and the dependent children and grand-children, of such person.

(c) "land-holder" means a person under whom a tenant holds land and to whom the tenant is, or but for a special contract would be, liable to pay rent for the land;

(d) "person under disability" means—

(i) a widow;

(ii) a minor whose father has died;

(iii) a woman who is unmarried or who, if married, is divorced or judicially separated from her husband or whose husband is a person falling under item (iv) or (v);

(iv) a member of the Armed Forces of the Union;

(v) a person incapable of cultivating land by reason of some physical or mental disability;

(vi) a person prosecuting studies in a recognised institution and not exceeding 25 years of age; or

(vii) a person who is under detention or undergoing imprisonment;

(e) "tenant" and "tenancy" include a sub-tenant and a sub-tenancy respectively;

(f) the words "land" and "tenant" and all other words and expressions used but not defined in this Act and defined in the Punjab Tenancy Act, 1887 or the Agra Tenancy Act, 1901 shall have the meanings respectively assigned to them,—

16 of 1887.  
U. P. Act II  
of 1901.

(i) in relation to areas to which the Punjab Tenancy Act, 1887 applies, in that Act; or

(ii) in relation to areas to which the Agra Tenancy Act, 1901 applies, in that Act.

Grounds of  
ejectment of  
tenant.

3. (1) After the commencement of this Act, no person shall be liable to be ejected from any land held by him as tenant except on one or more of the following grounds, namely:—

(a) that a decree for arrear of rent due in respect of the land remains unsatisfied after the expiry of the period allowed therefor;

(b) where rent is payable in kind, that he has without sufficient cause failed to cultivate the land;

(c) that he has sub-let or otherwise transferred the whole or any part of the tenancy in contravention of any law for the time being in force or of any contract;

(d) that he has used the land in a manner which renders it unfit for the purpose for which it was let.

(2) Without prejudice to the provisions of sub-section (1) but subject to the provisions of any law for the time being in force or of any contract between the parties, a tenant may be ejected from the land held by him by a land-holder,—

(a) in any case where the land-holder is a religious or charitable institution, on the ground that the institution requires the land *bona fide* for use for a non-agricultural purpose in furtherance of its objects; and

(b) in any case where the land-holder was a person under disability at the commencement of the tenancy, on the ground that he requires the land *bona fide* for cultivation by himself or for building a dwelling house, a cattle shed or business premises for use by himself or any member of his family and the proceeding for ejection is instituted during the period when he is under disability or within two years from the date when he ceases or has ceased to be under disability;

Provided that no proceeding shall lie under this sub-section in respect of any share of land unless the share has first been partitioned by metes and bounds.

*Explanation.*—For the purposes of this section, the disability of a person shall cease,—

(a) in the case of a widow, if she re-marries, on the date of her re-marriage or if any person succeeds to the widow on her death, on the date of her death;

(b) in the case of a minor, on the date of his attaining majority;

(c) in the case of a woman who is unmarried or who is divorced or judicially separated from her husband, on the date of her marriage or re-marriage, as the case may be, or in the case of a woman whose husband is a person falling under clause (d) or (e), on the date on which the disability of the husband ceases;

(d) in the case of a person who is a member of the Armed Forces of the Union, on the date of his discharge from service or of his posting to the reserve;

(e) in the case of a person suffering from a physical or mental disability, on the date on which the disability ceases to exist;

(f) in the case of a person who is prosecuting studies in a recognised institution, on the date when he ceases to prosecute studies in that or any other recognised institution;

(g) in the case of a person under detention or undergoing imprisonment, on the date when he is released from detention or imprisonment.

Abatement  
of proceed-  
ings.

4. Save as provided in section 3, no tenant of land shall, whether in execution of a decree or order of a court or otherwise, be ejected from the land, and if there is any proceeding for ejection of such tenant pending immediately before the commencement of this Act and the proceeding could not have been instituted had this Act been in force at the time of the institution of such proceeding, then, notwithstanding anything contained in any law, such proceeding shall, on such commencement, abate.

Restoration  
of land to  
tenant in  
certain cases.

5. (1) Where, after the commencement of this Act, a person under disability or a religious or charitable institution has taken possession of land by ejecting the tenant therefrom under sub-section (2) of section 3 on the ground that the land is required for a purpose specified in that sub-section and such person or institution fails to use the land for that purpose within one year from the date on which such person or institution took possession thereof, the tenant shall be entitled to be restored to possession of the land from which he was ejected, on the same terms on which he held it at the time of ejection.

(2) Where, on or after the 1st July, 1958 and before the commencement of this Act, any tenant of land has been ejected from the land and the ejection could not have taken place if this Act had been in force on the date of such ejection, the officer specified in this behalf by the Chief Commissioner may, either on his own motion or on application made by the tenant, restore him to possession of the land from which he has been ejected, on the same terms on which he held it at the time of ejection.

(3) Nothing in this section shall be construed as entitling a tenant to be restored to possession of any land if it is under cultivation by the owner who is a person under disability or has, on or before the 28th day of March, 1961, ceased to be used for agricultural purposes.

Rent.

6. The rent payable by a tenant in respect of land held by him as such shall not exceed one-fifth of the produce of the land or the money equivalent thereof, or where a lower rent is agreed upon between him and the land-holder, the agreed rent.

Act to over-  
ride con-  
tracts, etc.

7. The provisions of this Act shall, save as otherwise expressly provided, have effect notwithstanding anything to the contrary contained

in any other law, custom or usage or agreement or decree or order of court.

8. (1) The Chief Commissioner may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. **Power to make rules.**

(2) Every rule made under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, 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.

16 of 1887. 9. (1) The provisions of the Punjab Tenancy Act, 1887 and the Repeal:  
U.P. Act II Agra Tenancy Act, 1901 and the Punjab Tenants (Security of Tenure)  
of 1901. Act, 1950, as applicable to the areas to which this Act extends, which  
Punjab Act of are inconsistent with the provisions of this Act are hereby repealed.  
XXII  
1950.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under any of the provisions so repealed, to the extent to which it is not inconsistent with the provisions of this Act, shall be deemed to have been done or taken in exercise of the powers conferred by this Act as if this Act was in force on the date on which such thing was done or such action was taken.

Rep. by Act 52 of 1964, S. 24 Sec. I (w.c.f. 29.12.64)

THE MINIMUM WAGES (AMENDMENT) ACT, 1961

NO. 31 OF 1961

[28th August, 1961]

An Act further to amend the Minimum Wages Act, 1948.

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

Short title: 1. This Act may be called the Minimum Wages (Amendment) Act, 1961.

Amendment of section 3: 2. In section 3 of the Minimum Wages Act, 1948 (hereinafter referred to as the principal Act),—

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

“(a) fix the minimum rates of wages payable to employees employed in an employment specified in Part I or Part II of the Schedule and in an employment added to either Part by notification under section 27:

Provided that the appropriate Government may, in respect of employees employed in an employment specified in Part II of the Schedule, instead of fixing minimum rates of wages under this clause for the whole State, fix such rates for a part of the State or for any specified class or classes of such employment in the whole State or part thereof;”;

(ii) in sub-section (1A),—

(a) the words, brackets and figure “whether before or after the expiry of any time limit specified in sub-section (1),” shall be omitted;

(b) for the words, “within one year from the date on which it comes to such finding”, the words “as soon as may be after such finding” shall be substituted;

*Rep. Act 52 of 1964*

[ACT 31 OF 1961] Minimum Wages (Amendment) 187

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

24 of 1947.

“(2A) Where in respect of an industrial dispute relating to the rates of wages payable to any of the employees employed in a scheduled employment, any proceeding is pending before a Tribunal or National Tribunal under the Industrial Disputes Act, 1947 or before any like authority under any other law for the time being in force, or an award made by any Tribunal, National Tribunal or such authority is in operation, and a notification fixing or revising the minimum rates of wages in respect of the scheduled employment is issued during the pendency of such proceeding or the operation of the award, then, notwithstanding anything contained in this Act, the minimum rates of wages so fixed or so revised shall not apply to those employees during the period in which the proceeding is pending and the award made therein is in operation or, as the case may be, where the notification is issued during the period of operation of an award, during that period; and where such proceeding or award relates to the rates of wages payable to all the employees in the scheduled employment, no minimum rates of wages shall be fixed or revised in respect of that employment during the said period.”

3. After section 30 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 30A.

“30A. Every rule made by the Central Government under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, 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 made by Central Government to be laid before Parliament.

4. For section 31 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 31.

“31. Where during the period—

(a) commencing on the 1st day of April, 1952, and ending with the date of the commencement of the Minimum Wages (Amendment) Act, 1954; or Validation of fixation of certain minimum rates of wages.

26 of 1954.

(b) commencing on the 31st day of December, 1954, and ending with the date of the commencement of the Minimum Wages (Amendment) Act, 1957; or

30 of 1957

(c) commencing on the 31st day of December, 1959, and ending with the date of the commencement of the Minimum Wages (Amendment) Act, 1961,

minimum rates of wages have been fixed by an appropriate Government as being payable to employees employed in any employment specified in the Schedule in the belief or purported belief that such rates were being fixed under clause (a) of subsection (1) of section 3, as in force immediately before the commencement of the Minimum Wages (Amendment) Act, 1954, or the Minimum Wages (Amendment) Act, 1957, or the Minimum Wages (Amendment) Act, 1961, as the case may be, such rates shall be deemed to have been fixed in accordance with law and shall not be called in question in any court on the ground merely that the relevant date specified for the purpose in that clause had expired at the time the rates were fixed:

26 of 1954.  
30 of 1957.

Provided that nothing contained in this section shall extend, or be construed to extend, to affect any person with any punishment or penalty whatsoever by reason of the payment by him by way of wages to any of his employees during any period specified in this section of an amount which is less than the minimum rates of wages referred to in this section or by reason of non-compliance during the period aforesaid with any order or rule issued under section 13."

*Rep. by Act 52 of 1964, S. 2 & Sec. I (u.c.f. 29.12.64)*

THE KHADI AND VILLAGE INDUSTRIES COMMISSION (AMENDMENT) ACT, 1961

No. 32 OF 1961

[28th August, 1961]

An Act further to amend the Khadi and Village Industries Commission Act, 1956.

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

1. This Act may be called the Khadi and Village Industries Commission (Amendment) Act, 1961. Short title.

2. In section 2 of the Khadi and Village Industries Commission Act, 1956 (hereinafter referred to as the principal Act),— Amendment of section 2.

(i) in clause (e), for the words "and includes the chairman", the words "and includes the chairman and the vice-chairman" shall be substituted;

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

'(gg) "vice-chairman" means the vice-chairman of the Commission;'

3. In section 3 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:— Amendment of section 3.

"(1) The Central Government may, of its own motion or on the recommendation of the Commission, by notification in the Official Gazette, add to, or omit from, the Schedule any village industry or alter the description of any village industry and thereupon the Schedule shall be deemed to be amended accordingly."

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Amendment of section 4. 4. In section 4 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) The Central Government may appoint from among the members of the Commission a vice-chairman who shall exercise such of the powers and perform such of the duties of the chairman as may be prescribed or as may be delegated to him by the chairman.”

Amendment of section 5. 5. In section 5 of the principal Act, for the words “a member other than the chairman”, the words “a member other than the chairman or the vice-chairman” shall be substituted.

Amendment of section 12. 6. In section 12 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The chairman or, in his absence, the vice-chairman or, in the absence of both the chairman and the vice-chairman, any member chosen by the members present from among themselves, shall preside at a meeting of the Commission.”

Amendment of section 13. 7. In section 13 of the principal Act, for the words “and the terms and conditions of service of the chairman”, the words “and the terms and conditions of service of the chairman, the vice-chairman” shall be substituted.

Amendment of section 15. 8. In section 15 of the principal Act, in sub-section (2), in clause (c), after the words “village industries”, the words “or handicrafts” shall be inserted and shall be deemed always to have been inserted.

Insertion of new section 17A. 9. After section 17 of the principal Act, the following section shall be inserted, namely:—

Commission to receive gifts, grants, etc.

“17A. The Commission may, for the purpose of development of khadi or the development of village industries, receive gifts, grants, donations or benefactions from the Government or any other person.”

Amendment of section 18.

10. In section 18 of the principal Act,—

(i) in sub-section (1), after the words “and all receipts of the Commission”, the brackets, words, figures and letter “(including all gifts, grants, donations or benefactions received under section 17A)” shall be inserted;

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

“(1A) All receipts of the Commission in respect of products of handicrafts shall be credited to the village indus-

Rep. by Act 52 of 1964.

of 1961] Khadi and Village Industries Commission (Amendment) 191

tries fund and all payments by the Commission for or in respect of such products shall be made from that fund.

(1B) If at any time, the amount available in either of the two funds referred to in sub-section (1) is in excess of the requirements of that fund and the amount available in the other fund is insufficient to meet the requirements of that fund, the Commission may, with the previous approval of the Central Government, transfer from the first mentioned fund the excess amount or such part thereof as may be necessary to the other fund.

*Explanation.*—For the purposes of computing the amount available in either of the two funds, the amounts received under section 17A shall not be taken into account.”.

11. After section 19 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 19A and 19B. Standing Finance Committees.

“19A. (1) There shall be constituted from among the members of the Commission in the prescribed manner, a Standing Finance Committee in respect of each of the two funds referred to in section 18.

(2) The Standing Finance Committee shall exercise such of the powers of the Commission under section 19 as are delegated to it by the Commission.

19B. (1) Any sum payable to the Commission under any agreement, express or implied, or otherwise howsoever, may be recovered in the same manner as an arrear of land-revenue.

Recovery of monies due to the Commission as arrears of land-revenue.

(2) If any question arises whether a sum is payable to the Commission within the meaning of sub-section (1), it shall be referred to a Tribunal constituted by the Central Government for the purpose which shall, after making such inquiry as it may deem fit and after giving to the person by whom the sum is alleged to be payable an opportunity of being heard, decide the question; and the decision of the Tribunal shall be final and shall not be called in question by any court or other authority.

(3) The Tribunal shall consist of one person who is not connected with the Commission or with the person by whom the sum is alleged to be payable.

(4) The expenses of the Tribunal shall be borne by the Commission.”.

12. In section 20 of the principal Act, in sub-section (3), for the words “but in no case”, the words, brackets, figures and letter “but,

Amendment of section 20.

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(Amendment)

subject to the provisions of sub-section (1B) of section 18, in no case" shall be substituted.

Amendment  
of section  
26.

13. In section 26 of the principal Act,—

(i) in sub-section (2),—

(a) in clause (a), for the words "and the terms and conditions of service of the Chairman", the words "and the terms and conditions of service of the chairman, the vice-chairman" shall be substituted;

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

"(cc) the powers and duties to be exercised and performed by the chairman and the vice-chairman;"

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

"(dd) the constitution of the Standing Finance Committees under sub-section (1) of section 19A;

(ddd) the procedure to be followed by the Tribunal in deciding questions referred to it under sub-section (2) of section 19B;"

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

"(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and, if, before the expiry of the session in which it is so laid or the session immediately following, 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."

Amendment  
of section  
27.

14. In section 27 of the principal Act, in sub-section (2),—

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

"(bb) the summoning and holding of meetings, and the conduct of business of a Standing Finance Committee;"

(ii) in clause (h), the words "and the fees chargeable in respect thereof" shall be added at the end.

THE UNION TERRITORIES (STAMP AND COURT-FEES LAWS) ACT, 1961

No. 33 OF 1961

[29th August, 1961]

An Act to provide for the amendment and repeal of certain laws relating to stamp duties and court-fees as in force in certain Union territories.

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

1. This Act may be called the Union Territories (Stamp and Court-fees Laws) Act, 1961. Short title.

2 of 1899. 2. On such date as the Central Government may, by notification in the Official Gazette, appoint, for Schedule I-A of the Indian Stamp Act, 1899, as in force in the Union territory of Himachal Pradesh immediately before that date, there shall be substituted, with such modifications as may be specified in the notification, Schedule I-A to the Indian Stamp Act, 1899, as in force in the State of Punjab on the 28th day of November, 1960. Amendment of Indian Stamp Act, 1899, as in force in Himachal Pradesh.

7 of 1870. 30 of 1950. 3. On the date on which the Court-fees Act, 1870, as in force in the State of Punjab, is extended to the Union territory of Himachal Pradesh by notification under section 2 of the Union Territories (Laws) Act, 1950, the Court-fees Act, 1870, as in force in that Union territory immediately before the date of such notification, shall stand repealed. Repeal of Court-fees Act, 1870, as in force in Himachal Pradesh.

7 of 1870. 30 of 1950. 4. (a) On the date on which the Court-fees Act, 1870, as in force in the State of Assam, is extended to the Union territory of Manipur by notification under section 2 of the Union Territories (Laws) Act, 1950, the Court-fees Act, 1870, as in force in that Union territory immediately before the date of such notification, shall stand repealed. Repeal of Court-fees Act, 1870, as in force in Manipur and Tripura.

(b) On the date on which the Court-fees Act, 1870, as in force in the State of Assam, is extended to the Union territory of Tripura by notification under section 2 of the Union Territories (Laws) Act, 1950, the Court-fees Act, 1870, as in force in that Union territory immediately before the date of such notification, shall stand repealed.

Repeal of  
Indian  
Stamp Act,  
1899, as in  
force in  
Manipur and  
Tripura.

5. (a) On the date on which the Indian Stamp Act, 1899, as in force in the State of Assam, is extended to the Union territory of Manipur by notification under section 2 of the Union Territories (Laws) Act, 1950, the Indian Stamp Act, 1899, as in force in that Union territory immediately before the date of such notification, shall stand repealed.

(b) On the date on which the Indian Stamp Act, 1899, as in force in the State of Assam, is extended to the Union territory of Tripura by notification under section 2 of the Union Territories (Laws) Act, 1950, the Indian Stamp Act, 1899, as in force in that Union territory immediately before the date of such notification, shall stand repealed.

Validation  
of levy of  
stamp duties  
in certain  
cases.

6. Any stamp duties levied and collected in the Union territory of Manipur during the period commencing on the 16th day of April, 1950, and ending on the date on which the Indian Stamp Act, 1899, as in force in the State of Assam is extended to that Union territory under section 5, in the belief that the Indian Stamp Act, 1899, as in force in the State of Assam immediately before the 16th day of April, 1950, was applicable to that Union territory, shall be deemed always to have been levied and collected in accordance with law.

1961

Rep. by Act 52 of 1964, s. 2 + sub. I (en. eff. 29.12.64)

**THE SALT CESS (AMENDMENT) ACT, 1961**

No. 34 OF 1961

[29th August, 1961]

An Act further to amend the Salt Cess Act, 1953.

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

1. This Act may be called the Salt Cess (Amendment) Act, 1961. **Short title.**

49 of 1953-  
49 of (1953)

2. In section 2 of the Salt Cess Act, 1953 (hereinafter referred to as the principal Act),— **Amendment of section 2.**

(i) in clause (c), the words “and a ‘private salt factory’ is one not solely owned or not solely worked by the Central Government;” shall be omitted;

(ii) clause (d) shall be omitted.

3. For section 3 of the principal Act, the following section shall be substituted, namely:— **Substitution of new section for section 3.**

“3. There shall be levied and collected in such manner as may be prescribed, a cess in the nature of an excise duty at the rate of fourteen *naye paise* per forty kilograms on all salt manufactured in India in any salt factory, whether owned by Government or not.” **Levy and collection of cess on salt.**

4. In section 6 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:— **Amendment of section 6**

“(3) Every rule made by the Central Government under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one

session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following 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.”

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Not corrected: see India Code vol. II-B, Pt. IV, p. 663

THE DADRA AND NAGAR HAVELI ACT, 1961

No. 35 OF 1961

[2nd September, 1961]

An Act to make provision for the representation of the Union territory of Dadra and Nagar Haveli in Parliament and for the administration of that Union territory and for matters connected therewith.

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

1. (1) This Act may be called the Dadra and Nagar Haveli Act, 1961.

Short title, extent and commencement.

(2) It extends to the whole of the Union territory of Dadra and Nagar Haveli.

(3) It shall be deemed to have come into force on the 11th day of August, 1961.

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

Definitions.

(a) "Administrator" means the Administrator of the Union territory of Dadra and Nagar Haveli appointed by the President under article 239 of the Constitution;

(b) "appointed day" means the eleventh day of August, 1961;

(c) "Dadra and Nagar Haveli" means the Union territory of Dadra and Nagar Haveli;

(d) "Varishta Panchayat" means the Varishta Panchayat as in existence immediately before the appointed day.

3. (1) There shall be allotted one seat to the Union territory of Dadra and Nagar Haveli in the House of the People.

Representation in the House of the People.

43 of 1950.

(2) In the Representation of the People Act, 1950,—

(a) in section 4, in sub-section (1), after the words "to the Laccadive, Minicoy and Amindivi Islands", the words " , to Dadra and Nagar Haveli" shall be inserted;

(b) in the First Schedule,—

(i) after entry 21, the following entry shall be inserted, namely:—

"22. Dadra and Nagar Haveli.....1";

(ii) entries 22 and 23 shall be re-numbered as entries 23 and 24 respectively.

(3) In the Representation of the People Act, 1951, in section 4, after the words "to the Laccadive, Minicoy and Amindivi Islands", the words " , to Dadra and Nagar Haveli" shall be inserted. <sup>43 of 1951.</sup>

Varishta  
Panchayat.

4. (1) Until other provision is made by law, as from the commencement of this Act the Varishta Panchayat shall have the right to discuss and make recommendations to the Administrator on,—

(a) matters of administration involving general policy and schemes of development;

(b) any other matter referred to it by the Administrator.

(2) The functions of the Varishta Panchayat referred to in this section will be advisory only but due regard shall be given to such advice by the Administrator in reaching decisions on the matter in relation to which the advice is given.

(3) No act or proceeding of the Varishta Panchayat shall be invalid by reason only of the existence of any vacancy amongst its members or any defect in the constitution thereof.

(4) Every member of the Varishta Panchayat shall before entering upon his duties under this Act make and subscribe before the Administrator an oath or affirmation in the following form, namely:—

"I, A.B., a member of the Varishta Panchayat of the Union territory of Dadra and Nagar Haveli, do swear in the name of God  
solemnly affirm

that I will bear true faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duty upon which I am about to enter."

*Not corrected: see India Code*

of 1961]

Dadra and Nagar Haveli

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5. Without prejudice to the powers of the Central Government to appoint from time to time such officers and authorities as may be necessary for the administration of Dadra and Nagar Haveli, all judges, magistrates and other officers and authorities who immediately before the appointed day were exercising lawful functions in Free Dadra and Nagar Haveli or any part thereof shall, until other provision is made by law, continue to exercise in connection with the administration of Dadra and Nagar Haveli their respective functions in the same manner and to the same extent as before the appointed day. Other functionaries.
6. It is hereby declared that all property and assets which immediately before the appointed day vested in the Varishta Panchayat or the Administrator of Free Dadra and Nagar Haveli shall, as from that day, vest in the Union. Property and assets.
7. All rights, liabilities and obligations of the Varishta Panchayat or the Administrator of Free Dadra and Nagar Haveli in relation to Free Dadra and Nagar Haveli shall, as from the appointed day, be the rights, liabilities and obligations of the Central Government. Rights and obligations.
8. Save as otherwise provided in this Act all laws in force in Free Dadra and Nagar Haveli immediately before the appointed day shall continue to be in force until repealed or amended by Parliament or other competent authority. Continuance of existing laws.
9. All taxes, duties, cesses or fees which, immediately before the appointed day, were being lawfully levied in Free Dadra and Nagar Haveli or any part thereof shall continue to be levied and to be applied to the same purposes, until other provision is made by Parliament or other competent authority. Continuance of existing taxes.
10. The Central Government may, by notification in the Official Gazette, extend with such restrictions or modifications as it thinks fit, to Dadra and Nagar Haveli any enactment which is in force in a State at the date of the notification. Power to extend enactments to Dadra and Nagar Haveli.
11. As from such date as the Central Government may, by notification in the Official Gazette, specify the jurisdiction of the High Court at Bombay shall extend to Dadra and Nagar Haveli. Extension of the jurisdiction of Bombay High Court to Dadra and Nagar Haveli.
12. For the purpose of facilitating the application of any law in Dadra and Nagar Haveli, any court or other authority may construe any such law with such alterations not affecting the substance, as may be necessary or proper to adapt it to the matter before the court or other authority. Powers of courts and other authorities for purposes of facilitating the application of laws.

*Not corrected: See India Code*

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*Dadar and Nagar Haveli*

[ACT 35 OF 1961]

Power to  
remove  
difficulties.

13. (1) If any difficulty arises in giving effect to the provisions of this Act or in connection with the administration of Dadra and Nagar Haveli, the Central Government may, by order, make such further provision as appears to it to be necessary or expedient for removing the difficulty.

(2) Any order under sub-section (1) may be made so as to be retrospective to any date not earlier than the appointed day.

Power to  
make rules.

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

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

(a) the manner in which casual vacancies in the Varishta Panchayat may be filled;

(b) the meetings of the Varishta Panchayat, the conduct of business and the procedure to be followed at such meetings;

(c) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of that session in which it is so laid or the session immediately following 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 NEWSPAPER (PRICE AND PAGE) CONTINUANCE  
ACT, 1961

No. 36 OF 1961

[5th September, 1961]

An Act to continue the Newspaper (Price and Page) Act, 1956.

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

Short title.

1. This Act may be called the Newspaper (Price and Page) Continuance Act, 1961.

Amend-  
ment of  
section 1.

2. In section 1 of the Newspaper (Price and Page) Act, 1956, 45 of 1956, sub-section (3) shall be omitted.

THE APPROPRIATION (No. 4) ACT, 1961

No. 37 OF 1961

[8th September, 1961]

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 1961-62.

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

Short title.

1. This Act may be called the Appropriation (No. 4) Act, 1961.

Issue of Rs.  
14,53,94,000  
out of the  
Consolidated  
Fund of  
India for the  
year  
1961-62.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of fourteen crores, fifty-three lakhs and ninety four thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1961-62 in respect of the services specified in column 2 of the Schedule.

Appropriation.

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

## THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3		
		Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
12	Defence Services, Non-effective Charges	..	4,000	4,000
18	External Affairs	1,56,15,000	..	1,56,15,000
32	Miscellaneous Departments and Other Expenditure under the Ministry of Finance	1,000	..	1,000
34	Grants-in-aid to States	1,000	..	1,000
42	Miscellaneous Departments and Other Expenditure under the Ministry of Food and Agri- culture	5,50,00,000	..	5,50,00,000
61	Ministry of Information and Broadcasting	75,000	..	75,000
73	Miscellaneous Expenditure under the Ministry of Law.	3,01,000	..	3,01,000
75	Expenditure on Displaced Per- sons and Minorities	..	87,000	87,000
85	Miscellaneous Departments and Other Expenditure under the Ministry of Steel, Mines and Fuel	2,75,00,000	..	2,75,00,000
III	Defence Capital Outlay	..	9,000	9,000
	<i>Repayment of Debt</i>	..	1,000	1,000
132	Capital Outlay of the Ministry of Steel, Mines and Fuel	4,58,00,000	..	4,58,00,000
138	Delhi Capital Outlay	..	10,00,000	10,00,000
	<b>TOTAL</b>	<b>14,42,93,000</b>	<b>11,01,000</b>	<b>14,53,94,000</b>

# THE SUGARCANE CESS (VALIDATION) ACT, 1961

No. 38 OF 1961

[11th September, 1961]

An Act to validate the imposition and collection of cesses on sugarcane under certain State Acts and to amend the U.P. Sugarcane Cess (Validation) Act, 1961.

Enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Sugarcane Cess (Validation) Act, 1961.

(2) Section 5 shall come into force at once, and the remaining provisions of this Act, in so far as they relate to any State, shall come into force in that State on such date<sup>1</sup> as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States.

Definitions.

2. In this Act,—

(a) "cess" means the cess payable under any State Act and includes any sum recoverable under any such Act by way of interest or penalty;

(b) "State Act" means any of the following Acts as in force in any State from time to time, by way of amendment or adaptation, namely:—

(i) The Andhra Pradesh (Andhra Area) Sugar Factories Control Act, 1949; Act 194

<sup>1</sup>The Act (except s. 5) has been brought into force in different States as under:—

Date	State	Notification
1-10-1961	Mysore	G.S.R. 1190, dated 23-9-1961, Gazette of India, Pt. II, Sec. 3(i), p. 1420.
27-12-1961	<del>Gujarat</del> Gujarat	G.S.R. 1542, dated 27-12-1961, <i>ibid</i> Extraordinary, p. 597.
26-12-1961	Madhya Pradesh	G.S.R. 1491, dated 19-12-1961, <i>ibid.</i> , p. 1847.
31-12-1961	Bihar	G.S.R. 1492, dated 19-12-1961, <i>ibid.</i> , p. 1847.
31-12-1961	Maharashtra	G.S.R. 1543, dated 29-12-1961, <i>ibid.</i> , Extraordinary, p. 599.
5-1-1962	Andhra Pradesh	G.S.R. 42, dated 4-1-1962, <i>ibid.</i> , Extraordinary p. 51.
1-3-1962	Madras	G.S.R. 255, dated 26-2-1962, <i>ibid.</i> , Extraordinary p. 109. <span style="border: 1px solid black; border-radius: 50%; padding: 2px;">26-2-1962</span>

- of (ii) The Andhra Pradesh (Telengana Area) Sugarcane Cess Act, 1953;
- Act 1937. (iii) The Bihar Sugar Factories Control Act, 1937;
- ay Act & II of (iv) The Bombay Sugarcane Cess Act, 1948;
- ay Act of 1958. (v) The Bombay Sugarcane Cess (Extension) Act, 1958;
- abad & of (vi) The Hyderabad Sugarcane Cess Act, 1953;
- ya Pra-Act I 9. (vii) The Madhya Pradesh Sugarcane (Regulation of Supply and Purchase) Act, 1958;
- \* as Act of 1949. (viii) The Madras Sugar Factories Control Act, 1949;
- re Act 1959. (ix) The Madras Sugar Factories Control (Mysore Amendment and Validation of Levy of Cess) Act, 1959;
- re Act 1958. (x) The Mysore Sugarcane Cess Act, 1958.

3. (1) Notwithstanding any judgment, decree or order of any court, all cesses imposed, assessed or collected or purporting to have been imposed, assessed or collected under any State Act before the commencement of this Act shall be deemed to have been validly imposed, assessed or collected in accordance with law, as if the provisions of the State Acts and of all notifications, orders and rules issued or made thereunder, in so far as such provisions relate to the imposition, assessment and collection of such cess had been included in and formed part of this section and this section had been in force at all material times when such cess was imposed, assessed or collected; and accordingly,—

Validation of imposition and collection of cesses under State Acts.

(a) no suit or other proceeding shall be maintained or continued in any court for the refund of any cess paid under any State Act;

(b) no court shall enforce a decree or order directing the refund of any cess paid under any State Act; and

(c) any cess imposed or assessed under any State Act before the commencement of this Act but not collected before such commencement may be recovered (after assessment of the cess, where necessary) in the manner provided under that Act.

(2) For the removal of doubts it is hereby declared that nothing in sub-section (1) shall be construed as preventing any person—

(a) from questioning in accordance with the provisions of any State Act and rules made thereunder the assessment of any cess for any period; or

(b) from claiming refund of any cess paid by him in excess of the amount due from him under any State Act and the rules made thereunder.

**Omission of section 11 of the Bombay Sugarcane Cess Act, 1948.** 4. Nothing in this Act shall be construed as validating section 11 of the Bombay Sugarcane Cess Act, 1948 and accordingly the said section shall be omitted.

Bombay  
LXXXII  
1948.

**Amendment of U. P. Sugarcane Cess (Validation) Act, 1961.** 5. In sub-section (1) of section 3 of the U.P. Sugarcane Cess (Validation) Act, 1961, for the words, figures and letters "during the period beginning with the 26th day of January, 1950 and ending on the 3rd day of February, 1961", the words, figures and letters "before the 3rd day of February, 1961" shall be substituted and shall be deemed always to have been substituted.

4 of 1961.

*Rep: by Act 52 of 1964, S. 2 & Sch. I (w.e.f. 29.12.64)*

THE INDIAN RAILWAYS (AMENDMENT) ACT, 1961

No. 39 OF 1961

[12th September, 1961]

An Act further to amend the Indian Railways Act, 1890.

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

1. (1) This Act may be called the Indian Railways (Amendment) Act, 1961. Short title and commencement.

(2) It shall come into force on such date<sup>1</sup> as the Central Government may, by notification in the Official Gazette, appoint.

9 of 1890. 2. In section 3 of the Indian Railways Act, 1890 (hereinafter referred to as the principal Act), clauses (14) and (17) shall be omitted. Amendment of section 3.

3. In section 27 of the principal Act,—

(a) in sub-section (3), for the words "one mile", the words "one kilometre" shall be substituted;

(b) in the proviso to sub-section (4),—

(i) in clause (a), for the words "per maund", the words, brackets and figures "per quintal (100 kilograms)" shall be substituted;

(ii) in clause (h), the word "mileage" occurring in two places shall be omitted.

4. In section 47 of the principal Act,—

(a) in sub-section (1), for the words "Every railway company and in the case of a railway administered by the Govern-

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1. 1-1-1962, vide G.S.R. 1433, dated 21-11-1961, Gazetted of India, Pt. II, Sec. 3(i), p. 1761.

ment, an officer to be appointed by the Central Government in this behalf", the following shall be substituted, namely:—

"The Central Government or in the case of a railway administered by a railway company, the railway company";

(b) in clause (f) of the same sub-section, for the words "warehouse or retain goods", the words "warehouse goods or retain goods or animals" shall be substituted;

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

"(3) A rule made under this section, whether by the Central Government or a railway company, shall not take effect until it is published in the Official Gazette, and in the case of a rule made by a railway company, unless before such publication it has also received the sanction of the Central Government."

Amendment of section 55.

5. In section 55 of the principal Act, the word "terminal", wherever it occurs, shall be omitted.

Insertion of new section 56A.

6. After section 56 of the principal Act, the following section shall be inserted, namely:—

Disposal of perishable goods in certain circumstances.

"56A. (1) Where by reason of any flood, land-slip, breach of any line 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 goods may be diverted to prevent loss or deterioration of, or damage to, such goods, the railway administration may, after obtaining wherever practicable instructions from the person appearing to the railway administration to be entitled to the goods, sell them by public auction.

(2) Out of the proceeds of the sale, the railway administration may retain a sum equal to the charge due in respect of the goods and the expenses of and incidental to the sale rendering the surplus, if any, of the proceeds to the person entitled thereto.

(3) The provisions of this section shall be without prejudice to the claim or right which the person entitled to the goods may have against the railway administration under any other enactment for the time being in force."

Amendment of section 61.

7. In section 61 of the principal Act, in sub-section (1), item (b) shall be omitted.

8. In section 63 of the principal Act, for the words "in English or in one or more of the vernacular languages in common use in the territory traversed by the railway, or both in English and in one or more of such vernacular languages, as the Central Government, after consultation with the railway administration, may determine". the words "in Hindi and in English and also, if considered necessary by the railway administration, in one or more of the regional languages in common use in the territory traversed by the railway" shall be substituted.

Amendment of section 63.

9. In section 64 of the principal Act, in sub-section (2), for the words "fifty miles", the words "eighty kilometres" shall be substituted.

Amendment of section 64.

10. In section 65 of the principal Act, for the words "in English and in a vernacular language in common use in the territory where the station is situate", the words "in Hindi and in English and also in a regional language in common use in the territory where the station is situate, if Hindi is not in common use therein" shall be substituted.

Amendment of section 65.

11. In section 66 of the principal Act, in sub-section (2),—

Amendment of section 66.

(a) in clause (a), for the words "in a vernacular language in common use in the territory traversed by the railway", the words "in Hindi and in a regional language in common use in the territory traversed by the railway" shall be substituted; and

(b) in clause (b), for the words "in English", the words "in Hindi and in English" shall be substituted.

21 of 1923. 44 of 1958. 12. In section 71B of the principal Act, the words and figures "the Indian Merchant Shipping Act, 1923 or" shall be omitted and after the words and figures "the Mines Act, 1952", the words and figures "or the Merchant Shipping Act, 1958" shall be inserted.

Amendment of section 71B.

13. For sections 72, 72A, 73, 74, 74A, 74B, 74C, 74D, 74E, 75, 76, 77 and 78 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 72 to 78.

"72. Any person delivering to a railway administration any animals or goods to be carried by railway shall,—

Execution of forwarding notes in respect of animals or goods carried on a railway.

(a) if the animals or goods are to be carried by a train intended solely for the carriage of goods, or

(b) if the goods are to be carried by any other train and consist of articles of any of the following categories, namely:—

(i) articles carried at owner's risk rates,

- (ii) articles of a perishable nature,
- (iii) articles mentioned in the Second Schedule,
- (iv) articles in a defective condition or defectively packed,
- (v) explosives and other dangerous goods,

execute a note (in this Act referred to as the forwarding note) in such form as may be prescribed by the railway administration and approved by the Central Government, in which the sender or his agent shall give such particulars in respect of the animals or goods so delivered as may be required.

General responsibility of a railway administration as a carrier of animals and goods.

73. Save as otherwise provided in this Act, a railway administration shall be responsible for the loss, destruction, damage, deterioration or non-delivery, in transit, of animals or goods delivered to the administration to be carried by railway, 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 any officer or authority subordinate to the Central Government or a State Government authorised in this behalf;
- (f) act or omission or negligence of the consignor or the consignee or the agent or servant of the consignor or the consignee;
- (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 administration further proves that it has used reasonable foresight and care in the carriage of the animals or goods.

*Rep. by Act 52 of 1964.*

of 1961]

Indian Railways (Amendment)

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74. (1) When any animals or goods are tendered to a railway administration for carriage by railway and the railway administration provides for the carriage of such animals or goods either at the ordinary tariff rate (in this Act referred to as the railway risk rate) or in the alternative at a special reduced rate (in this Act referred to as the owner's risk rate), the animals or goods shall be deemed to have been tendered to be carried at owner's risk rate, unless the sender or his agent elects in writing to pay the railway risk rate.

Responsibility of a railway administration for animals or goods carried at owner's risk rate.

(2) Where the sender or his agent elects in writing to pay the railway risk rate under sub-section (1), the railway administration shall issue a certificate to the consignor to that effect.

(3) When any animals or goods are deemed to have been tendered to be carried, or are carried, at the owner's risk rate, then, notwithstanding anything contained in section 73, the railway administration shall not be responsible for any loss, destruction, damage, deterioration or non-delivery, in transit, of such animals or goods, from whatever cause arising, except upon proof that such loss, destruction, damage, deterioration or non-delivery was due to negligence or misconduct on the part of the railway administration or of any of its servants.

75. A railway administration shall not be responsible for the loss, destruction, damage, deterioration or non-delivery of any luggage belonging to a passenger 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 the part of the railway administration or of any of its servants.

Responsibility of a railway administration as carrier of luggage.

75A. When any goods which, under ordinary circumstances, would be carried in covered vehicles or vessels and would be liable to damage if carried otherwise, are, at the request of the sender or his agent recorded in the forwarding note, tendered for carriage by railway in open vehicles or vessels, the railway administration shall not be responsible for any destruction, deterioration or damage which may arise only by reason of the goods being so carried.

Responsibility of a railway administration for goods carried in open vehicles.

76. A railway administration shall be responsible for loss, destruction, damage or deterioration of animals or goods proved by the owner to have been caused by delay or detention in their carriage unless the railway administration proves that the

Responsibility for delay or detention in transit.

delay or detention arose without negligence or misconduct on the part of the railway administration or of any of its servants.

Responsibility for deviation of route.

76A. Where, due to a cause beyond the control of a railway administration or due to congestion in the yard or other operational reasons, animals or goods delivered to the railway administration to be carried by railway are carried over a route other than the route by which they are booked or the usual or customary route, the railway administration shall not be deemed to have committed a breach of the contract of carriage by reason only of the deviation of route.

Responsibility for wrong delivery.

76B. Where a railway administration to which animals or goods are delivered to be carried by railway delivers them in good faith to a person who produces the original railway receipt, the railway administration shall not be responsible on the ground that such person is not legally entitled thereto or that the endorsement on the railway receipt is forged or otherwise defective.

Responsibility for goods to be delivered at siding.

76C. In the case of goods to be delivered by a railway administration at a siding not belonging to the administration, the railway administration shall not be responsible for loss, destruction, damage, deterioration or non-delivery of such goods, from whatever cause arising, after the wagon containing the goods has been placed at the point of interchange of wagons between the railway administration and the owner of the siding and the owner of the siding has been informed in writing that the wagon has been so placed.

Responsibility of two or more railway administrations for through traffic.

76D. Where any animals or goods delivered to a railway administration to be carried by railway have been booked through over the railways of two or more railway administrations or over one or more railway administrations and one or more transport systems not belonging to any railway administration, the person tendering the animals or goods to the railway administration shall be deemed to have contracted with each one of the railway administrations or the owners of the transport systems concerned, as the case may be, that the provisions of this Chapter shall apply, so far as may be, in relation to the carriage of such animals or goods in the same manner and to the same extent as they would have applied if the animals or goods had been carried by the railway of only one railway administration:

Provided that—

(a) where there is a deviation in the route by which the animals or goods are to be carried, such deviation was

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due to a cause beyond the control of the railway administration, or the owner of the transport system concerned, as the case may be, or to congestion in the yard or other operational reasons;

(b) for the purpose of making the provisions of this Chapter relating to the carriage of animals or goods at the owner's risk rate applicable, the benefit of the railway risk rate and the owner's risk rate was available in the alternative to the sender on each of the railway administrations or transport systems concerned at the time of the delivery of the animals or goods to the railway administration for the purpose of carriage.

76E. Where in the course of carriage of animals or goods 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, the animals or goods are carried over the railway of a railway administration, the railway administration shall not be responsible under any of the provisions of this Chapter for loss, destruction, damage or deterioration of the animals or goods, from whatever cause arising, unless it is proved by the owner of the animals or goods that such loss, destruction, damage or deterioration arose on the railway of the railway administration.

Responsibility of railway administration in case of traffic passing over railways in India and railways in foreign countries.

76F. Notwithstanding anything contained in section 74,—

(a) where the whole of a consignment of goods, or the whole of any package forming part of a consignment, carried at owner's risk rate is not delivered to the consignee 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

Burden of proving misconduct in case of non-delivery or pilferage in transit of goods carried at owner's risk rate.

(b) where, in respect of any consignment of goods or of any package 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 such consignment or package had been pilfered in transit,

the railway administration shall be bound to disclose to the consignor 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.

Responsibility of a railway administration after termination of transit.

77. (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 goods carried by railway within a period of thirty days after the termination of transit: 9 of 1872.

Provided that where the goods are carried at owner's risk rate, the railway administration shall not be responsible 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 goods carried by railway, arising after the expiry of the period of thirty 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 the goods mentioned in the Second Schedule, animals and explosives and other dangerous goods carried by railway, after the termination of transit.

(4) Nothing in the foregoing provisions of this section shall relieve the owner of animals or goods from liability to any demurrage or wharfage for so long as the animals or goods are not unloaded from the railway wagons or removed from the railway premises.

(5) For the purposes of this Chapter,—

(a) unless otherwise previously determined, transit terminates on the expiry of the free time allowed (after the arrival of animals or goods at destination) for their unloading from railway wagons without payment of demurrage, and where such unloading has been completed within the free time so allowed, transit terminates on the expiry of the free time allowed for the removal of the animals or goods from railway premises without payment of wharfage;

(b) 'demurrage' and 'wharfage' have the meanings respectively assigned to them in clause (d) and clause (h) of section 46C.

Further provision with respect to the responsibility of a railway administration as a carrier of animals.

77A. (1) Notwithstanding anything contained in the foregoing provisions of this Chapter, the responsibility of a railway administration for the loss, destruction, damage, deterioration or non-delivery of any animal delivered to the administration to be carried by railway shall not exceed the amount respectively specified in column (2) against the item relating to the animal

in column (1) of the First Schedule, unless the person delivering the animal to the railway administration declares in writing a higher value in the forwarding note and has paid or engaged to pay to the railway administration a percentage specified by it upon the excess of the value so declared over the respective sums mentioned in column (2) of the said Schedule.

(2) Where such higher value has been declared, the railway administration may charge, in respect of the increased risk, a percentage upon the excess of the value so declared over the respective sums aforesaid.

(3) Nothing contained in this section shall render the railway administration liable for any loss, destruction or damage arising from fright or restiveness of the animal or from overloading of wagon by the consignor or his agent.

77B. (1) Notwithstanding anything contained in the provisions of this Chapter, when any articles mentioned in the Second Schedule are contained in any parcel or package delivered to a railway administration to be carried by railway and the value of such articles in the parcel or package exceeds five hundred rupees, the railway administration shall not be responsible for the loss, destruction, damage or deterioration of the parcel or package unless the person sending or delivering the parcel or package to the administration caused its value and contents to be declared in writing or declared them in writing at the time of the delivery of the parcel or the package for carriage by railway, and if so required by the administration, paid or engaged to pay in writing a percentage on the value so declared by way of compensation for the increased risk.

Further provision with respect to the responsibility of a railway administration as a carrier of articles of special value.

(2) When any parcel or package of which the value has been declared under sub-section (1) has been lost, destroyed, or damaged or has deteriorated, the compensation recoverable in respect of such loss, destruction, damage or deterioration shall not exceed the value so declared.

(3) A railway administration may make it a condition of carrying a parcel or package declared to contain any article mentioned in the Second Schedule that a railway servant authorised in this behalf has been satisfied by examination or otherwise that the parcel or package actually contains the article declared to be therein.

(4) The Central Government may, by notification in the Official Gazette, direct that any article mentioned in the Second Schedule may, without being contained in any parcel or package,

be delivered to a railway administration to be carried by railway and upon the issue of such notification, the provisions of this section shall apply in relation to such article as they apply in relation to any article mentioned in the Second Schedule and contained in any parcel or package.

Responsibility of a railway administration for damage, deterioration, etc., of goods in defective condition or defectively packed.

77C. (1) When any goods tendered to a railway administration to be carried by railway—

(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 packed in a manner not in accordance with the general or special order, if any, issued under sub-section (4), 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 sender or his agent in the forwarding note, then, notwithstanding anything contained in the foregoing provisions of this Chapter, 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, except upon proof of negligence or misconduct on the part of the railway administration or of any of its servants.

(2) When any goods delivered to a railway administration to be carried by railway are found on arrival at destination to have been damaged or to have suffered deterioration, leakage or wastage, then, notwithstanding anything contained in the foregoing provisions of this Chapter, the railway administration shall not be responsible for the damage, deterioration, leakage or wastage of the goods on proof by the railway administration—

(a) that the goods were, at the time of delivery to the railway administration, in a defective condition or were at that time either defectively packed or packed in a manner not in accordance with the general or special order, if any, issued under sub-section (4) and as a consequence of such defective condition or defective or improper packing 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 of any of its servants at the time of

delivery 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.

(3) A railway administration shall not be responsible under sub-section (1) or sub-section (2) for any damage, deterioration, leakage or wastage occurring after the expiry of the period of thirty days after the termination of transit as defined in sub-section (5) of section 77.

(4) The Central Government may, by general or special order, prescribe the manner in which goods delivered to a railway administration to be carried by railway shall be packed.

78. Notwithstanding anything contained in the foregoing provisions of this Chapter, a railway administration shall not be responsible—

Exoneration from responsibility in certain cases.

(a) for the loss, destruction, damage, deterioration or non-delivery of any goods with respect to the description of which an account materially false has been delivered under sub-section (1) of section 58 if the loss, destruction, damage, deterioration or non-delivery is, in any way, brought about by the false account, nor in any case for an amount exceeding the value of the goods if such value were calculated in accordance with the description contained in the false account; or

(b) for the loss, destruction, damage, deterioration or non-delivery of animals or goods in cases where there has been fraud practised by the consignor or the consignee or an agent of the consignor or the consignee; or

(c) for the loss, destruction, damage, deterioration or non-delivery of animals or goods 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 by an agent of the consignor or the consignee, or

(ii) riot, civil commotion, strike, lock-out, stoppage or restraint of labour from whatever cause, whether partial or general; or

(d) for any indirect or consequential damages or for loss of particular market.

Burden of proof in suits for compensation.

78A. In any suit against a railway administration for compensation for any delay, loss, destruction, damage, deterioration, or non-delivery, the burden of proving—

(a) in the case of animals, the value thereof, or the higher value declared under section 77A, and where the animal has been injured, the extent of the injury, or

(b) in the case of any parcel or package, the value of which has been declared under section 77B or any article mentioned in the Second Schedule not contained in any parcel or package, the value of which has been declared under that section, that the value so declared is its true value,

shall lie on the person claiming the compensation, but, subject to the other provisions contained in this Act, it shall not be necessary for him to prove how the delay, loss, destruction, damage, deterioration or non-delivery was caused.

Notification of claims to refunds of overcharges and to compensation for losses.

78B. A person shall not be entitled to a refund of an overcharge in respect of animals or goods carried by railway or to compensation for the loss, destruction, damage, deterioration or non-delivery of animals or goods delivered to be so carried, unless his claim to the refund or compensation has been preferred in writing by him or on his behalf—

(a) to the railway administration to which the animals or goods were delivered to be carried by railway, or

(b) to the railway administration on whose railway the destination station lies, or the loss, destruction, damage or deterioration occurred,

within six months from the date of the delivery of the animals or goods for carriage by railway:

Provided that any information demanded or inquiry made in writing from, or any complaint made in writing to, any of the railway administrations mentioned above by or on behalf of the person within the said period of six months regarding the non-delivery or delay in delivery of the animals or goods with particulars sufficient to identify the consignment of such animals or goods shall, for the purposes of this section, be deemed to be a claim to the refund or compensation."

Substitution of new section for section 80. Suits for compensation.

14. For section 80 of the principal Act, the following section shall be substituted, namely:—

"80. A suit for compensation for loss of the life of, or personal injury to, a passenger or for loss, destruction, damage,

deterioration or non-delivery of animals or goods may be instituted,—

(a) if the passenger was, or the animals or goods were, booked from one station to another on the railway of the same railway administration, against that railway administration;

(b) if the passenger was, or the animals or goods were, booked through over the railway of two or more railway administrations, against the railway administration from which the passenger obtained his pass or purchased his ticket or to which the animals or goods were delivered for carriage, as the case may be, or against the railway administration on whose railway the destination station lies; or the loss, injury, destruction, damage or deterioration occurred;

and, in either case, the suit may be instituted in a court having jurisdiction over the place at which the passenger obtained his pass or purchased his ticket or the animals or goods were delivered for carriage, as the case may be, or over the place in which the destination station lies, or the loss, injury, destruction, damage or deterioration occurred.”

15. In section 82 of the principal Act, in sub-section (1),—

Amendment  
of section  
82.

(i) for the words “enemies of Government”, the words “public enemies” shall be substituted;

(ii) for the words and figures “the Merchant Shipping Act, 1854, and the Merchant Shipping Act Amendment Act, 1862, if the ship were registered under the former of those Acts”, the words and figures “the Merchant Shipping Act, 1958, if the ship were registered under that Act” shall be substituted.

17 and 18  
Vict., c. 104.  
25 and 26  
Vict., c. 63.  
44 of 1958.

16. In section 82J of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

Amendment  
of section  
82J.

“(3) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, 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.”

Amendment  
of section  
106.

17. In section 106 of the principal Act, for the words "fifty rupees for every maund or part of a maund", the words "one hundred and fifty rupees for every quintal or part of a quintal" shall be substituted.

Amendment  
of section  
113.

18. In section 113 of the principal Act, in sub-section (3), for the words "eight annas", the words "fifty naye paise", and for the words "nearest anna, or two annas", the words "nearest multiple of five naye paise, or fifteen naye paise" shall be substituted.

Substitution  
of new  
section for  
section 115.

19. For section 115 of the principal Act, the following section shall be substituted, namely:—

Excess  
charge and  
single fare  
collected to  
be paid to  
railway ad-  
ministration.

"115. Out of any amount recovered under section 112, the excess charge and single fare referred to in that section shall be paid to the railway administration before any portion of that amount is credited as fine to the Government; and that portion of any fine imposed under section 114 which represents the single fare therein mentioned shall, as the fine is recovered, be paid to the railway administration before any portion of the fine is credited to the Government."

Amendment  
of section  
130.

20. In sub-section (1) of section 130 of the principal Act, for the words and figures "he shall be deemed, notwithstanding anything in section 82 or section 83 of the Indian Penal Code, to have committed an offence, and the Court convicting him may, if it thinks fit, direct that the minor, if a male, shall be punished with whipping, or may require", the words "the Court convicting him may require" shall be substituted.

Act 45 of  
1860.

Amendment  
of section  
137.

21. In section 137 of the principal Act, in clause (a) of sub-section (3), after the word and figures "section 58", the words, figures and letter "or section 56A" shall be inserted.

Insertion of  
new section  
139.

22. After section 138 of the principal Act, the following section shall be inserted, namely:—

Proof of  
entries in  
records and  
documents.

"139. Entries 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."

23. In section 140 of the principal Act,—

Amendment  
of section  
140.

(a) for the words “the Manager” wherever they occur, the words “the Manager or the Chief Commercial Superintendent” shall be substituted;

14 of 1866.  
6 of 1898.

(b) for the words and figures “under Part III of the Indian Post Office Act, 1866”, the words and figures “under the Indian Post Office Act, 1898” shall be substituted.

14 of 1866.  
6 of 1898.

24. In section 141 of the principal Act, for the words and figures “under Part III of the Indian Post Office Act, 1866”, the words and figures “under the Indian Post Office Act, 1898” shall be substituted.

Amendment  
of section  
141.

25. After section 147 of the principal Act, the following section shall be inserted, namely:—

Insertion of  
new section  
147A.

“147A. The Central Government may, by notification in the Official Gazette, add any article to, or omit any article from, the Second Schedule, and on the publication of such notification, such article shall be deemed to be included in or, as the case may be, omitted from the said Second Schedule.”

Power to  
amend the  
Second  
Schedule.

26. In the First Schedule to the principal Act, for the brackets, words and figures “(See section 73)”, the brackets, words, figures and letter “(See section 77A)” shall be substituted.

Amendment  
of the First  
Schedule.

27. In the Second Schedule to the principal Act,—

Amendment  
of the  
Second  
Schedule.

(a) for the brackets, words and figures “(See section 75)”, the brackets, words, figures and letter “(See section 77B)” shall be substituted;

(b) item (s) shall be omitted.

*Rep: by Act 52 of 1964, s. 2 + Sec. I (w.e.f 29.12.64)*

**THE REPRESENTATION OF THE PEOPLE  
(AMENDMENT) ACT, 1961**

No. 40 of 1961

[12th September, 1961]

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 Twelfth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement. 1. (1) This Act may be called the Representation of the People (Amendment) Act, 1961.

(2) It shall come into force on such date<sup>1</sup> as the Central Government may, by notification in the Official Gazette, appoint.

CHAPTER II

AMENDMENT OF THE REPRESENTATION OF THE PEOPLE ACT, 1950

Amendment of section 23. 2. In section 23 of the Representation of the People Act, 1950<sup>43</sup> of 1950 (hereinafter referred to as the 1950-Act), sub-sections (4) and (5) shall be omitted.

Insertion of new sections after section 23. 3. After section 23 of the 1950-Act, the following sections shall be inserted, namely:—

Appeals.

“24. An appeal shall lie within such time and in such manner as may be prescribed—

(a) to the Chief Electoral Officer, from any order of the Electoral Registration Officer under section 22 or section 23, and

(b) to the Election Commission, from any order of the Chief Electoral Officer under section 23.

<sup>1</sup>20-9-1961, vide Notification No. G. S. R. 1142, dated 16-9-1961, Gazette of India, Extraordinary, Pt. II, Sec. 3 (i), p. 429.

*Rep. by Act 52 of 1964.*

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25. Every application under section 22 or section 23 and every appeal under section 24 shall be accompanied by the prescribed fee which shall, in no case, be refunded." Fee for applications and appeals.

4. In section 27 of the 1950-Act,—

Amendment of section 27.

(a) in sub-section (5)—

(i) in clause (a), for the words "on the qualifying date was", the word "is" and for the words "before that date", the words "before the qualifying date" shall be substituted;

(ii) in clause (b), for the words "on the qualifying date was", the word "is" and for the words "before that date", the words "before the qualifying date" shall be substituted;

(b) for sub-section (6), the following sub-section shall be substituted, namely:—

"(6) For the purposes of sub-sections (4) and (5), the qualifying date shall be the 1st day of November of the year in which the preparation or revision of the electoral roll is commenced."

5. In section 28 of the 1950-Act, for sub-section (3), the following sub-section shall be substituted, namely:— Amendment of section 28.

"(3) Every rule made under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree that the rule should be either modified or annulled, 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."

6. In the Fourth Schedule to the 1950-Act,—

Amendment of the Fourth Schedule.

(a) the heading "BOMBAY" and the entries under that heading shall be omitted;

(b) under the heading "MADRAS", for the entry "2. District Boards.", the entry "2. Panchayat Union Councils." shall be substituted;

(c) after the heading "MADRAS" and the entries thereunder, the following heading and entries shall be inserted, namely:—

"MAHARASHTRA

1. Municipal Committees.
2. District Local Boards.
3. Cantonment Boards.
4. District Boards.
5. Town Committees.
6. Janapada Sabhas (Rural Circle);

(d) under the heading "MYSORE"—

(1) for the entry "2. District Boards and District Local Boards.", the entry "2. Taluk Development Boards." shall be substituted;

(2) the entry "5. Village Panchayats with a population of not less than five thousand." shall be omitted;

(e) under the heading "PUNJAB", for the entry "2. District Boards.", the entry "2. Panchayat Samitis." shall be substituted.

### CHAPTER III

#### AMENDMENT OF THE REPRESENTATION OF THE PEOPLE ACT, 1951

Amendment of section 30. 7. In section 30 of the Representation of the People Act, 1951 43 of 1951 (hereinafter referred to as the 1951-Act),—

(a) in clause (a), for the words "tenth day", the words "seventh day" shall be substituted;

(b) in clause (b), for the words "third day", the words "second day" shall be substituted.

Amendment of section 33. 8. In section 33 of the 1951-Act, for sub-section (6), the following sub-section shall be substituted, namely:—

"(6) Nothing in this section shall prevent any candidate from being nominated by more than one nomination paper:

Provided that not more than four nomination papers shall be presented by or on behalf of any candidate or accepted by the returning officer for election in the same constituency."

Amendment of section 36. 9. In section 36 of the 1951-Act,—

(a) in sub-section (2), in clause (a), for the words "that the candidate", the words "that on the date fixed for the scrutiny of nominations the candidate" shall be substituted;

(b) in sub-section (5), in the proviso, for the words "an objection is made", the words "an objection is raised by the

returning officer or is made by any other person" shall be substituted.

10. In section 37 of the 1951-Act, for sub-section (3), the following sub-section shall be substituted, namely:— Amendment of section 37.

"(3) The returning officer shall, on being satisfied as to the genuineness of a notice of withdrawal and the identity of the person delivering it under sub-section (1), cause the notice to be affixed in some conspicuous place in his office."

11. In section 39 of the 1951-Act, in sub-section (1), in clause (a), for the words "tenth day", the words "seventh day" shall be substituted. Amendment of section 39.

12. Section 54 of the 1951-Act shall be omitted. Omission of section 54.

13. For section 58 of the 1951-Act, the following section shall be substituted, namely:— Substitution of new section for section 58.

"58. (1) If at any election,—

(a) any ballot box used at a polling station or at a place fixed for the poll is unlawfully taken out of the custody of the presiding officer or the returning officer, or is accidentally or intentionally destroyed or lost, or is damaged or tampered with, to such an extent, that the result of the poll at that polling station or place cannot be ascertained, or

(b) any such error or irregularity in procedure as is likely to vitiate the poll is committed at a polling station or at a place fixed for the poll,

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

(2) Thereupon, the Election Commission shall, after taking all material circumstances into account, either—

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

(b) if satisfied that the result of a fresh poll at that polling station or place will not, in any way, affect the result of the election or that the error or irregularity in procedure is not material, issue such directions to the returning officer as it may deem proper for the further conduct and completion of the election.

(3) The provisions of this Act and of any rules or orders made thereunder shall apply to every such fresh poll as they apply to the original poll."

Omission of section 63.

14. Section 63 of the 1951-Act shall be omitted.

Amendment of section 67A.

15. In section 67A of the 1951-Act, the word and figures "section 54" shall be omitted.

Amendment of section 73.

16. In section 73 of the 1951-Act,—

(a) for the words "the appropriate authority", the words "the Election Commission" shall be substituted;

(b) the words "together with the names of the persons, if any, nominated by the President or Governor to that House or Assembly, as the case may be;" shall be omitted.

Amendment of section 81.

17. In section 81 of the 1951-Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Every election petition shall be accompanied by as many copies thereof as there are respondents mentioned in the petition and one more copy for the use of the Election Commission, and every such copy shall be attested by the petitioner under his own signature to be a true copy of the petition."

Amendment of section 83.

18. In section 83 of the 1951-Act, in sub-section (1), the following proviso shall be added at the end, namely:—

"Provided that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof."

Amendment of section 90.

19. In section 90 of the 1951-Act, in sub-section (3), for the words and figures "section 82 or section 117", the words and figures "or section 82" shall be substituted.

Amendment of section 116A.

20. In section 116A of the 1951-Act, in sub-section (4), after the word and figures "section 98", the words and figures "or section 99" shall be inserted.

Amendment of section 117.

21. In section 117 of the 1951-Act, for the words "one thousand rupees", the words "two thousand rupees" shall be substituted.

*Rep'd by Act 52 of 1964*

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22. In section 120 of the 1951-Act, in sub-section (1), the following proviso shall be added at the end, namely:—

Amendment  
of section  
120.

“Provided that where a petition is dismissed under clause (a) of section 98, the returned candidate shall be entitled to the costs incurred by him in contesting the petition and accordingly the Tribunal shall make an order for costs in favour of the returned candidate.”.

23. In section 123 of the 1951-Act, for clause (3), the following clauses shall be substituted, namely:—

Amendment  
of section  
123.

“(3) The appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to, religious symbols or the use of, or appeal to, national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

(3A) The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.”.

24. In Chapter III of Part VII of the 1951-Act, before section 126, the following section shall be inserted, namely:—

Insertion of  
new section  
125 in  
Chapter III  
of Part VII.

“125. Any person who in connection with an election under this Act promotes or attempts to promote on grounds of religion, race, caste, community or language, feelings of enmity or hatred between different classes of the citizens of India shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.”.

Promoting  
enmity between  
classes in  
connection with  
election.

25. In section 126 of the 1951-Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment  
of section  
126.

“(1) No person shall convene, hold or attend any public meeting within any polling area within twenty-four hours before  
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the date of commencement of the poll or on the date or dates on which a poll is taken for an election in that polling area.”.

Insertion of  
new section  
after section  
127.

Restrictions  
on the print-  
ing of pam-  
phlets,  
posters, etc.

26. After section 127 of the 1951-Act, the following section shall be inserted, namely:—

“127A. (1) No person shall print or publish, or cause to be printed or published, any election pamphlet or poster which does not bear on its face the names and addresses of the printer and the publisher thereof.

(2) No person shall print or cause to be printed any election pamphlet or poster—

(a) unless a declaration as to the identity of the publisher thereof, signed by him and attested by two persons to whom he is personally known, is delivered by him to the printer in duplicate; and

(b) unless, within a reasonable time after the printing of the document, one copy of the declaration is sent by the printer, together with one copy of the document,—

(i) where it is printed in the capital of the State, to the Chief Electoral Officer; and

(ii) in any other case, to the district magistrate of the district in which it is printed.

(3) For the purposes of this section,—

(a) any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printing and the expression ‘printer’ shall be construed accordingly; and

(b) ‘election pamphlet or poster’ means any printed pamphlet, hand-bill or other document distributed for the purpose of promoting or prejudicing the election of a candidate or group of candidates or any placard or poster having reference to an election, but does not include any hand-bill, placard or poster merely announcing the date, time, place and other particulars of an election meeting or routine instructions to election agents or workers.

(4) Any person who contravenes any of the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.”.

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27. In section 139 of the 1951-Act, in sub-section (1), in clause (b), for the word and figures "section 135", the words and figures "section 125 or section 135" shall be substituted. Amendment  
of section  
139.

28. In section 141 of the 1951-Act, in clause (a), for the word and figures "section 135", the words and figures "section 125 or section 135" shall be substituted. Amendment  
of section  
141.

29. In section 169 of the 1951-Act, for sub-section (3), the following sub-section shall be substituted, namely:— Amendment  
of section  
169.

"(3) Every rule made under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree that the rule should be either modified or annulled, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

*Rep. by Act 52 of 1964, s. 2 of sch. I (a.c.f. 29.12.6*

THE INDIAN PENAL CODE (AMENDMENT)  
ACT, 1961

No. 41 OF 1961

[12th September, 1961]

An Act further to amend the Indian Penal Code.

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

**Short title.** 1. This Act may be called the Indian Penal Code (Amendment) Act, 1961.

**Substitution of new section for section 153A.** 2. For section 153A of the Indian Penal Code (hereinafter referred to as the Code), the following section shall be substituted, namely,— Act 45 of 1860.

Promoting enmity between different groups on grounds of religion, race, language, etc., and doing acts prejudicial to maintenance of harmony.

“153A. Whoever—

(a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes, or attempts to promote, on grounds of religion, race, language, caste or community or any other ground whatsoever, feelings of enmity or hatred between different religious, racial or language groups or castes or communities, or

(b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial or language groups or castes or communities and which disturbs or is likely to disturb the public tranquillity,

shall be punished with imprisonment which may extend to three years, or with fine, or with both.”

**Amendment of section 295A.**

3. In section 295A of the Code,—

(a) for the words “by words, either spoken or written, or by visible representations”, the words “by words, either spoken or written, or by signs or by visible representations or otherwise” shall be substituted;

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(b) for the words "two years", the words "three years" shall be substituted.

4. In section 505 of the Code, for the words "two years", the words "three years" shall be substituted. Amendment of section 505.

*Rep. by Act 52 of 1964, S. 2 & Sch. I (w.c.f. 29.12.64)*

**THE DELHI MUNICIPAL CORPORATION (AMENDMENT) ACT, 1961**

No. 42 OF 1961

[12th September, 1961]

**An Act further to amend the Delhi Municipal Corporation Act, 1957.**

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

- Short title.** 1. This Act may be called the Delhi Municipal Corporation (Amendment) Act, 1961.
- Amendment of section 2.** 2. In section 2 of the Delhi Municipal Corporation Act, 1957 <sup>66 of 1957</sup> (hereinafter referred to as the principal Act), in clause (48), after the word "made", the words "by the Corporation" shall be inserted.
- Substitution of new section for section 5.** 3. (1) For section 5 of the principal Act, the following section shall be substituted, namely:—
- Delimitation of wards.**
- "5. (1) For the purposes of election of councillors, Delhi shall be divided into single-member wards.
- (2) The Central Government shall, by order in the Official Gazette, determine,—
- (a) the number of wards; |
- (b) the extent of each ward; and
- (c) the wards in which seats shall be reserved for the Scheduled Castes." |
- (2) The provisions of section 5 of the principal Act as substituted by sub-section (1) of this section shall not apply in relation to any election to fill a casual vacancy occurring in the office of a councillor at any time before the general election of councillors to be held next after the commencement of this Act.

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4. In section 10 of the principal Act, sub-section (2) shall be omitted. Amendment  
of section 10.

5. In section 31 of the principal Act, in sub-section (1), after item (h), the following item shall be inserted, namely:— Amendment  
of section 31.

“(hh) the requisitioning of premises, vehicles, vessels or animals, payment of compensation in connection with such requisitioning, eviction from requisitioned premises and release of premises from requisition;”.

6. In section 38 of the principal Act, for the word “Secretary”, in both the places where it occurs, the words “Municipal Secretary” shall be substituted. Amendment  
of section 38.

7. In section 113 of the principal Act, in sub-section (2), in clause (d), for the words “or sale”, the words “sale or supply” shall be substituted. Amendment  
of section  
113.

8. Section 119 of the principal Act shall be re-numbered as sub-section (1) of that section and— Amendment  
of section  
119.

(a) in that sub-section as so re-numbered, in the proviso for the words “in this section”, the words “in this sub-section” shall be substituted;

(b) after that sub-section as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) Where the possession of any land or building, being property of the Union, has been delivered in pursuance of section 20 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 to a displaced person or any association of displaced persons, whether incorporated or not, or to any other person (hereafter in this sub-section and the proviso to sub-section (1) of section 120 referred to as the transferee), the property taxes specified in section 114 shall be leviable and shall be deemed to have been leviable in respect of such land or building with effect from the 7th day of April, 1958 or the date on which possession thereof has been delivered to the transferee, whichever is later, and such property taxes shall, notwithstanding anything contained in the proviso to sub-section (1) of section 126 or any other provision of this Act, be recoverable with effect from that day or date, as the case may be.”.

Amendment of section 120. 9. In section 120 of the principal Act, in sub-section (1), the following proviso shall be inserted at the end, namely:—

“Provided that the property taxes in respect of land or building, being property of the Union, possession of which has been delivered in pursuance of section 20 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, shall be primarily 44 of 1954. leviable upon the transferee.”

Amendment of section 124. 10. In section 124 of the principal Act,—

(a) in sub-section (3),—

(i) the words “and the assessments of property taxes in respect of lands and buildings” shall be omitted;

(ii) for the words “or the assessment is increased”, the words “or the rateable value of any land or building is increased” shall be substituted;

(b) in sub-section (4), for the words “assessment or any other matter”, the words “any other matter” and for the words “assessment or other matter”, the words “or other matter” shall be substituted;

(c) in sub-section (6), for the words “rateable value and assessment”, the words “rateable value” and for the words “rateable values or assessments”, the words “rateable values” shall be substituted.

Amendment of section 125. 11. In section 125 of the principal Act,—

(a) in clause (a), the word “and” occurring at the end shall be omitted;

(b) clause (b) shall be omitted.

Amendment of section 126. 12. In section 126 of the principal Act, in sub-section (1), in the proviso, for the words “in which the amendment is made”, the words “in which the notice under sub-section (2) is given” shall be substituted.

Amendment of section 127. 13. In section 127 of the principal Act, the words “and assessments”, wherever they occur, shall be omitted.

Amendment of section 137. 14. In section 137 of the principal Act, in the second proviso, after clause (c), the following clause shall be inserted, namely:—

“(d) a cow or a she-buffalo kept for milking for domestic use if the cow or the she-buffalo is the only cow or she-buffalo kept by the owner or the person having possession or control

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thereof for such milking and is registered in accordance with bye-laws made in this behalf, so, however, that—

(i) where more cows or, as the case may be, more she-buffaloes than one are kept by several such owners or persons constituting a family, the tax under this section shall be levied in respect of all such cows or all such she-buffaloes,

(ii) where a cow and also a she-buffalo are kept by the owner or the person having the possession or control thereof or by several such owners or persons constituting a family, the tax under this section shall be levied in respect of the cow and the she-buffalo.”

15. For section 164 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 164.

“164. (1) If any building together with land appurtenant thereto has remained vacant and unproductive of rent for sixty or more consecutive days, the Commissioner shall remit or refund, as the case may be, two-thirds of such portion of the scavenging tax, the fire tax and the general tax assessed on the rateable value thereof, as may be proportionate to the number of days during which the said building together with the land appurtenant thereto has remained vacant and unproductive of rent,

Remission or refund of tax.

(2) If any land, not being land appurtenant to a building, has remained vacant and unproductive of rent for sixty or more consecutive days, the Commissioner shall remit or refund, as the case may be, one-half of such portion of the scavenging tax, the fire tax and the general tax assessed on the rateable value thereof, as may be proportionate to the number of days during which the said land has remained vacant and unproductive of rent.

(3) If any land whether appurtenant to a building or not, or any building has remained vacant and unproductive of rent for sixty or more consecutive days, the Commissioner shall remit or refund, as the case may be, such portion of the water tax assessed on the rateable value thereof as may be proportionate to the number of days during which the said land or building has remained vacant and unproductive of rent:

Provided that no remission or refund of the water tax shall be allowed unless an application in such form as may be prescribed by bye-laws made in this behalf has been made to the Commissioner to stop the supply of water to such land or building or unless the Commissioner is satisfied that having regard to

the circumstances of any case such remission or refund should be allowed.”.

Substitution  
of new sec-  
tion for sec-  
tion 343.

Order of  
demolition  
and stoppage  
of buildings  
and works in  
certain cases  
and appeal.

16. For section 343 of the principal Act, the following section shall be substituted, namely:—

“343. (1) Where the erection of any building or execution of any work has been commenced, or is being carried on, or has been completed without or contrary to the sanction referred to in section 336 or in contravention of any condition subject to which such sanction has been accorded or in contravention of any of the provisions of this Act or bye-laws made thereunder, the Commissioner may, in addition to any other action that may be taken under this Act, make an order directing that such erection or work shall be demolished by the person at whose instance the erection or work has been commenced or is being carried on or has been completed, within such period, (not being less than five days and more than fifteen days from the date on which a copy of the order of demolition with a brief statement of the reasons therefor has been delivered to that person) as may be specified in the order of demolition:

Provided that no order of demolition shall be made unless the person has been given by means of a notice served in such manner as the Commissioner may think fit, a reasonable opportunity of showing cause why such order shall not be made:

Provided further that where the erection or work has not been completed, the Commissioner may by the same order or by a separate order, whether made at the time of the issue of the notice under the first proviso or at any other time, direct the person to stop the erection or work until the expiry of the period within which an appeal against the order of demolition, if made, may be preferred under sub-section (2).

(2) Any person aggrieved by an order of the Commissioner made under sub-section (1) may prefer an appeal against the order to the court of the district judge of Delhi within the period specified in the order for the demolition of the erection or work to which it relates.

(3) Where an appeal is preferred under sub-section (2) against an order of demolition, the court of the district judge may stay the enforcement of that order on such terms, if any, and for such period, as it may think fit:

Provided that where the erection of any building or execution of any work has not been completed at the time of the making of the order of demolition, no order staying the enforcement of

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the order of demolition shall be made by the court of the district judge unless security, sufficient in the opinion of the court, has been given by the appellant for not proceeding with such erection or work pending the disposal of the appeal.

(4) Save as provided in this section, no court shall entertain any suit, application or other proceeding for injunction or other relief against the Commissioner to restrain him from taking any action or making any order in pursuance of the provisions of this section.

(5) Every order made by the court of the district judge on appeal and subject only to such order, the order of demolition made by the Commissioner shall be final and conclusive.

(6) Where no appeal has been preferred against an order of demolition made by the Commissioner under sub-section (1) or where an order of demolition made by the Commissioner under that sub-section has been confirmed on appeal, whether with or without variation, the person against whom the order has been made shall comply with the order within the period specified therein, or as the case may be, within the period, if any, fixed by the court of the district judge on appeal and on the failure of the person to comply with the order within such period, the Commissioner may himself cause the erection or the work to which the order relates to be demolished and the expenses of such demolition shall be recoverable from such person as an arrear of tax under this Act."

17. In section 344 of the principal Act, in sub-section (2), for the words "If such order is not complied with forthwith", the words "figures and brackets" shall be substituted. Amendment of section 344.

18. In section 460 of the principal Act, in clause (a), after the word "applications", in both the places where it occurs, the words "election petitions," shall be inserted. Amendment of section 460.

19. In section 479 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:— Amendment of section 479.

"(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 successive sessions and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any

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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."

Amendment  
of section  
481.

20. In section 481 of the principal Act, in sub-section (1), under the heading "D. Bye-laws relating to transport services", in item (1), after the words "the issue of passes", the words "to the councillors and aldermen and" shall be inserted and shall be deemed always to have been inserted.

Amendment  
of Sixth  
Schedule.

21. In the Sixth Schedule to the principal Act, in note 3, for the figures "336", the figures "337" shall be substituted.

Amendment  
of Tenth  
Schedule.

22. In the Tenth Schedule to the principal Act, under the heading "Class VIII.—Metals and articles made of metals", in item 9, for the word "betal", the word "metal" shall be substituted.

Amendment  
of Twelfth  
Schedule.

23. In the Twelfth Schedule to the principal Act,—

(a) against section 236, sub-section (2), in the third column, the letters and figures "Rs. 100" shall be inserted and the existing entry in the fourth column shall be omitted;

(b) against section 241, in the third column, the letters and figures "Rs. 50" shall be inserted and the existing entry in the fourth column shall be omitted; and

(c) against section 343, in the second column, the words "or erection of buildings in contravention of order" shall be added at the end.

THE INCOME-TAX ACT, 1961

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Stat. Code, Part II, Volume VII B, Pt. II, p. 873.

**THE INCOME-TAX ACT, 1961**

No. 43 OF 1961

[13th September, 1961]

An Act to consolidate and amend the law relating to income-tax and super-tax.

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

**CHAPTER I**

**PRELIMINARY**

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Income-tax Act, 1961.
- (2) It extends to the whole of India.
- (3) Save as otherwise provided in this Act, it shall come into force on the 1st day of April, 1962.

Definitions.

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

(1) "agricultural income" means—

(a) any rent or revenue derived from land which is used for agricultural purposes and is either assessed to land revenue in India or is subject to a local rate assessed and collected by officers of the Government as such;

(b) any income derived from such land by—

(i) agriculture; or

(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a

cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market; or

(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in paragraph (ii) of this sub-clause;

(c) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any process mentioned in paragraphs (ii) and (iii) of sub-clause (b) is carried on:

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator, or the receiver of rent-in-kind, by reason of his connection with the land, requires as a dwelling house, or as a store-house, or other out-building;

(2) "annual value", in relation to any property, means its annual value as determined under section 23;

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

(4) "Appellate Tribunal" means the Appellate Tribunal constituted under section 252;

(5) "approved gratuity fund" means a gratuity fund which has been and continues to be approved by the Commissioner in accordance with the rules contained in Part C of the Fourth Schedule;

(6) "approved superannuation fund" means a superannuation fund or any part of a superannuation fund which has been and continues to be approved by the Commissioner in accordance with the rules contained in Part B of the Fourth Schedule;

(7) "assessee" means a person by whom income-tax or super-tax or any other sum of money is payable under this Act, and includes—

(a) every person in respect of whom any proceeding under this Act has been taken for the assessment of his income or of the income of any other person in respect of

which he is assessable, or of the loss sustained by him or by such other person, or of the amount of refund due to him or to such other person;

(b) every person who is deemed to be an assessee under any provision of this Act;

(c) every person who is deemed to be an assessee in default under any provision of this Act;

(8) "assessment" includes re-assessment;

(9) "assessment year" means the period of twelve months commencing on the 1st day of April every year;

(10) "average rate of income-tax" means the rate arrived at by dividing the amount of income-tax calculated on the total income, by such total income;

(11) "average rate of super-tax" means the rate arrived at by dividing the amount of super-tax calculated on the total income, by such total income;

(12) "Board" means the ~~Central Board of Revenue constituted under the Central Board of Revenue Act, 1924;~~

4 of 1924.

(13) "business" includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture;

(14) "capital asset" means property of any kind held by an assessee, whether or not connected with his business or profession, but does not include—

(i) any stock-in-trade, consumable stores or raw materials held for the purposes of his business or profession;

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

(iii) agricultural land in India;

(15) "charitable purpose" includes relief of the poor, education, medical relief, and the advancement of any other object of general public utility not involving the carrying on of any activity for profit;

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

(17) "company" means—

(i) any Indian company, or

(ii) any association, whether incorporated or not and whether Indian or non-Indian, which is or was assessable or was assessed under the Indian Income-tax Act, 1922, as a

11 of 1922.

1. Ins. by Act 57 of 1962, s. 2 (w.e.f. 15.12.1962)  
2. Subs. by Act 54 of 1963, s. 5(1) (wef 1-1-64)

company for the assessment year commencing on the 1st day of April, 1947, or which is declared by general or special order of the Board to be a company for the purposes of this Act;

(18) "company in which the public are substantially interested"—A company is said to be a company in which the public are substantially interested—

(a) if it is a company owned by the Government or in which not less than forty per cent. of the shares are held by the Government; or

1 of 1956,

(b) if it is not a private company as defined in the Companies Act, 1956, and

(i) its shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than fifty per cent. of the voting power have been allotted unconditionally to, or acquired unconditionally by, and were throughout the relevant previous year beneficially held by, the Government or a corporation established by a Central, State or Provincial Act or the public (not being a director, or a company to which this clause does not apply);

(ii) the said shares were at any time during the relevant previous year the subject of dealing in any recognised stock exchange in India or were freely transferable by the holder to other members of the public, and

(iii) the affairs of the company, or the shares carrying more than fifty per cent. of its total voting power were at no time during the relevant previous year controlled or held by five or less persons.

*Explanation 1.*—In computing the number of five or less persons aforesaid,—

(i) the Government or any corporation established by a Central, State or Provincial Act or company to which this clause applies shall not be taken into account, and

(ii) persons who are relatives of one another, and persons who are nominees of any other person together with that other person, shall be treated as a single person.

*Explanation 2.*—In its application to any such company as is referred to in sub-clause (2) of clause (iii) of section 109, sub-clause (b) shall have effect as if for the words "not less than fifty per cent." and "more than fifty per cent" the words "not less than forty per cent." and "more than sixty per cent." had been substituted;

(19) "co-operative society" means a co-operative society registered under the Co-operative Societies Act, 1912, or under any other law for the time being in force in any State for the registration of co-operative societies; 2 of 1912.

(20) "director", "manager" and "managing agent", in relation to a company, have the meanings respectively assigned to them in the Companies Act, 1956; 1 of 1956.

(21) "Director of Inspection" means a person appointed to be a Director of Inspection under sub-section (1) of section 117, and includes a person appointed to be an Additional Director of Inspection, a Deputy Director of Inspection or an Assistant Director of Inspection;

(22) "dividend" includes—

(a) any distribution by a company of accumulated profits, whether capitalised or not, if such distribution entails the release by the company to its shareholders of all or any part of the assets of the company;

(b) any distribution to its shareholders by a company of debentures, debenture-stock, or deposit certificates in any form, whether with or without interest, and any distribution to its preference shareholders of shares by way of bonus, to the extent to which the company possesses accumulated profits, whether capitalised or not;

(c) any distribution made to the shareholders of a company on its liquidation, to the extent to which the distribution is attributable to the accumulated profits of the company immediately before its liquidation, whether capitalised or not;

(d) any distribution to its shareholders by a company on the reduction of its capital, to the extent to which the company possesses accumulated profits which arose after the end of the previous year ending next before the 1st day of April, 1933, whether such accumulated profits have been capitalised or not;

(e) any payment by a company, not being a company in which the public are substantially interested, of any sum (whether as representing a part of the assets of the company or otherwise) by way of advance or loan to a shareholder, being a person who has a substantial interest in the company, or any payment by any such company on behalf, or for the individual benefit, of any such shareholder, to the extent to which the company in either case possesses accumulated profits;

but "dividend" does not include—

(i) a distribution made in accordance with sub-clause (c) or sub-clause (d) in respect of any share issued for full cash consideration, where the holder of the share is not entitled in the event of liquidation to participate in the surplus assets;

(ii) any advance or loan made to a shareholder by a company in the ordinary course of its business, where the lending of money is a substantial part of the business of the company;

(iii) any dividend paid by a company which is set off by the company against the whole or any part of any sum previously paid by it and treated as a dividend within the meaning of sub-clause (e), to the extent to which it is so set off.

*Explanation 1.*—The expression "accumulated profits", wherever it occurs in this clause, shall not include capital gains arising before the 1st day of April, 1946, or after the 31st day of March, 1948, and before the 1st day of April, 1956.

*Explanation 2.*—The expression "accumulated profits" in sub-clauses (a), (b), (d) and (e), shall include all profits of the company up to the date of distribution or payment referred to in those sub-clauses, and in sub-clause (c) shall include all profits of the company up to the date of liquidation;

(23) "firm", "partner" and "partnership" have the meanings respectively assigned to them in the Indian Partnership Act, 1932; but the expression "partner" shall also include any person who, being a minor, has been admitted to the benefits of partnership;

9 of 1932.

(24) "income" includes—

(i) profits and gains;

(ii) dividend;

(iii) the value of any perquisite or profit in lieu of salary taxable under clauses (2) and (3) of section 17;

(iv) the value of any benefit or perquisite, whether convertible into money or not, obtained from a company either by a director or by a person who has a substantial interest in the company, or by a relative of the director or such person, and any sum paid by any such company in respect of any obligation which, but for such payment, would have been payable by the director or other person aforesaid;

(v) any sum chargeable to income-tax under clauses (ii) and (iii) of section 23 or section 41 or section 59;

(vi) any capital gains chargeable under section 45;

(vii) the profits and gains of any business of insurance carried on by a mutual insurance company or by a co-operative society, computed in accordance with section 44 or any surplus taken to be such profits and gains by virtue of provisions contained in the First Schedule;

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

(26) "Indian company" means a company formed and registered under the Companies Act, 1956, and includes—

1 of 1956.

(i) a company formed and registered under any law relating to companies formerly in force in any part of India (other than the State of Jammu and Kashmir);

(ii) in the case of the State of Jammu and Kashmir, a company formed and registered under any law for the time being in force in that State;

Provided that the registered office of the company in all cases is in India;

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

(28) "Inspector of Income-tax" means a person appointed to be an Inspector of Income-tax under sub-section (2) of section 117;

(29) "legal representative" has the meaning assigned to it in clause (11) of section 2 of the Code of Civil Procedure, 1908; 5 of 1908.

(30) "non-resident" means a person who is not a "resident", and for the purposes of sections 92, 93, 113 and 168, includes a person who is not ordinarily resident within the meaning of sub-section (6) of section 6;

(31) "person" includes—

(i) an individual;

(ii) a Hindu undivided family;

(iii) a company,

(iv) a firm,

(v) an association of persons or a body of individuals, whether incorporated or not,

(vi) a local authority, and

(vii) every artificial juridical person, not falling within any of the preceding sub-clauses;

(32) "person who has a substantial interest in the company", in relation to a company, means a person who is the beneficial owner of shares, not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits, carrying not less than twenty per cent. of the voting power;

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

(34) "previous year" means the previous year as defined in section 3;

(35) "principal officer", used with reference to a local authority or a company or any other public body or any association of persons or any body of individuals, means—

(a) the secretary, treasurer, manager or agent of the authority, company, association or body, or

(b) any person connected with the management or administration of the local authority, company, association or body upon whom the Income-tax Officer has served a notice of his intention of treating him as the principal officer thereof;

(36) "profession" includes vocation;

of 1860.

(37) "public servant" has the same meaning as in section 21 of the Indian Penal Code;

of 1952.

(38) "recognised provident fund" means a provident fund which has been and continues to be recognised by the Commissioner in accordance with the rules contained in Part A of the Fourth Schedule, and includes a provident fund established under a scheme framed under the Employees' Provident Funds Act, 1952;

(39) "registered firm" means a firm registered under the provisions of clause (a) of sub-section (1) of section 185 or under that provision read with sub-section (7) of section 184;

(40) "regular assessment" means the assessment made under section 143 or section 144;

(41) "relative", in relation to an individual, means the husband, wife, brother or sister or any lineal ascendant or descendant of that individual;

(42) "resident" means a person who is resident in India within the meaning of section 6;

(43) "tax" means income-tax and super-tax chargeable under the provisions of this Act;

(44) "~~Tax Recovery Officer~~" means—

- (i) a Collector;
- (ii) an additional Collector or any other officer authorised to exercise the powers of a Collector under any law relating to land revenue for the time being in force in a State; or
- (iii) any Gazetted officer of the Central or a State Government who may be authorised by the Central Government, by notification in the Official Gazette, to exercise the powers of a Tax Recovery Officer;

(45) "total income" means the total amount of income referred to in section 5, computed in the manner laid down in this Act;

(46) "total world income" includes all income wherever accruing or arising, except incomes which are not included in the total income under any of the provisions of Chapter III and except any capital gains which are not includible in the total income of an assessee;

(47) "transfer", in relation to a capital asset, includes the sale, exchange or relinquishment of the asset or the extinguishment of any rights therein or the compulsory acquisition thereof under any law;

(48) "unregistered firm" means a firm which is not a registered firm.

"Previous year" defined.

3. (1) For the purposes of this Act, "previous year" means—

(a) the financial year immediately preceding the assessment year; or

(b) if the accounts of the assessee have been made up to a date within the said financial year, then, at the option of the assessee, the twelve months ending on such date; or

(c) in the case of any person or business or class of persons or business not falling within clause (a) or clause (b), such period as may be determined by the Board or by any authority authorised by the Board in this behalf; or

1. Ins. by Act No. 20 of 1962, s. 4 (w. e. f. 1. 4. 1962)  
2. Ins. by Act 13 of 1963, s. 4 (Retrospective)

(d) in the case of a business or profession newly set up in the said financial year, the period beginning with the date of the setting up of the business or profession and—

(i) ending with the said financial year, or

(ii) if the accounts of the assessee have been made up to a date within the said financial year, then, at the option of the assessee, ending on that date, or

(iii) ending with the period, if any, determined under clause (c),

as the case may be; or

(e) in the case of a business or profession newly set up in the twelve months immediately preceding the said financial year—

(i) if the accounts of the assessee have been made up to a date within the said financial year and the period from the date of the setting up of the business or profession to such date does not exceed twelve months, then, at the option of the assessee, such period, or

(ii) if any period has been determined under clause (c), then the period beginning with the date of the setting up of the business or profession and ending with that period,

as the case may be; or

(f) where the assessee is a partner in a firm and the firm has been assessed as such, then, in respect of the assessee's share in the income of the firm, the period determined as the previous year for the assessment of the income of the firm; or

(g) in respect of profits and gains from life insurance business, the year immediately preceding the assessment year for which annual accounts are required to be prepared under the Insurance Act, 1938, or under that Act read with section 43 of the Life Insurance Corporation Act, 1956.

4 of 1938.  
31 of 1956.

(2) Where an assessee has newly set up a business or profession in the said financial year and his accounts are made up to a date in the assessment year in respect of a period not exceeding twelve months from the date of such setting up, then, notwithstanding anything contained in sub-clause (iii) of clause (d) of sub-section (1), the assessee shall, in respect of that business or profession, at his option, be deemed to have no previous year for the said assessment year under that clause and such option shall, in relation to the immediately succeeding assessment year, have effect as an option exercised under sub-clause (i) of clause (e) of sub-section (1).

(3) Subject to the other provisions of this section, an assessee may have different previous years in respect of separate sources of his income.

(4) Where in respect of a particular source of income or in respect of a business or profession newly set up, an assessee has once exercised the option under clause (b) or sub-clause (ii) of clause (d) or sub-clause (i) of clause (e) of sub-section (1) or has once been assessed, then, he shall not, in respect of that source, or, as the case may be, business or profession, be entitled to vary the meaning of the expression "previous year" as then applicable to him, except with the consent of the Income-tax Officer and upon such conditions as the Income-tax Officer may think fit to impose.

## CHAPTER II

### BASIS OF CHARGE

Charge of  
income-tax

4. (1) Where any Central Act enacts that income-tax shall be charged for any assessment year at any rate or rates, income-tax at that rate or those rates shall be charged for that year in accordance with, and subject to the provisions of, this Act in respect of the total income of the previous year or previous years, as the case may be, of every person:

Provided that where by virtue of any provision of this Act income-tax is to be charged in respect of the income of a period other than the previous year, income-tax shall be charged accordingly.

(2) In respect of income chargeable under sub-section (1), income-tax shall be deducted at the source or paid in advance, where it is so deductible or payable under any provision of this Act.

Scope of  
total income

5. (1) Subject to the provisions of this Act, the total income of any previous year of a person who is a resident includes all income from whatever source derived which—

(a) is received or is deemed to be received in India in such year by or on behalf of such person; or

(b) accrues or arises or is deemed to accrue or arise to him in India during such year; or

(c) accrues or arises to him outside India during such year:

Provided that, in the case of a person not ordinarily resident in India within the meaning of sub-section (6) of section 6, the income which accrues or arises to him outside India shall not be so included unless it is derived from a business controlled in or a profession set up in India.

(2) Subject to the provisions of this Act, the total income of any previous year of a person who is a non-resident includes all income from whatever source derived which—

(a) is received or is deemed to be received in India in such year by or on behalf of such person; or

(b) accrues or arises or is deemed to accrue or arise to him in India during such year.

*Explanation 1.*—Income accruing or arising outside India shall not be deemed to be received in India within the meaning of this section by reason only of the fact that it is taken into account in a balance sheet prepared in India.

*Explanation 2.*—For the removal of doubts, it is hereby declared that income which has been included in the total income of a person on the basis that it has accrued or arisen or is deemed to have accrued or arisen to him shall not again be so included on the basis that it is received or deemed to be received by him in India.

6. For the purposes of this Act—

Residence in  
India.

(1) an individual is said to be resident in India in any previous year, if he—

(a) is in India in that year for a period or periods amounting in all to one hundred and eighty-two days or more; or

(b) maintains or causes to be maintained for him a dwelling place in India for a period or periods amounting in all to one hundred and eighty-two days or more in that year and has been in India for thirty days or more in that year; or

(c) having within the four years preceding that year been in India for a period or periods amounting in all to three hundred and sixty-five days or more, is in India for a period or periods amounting in all to sixty days or more in that year.

(2) A Hindu undivided family, firm or other association of persons is said to be resident in India in any previous year in every case except where during that year the control and management of its affairs is situated wholly outside India.

(3) A company is said to be resident in India in any previous year, if—

(i) it is an Indian company; or

(ii) during that year, the control and management of its affairs is situated wholly in India.

(4) Every other person is said to be resident in India in any previous year in every case, except where during that year the control and management of his affairs is situated wholly outside India.

(5) If a person is resident in India in a previous year relevant to an assessment year in respect of any source of income, he shall be deemed to be resident in India in the previous year relevant to the assessment year in respect of each of his other sources of income.

(6) A person is said to be "not ordinarily resident" in India in any previous year if such person is—

(a) an individual who has not been resident in India in nine out of the ten previous years preceding that year, or has not during the seven previous years preceding that year been in India for a period of, or periods amounting in all to, seven hundred and thirty days or more; or

(b) a Hindu undivided family whose manager has not been resident in India in nine out of the ten previous years preceding that year, or has not during the seven previous years preceding that year been in India for a period of or periods amounting in all to, seven hundred and thirty days or more.

**Income deemed to be received.** 7. The following incomes shall be deemed to be received in the previous year:—

(i) the annual accretion in the previous year to the balance at the credit of an employee participating in a recognised provident fund, to the extent provided in Rule 6 of Part A of the Fourth Schedule;

(ii) the transferred balance in a recognised provident fund, to the extent provided in sub-rule (4) of Rule 11 of Part A of the Fourth Schedule.

**Dividend income.** 8. For the purposes of inclusion in the total income of an assessee, any dividend declared by a company or distributed or paid by it within the meaning of sub-clause (a) or sub-clause (b) or sub-clause (c) or sub-clause (d) or sub-clause (e) of clause (22) of section 2 shall be deemed to be the income of the previous year in which it is so declared, distributed or paid, as the case may be.

**Income deemed to accrue or arise in India.** 9. (1) The following incomes shall be deemed to accrue or arise in India—

(i) all income accruing or arising, whether directly or indirectly, through or from any business connection in India, or

through or from any property in India, or through or from any asset or source of income in India, or through or from any money lent at interest and brought into India in cash or in kind or through the transfer of a capital asset situate in India;

*Explanation.*—For the purposes of this clause—

(a) in the case of a business of which all the operations are not carried out in India, the income of the business deemed under this clause to accrue or arise in India shall be only such part of the income as is reasonably attributable to the operations carried out in India;

(b) in the case of a non-resident, no income shall be deemed to accrue or arise in India to him through or from operations which are confined to the purchase of goods in India for the purpose of export:

Provided that the non-resident has no office or agency in India for this purpose and the goods are not subjected to any kind of manufacturing process before being exported from India;

(ii) income which falls under the head "Salaries", if it is earned in India;

(iii) income chargeable under the head "Salaries" payable by the Government to a citizen of India for service outside India;

(iv) a dividend paid by an Indian company outside India.

(2) Notwithstanding anything contained in sub-section (1), any pension payable outside India to a person residing permanently outside India shall not be deemed to accrue or arise in India, if the pension is payable to a person referred to in article 314 of the Constitution or to a person who, having been appointed before the 15th day of August, 1947, to be a Judge of the Federal Court or of a High Court within the meaning of the Government of India Act, 1935, continues to serve on or after the commencement of the Constitution as a Judge in India.

### CHAPTER III

#### INCOMES WHICH DO NOT FORM PART OF TOTAL INCOME

10. In computing the total income of a previous year of any person, any income falling within any of the following clauses shall not be included—

Incomes not included in total income.

(1) agricultural income;

(2) any sum received by an individual as a member of a Hindu undivided family, where such sum has been paid out of the income of the family, or, in the case of any impartible estate, where such sum has been paid out of the income of the estate belonging to the family;

(3) any receipts which are of a casual and non-recurring nature, unless they are—

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

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

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

(4) in the case of a non-resident, any income from interest on, or from premium on the redemption of, any bonds issued by the Central Government under a loan agreement between the Central Government and the International Bank for Reconstruction and Development or under a loan agreement between the Central Government and the Development Loan Fund of the United States of America or by any industrial undertaking or financial corporation in India under a loan agreement with the said Bank or Fund, as the case may be, which is guaranteed by the Central Government;

(5) subject to such conditions as the Central Government may prescribe, the value of any travel concession or assistance received by or due to any person, being a citizen of India, from his employer for himself, his wife and children, in connection with his proceeding on leave to his home-district in India;

(6) in the case of an individual who is not a citizen of India,—

(i) subject to such conditions as the Central Government may prescribe, passage moneys or the value of any free or concessional passage received by or due to such individual from his employer for himself, his wife and children, in connection with his proceeding on home leave out of India;

(ii) the remuneration received by him as ambassador, high commissioner, envoy, minister, *charge d' affaires*, commissioner, counsellor or the secretary, adviser or attache of an embassy, high commission, legation or commission of a foreign State, for service in such capacity;

(iii) the remuneration received by him as a *consul de*

*carriere*, whether called a consul-general, consul, vice-consul, consular agent, pro-consul or by any other name, of a foreign State for service in such capacity;

(iv) the remuneration received by him as a trade commissioner or other official representative in India of the Government of a foreign State (not holding office as such in an honorary capacity), if the remuneration of the corresponding officials, if any, of the Government resident for similar purposes in the country concerned enjoys a similar exemption in that country;

(v) the remuneration received by him as a member of the staff of any of the officials referred to in clause (ii), clause (iii) or clause (iv), if the member—

(a) is a subject of the country represented;

(b) is not engaged in any business or profession or employment in India otherwise than as a member of such staff; and further, where the individual is a member of the staff of any official referred to in clause (iv), if the country represented has made corresponding provisions for similar exemptions in the case of members of the staff of the corresponding officials of the Government;

(vi) the remuneration received by him as an employee of a foreign enterprise for services rendered by him during his stay in India, provided the following conditions are fulfilled—

(a) the foreign enterprise is not engaged in any trade or business in India;

(b) his stay in India does not exceed in the aggregate a period of ninety days in such previous year; and

(c) such remuneration is not liable to be deducted from the income of the employer chargeable under this Act;

(vii) the remuneration due to or received by him chargeable under the head "Salaries" for services rendered as a technician in the employment of the Government or of a local authority or of any corporation set up under any special law or in any business carried on in India, if he was not resident in any of the four financial years immediately preceding the financial year in which he arrived in India to the extent mentioned below—

(a) where his contract of service was approved by the Central Government before the commencement of

his service—

(i) in the case of a technician who has special knowledge and experience in industrial or business management techniques, such remuneration due to or received by him during the period of six months commencing from the date of his arrival in India;

(ii) in the case of any other technician, such remuneration due to or received by him during the thirty-six months commencing from the date of his arrival in India, and where any such person continues to remain in employment in India after the expiry of the thirty-six months aforesaid and the tax on his income chargeable under the head "Salaries" is paid by the employer to the Central Government (which tax in the case of an employer being a company may be paid notwithstanding anything contained in section 200 of the Companies Act, 1956) the tax so paid by the employer for a period not exceeding twenty-four months following the expiry of the thirty-six months aforesaid;

(b) in any other case, not being the case of a technician who has special knowledge and experience in industrial or business management techniques, such remuneration due to or received by him for the period of three hundred and sixty-five days in all commencing from the date of his arrival in India.

*Explanation.*—"Technician" means a person having specialised knowledge and experience in—

(i) constructional or manufacturing operations, or in mining or in the generation or distribution of electricity or any other form of power, or

(ii) industrial or business management techniques;

who is employed in India in a capacity in which such specialised knowledge and experience are actually utilised;

(viii) any income chargeable under the head "Salaries" received by or due to any such individual being a non-resident as remuneration for services rendered in connection with his employment on a foreign ship where his total stay in India does not exceed in the aggregate a period of ninety days in the previous year;

(7) any allowances or perquisites paid or allowed as such outside India by the Government to a citizen of India for rendering service outside India;

(8) in the case of an individual who is assigned to duties in India in connection with any co-operative technical assistance programmes and projects in accordance with an agreement entered into by the Central Government and the Government of a foreign State (the terms whereof provide for the exemption given by this clause)—

(a) the remuneration received by him directly or indirectly from the Government of that foreign State for such duties, and

(b) any other income of such individual which accrues or arises outside India, and is not deemed to accrue or arise in India, in respect of which such individual is required to pay any income or social security tax to the Government of that foreign State;

(9) the income of any member of the family of any such individual as is referred to in clause (8) accompanying him to India, which accrues or arises outside India, and is not deemed to accrue or arise in India, in respect of which such member is required to pay any income or social security tax to the Government of that foreign State;

(10) any death-cum-retirement gratuity received under the revised Pension Rules of the Central Government or under any similar scheme of a State Government, a local authority or a corporation established by a Central, State or Provincial Act or any payment of retiring gratuity received after the first day of June, 1953 under the New Pension Code applicable to the members of the Defence Services; or any other gratuity not exceeding one half month's salary for each year of completed service, calculated on the basis of the average salary for the three years immediately preceding the year in which the gratuity is paid, subject to a maximum of twenty-four thousand rupees or fifteen months' salary so calculated, whichever is less;

(11) any payment from a provident fund to which the Provident Funds Act, 1925 applies;

(12) the accumulated balance due and becoming payable to an employee participating in a recognised provident fund, to the extent provided in Rule 8 of Part A of the Fourth Schedule;

(13) any payment from an approved superannuation fund made on the death of a beneficiary or in lieu of or in commutation

of an annuity, or by way of refund of contributions on the death of a beneficiary;

(14) any special allowance or benefit, not being in the nature of an entertainment allowance or other perquisite within the meaning of clause (2) of section 17, specifically granted to meet expenses wholly, necessarily and exclusively incurred in the performance of the duties of an office or employment of profit, to the extent to which such expenses are actually incurred for that purpose;

(15) (i) monthly payment on the 15 Year Annuity Certificates issued by or under the authority of the Central Government or such other annuity certificates issued by or under the authority of that Government as that Government may, by notification in the Official Gazette, specify in this behalf, to the extent to which the amounts of the certificates do not exceed in each case the maximum amount which is permitted to be invested therein;

(ii) interest on Treasury Savings Deposit Certificates, Post Office Cash Certificates, Post Office National Savings Certificates, National Plan Certificates, Twelve Year National Plan Savings Certificates and such other certificates issued by the Central Government as that Government may, by notification in the Official Gazette, specify in this behalf, and interest on deposits in Post Office Savings Banks, to the extent to which the amounts of such certificates or deposits do not exceed in each case the maximum amount which is permitted to be invested or deposited therein;

(iii) interest on securities held by the Issue Department of the Central Bank of Ceylon constituted under the Ceylon Monetary Law Act, 1949;

(iv) interest payable—

(a) by Government or a local authority on moneys borrowed by it from sources outside India;

(b) by an industrial undertaking in India on moneys borrowed by it under a loan agreement entered into with any such financial institution in a foreign country as may be approved in this behalf by the Central Government by general or special order;

(c) by an industrial undertaking in India on any moneys borrowed or debt incurred by it in a foreign country in respect of the purchase outside India of raw materials or capital plant and machinery, in any case where the loan or debt is approved by the Central Government, having regard to its terms generally and in particular to the terms of its repayment;

(16) scholarships, granted to meet the cost of education;

(17) any daily allowance received by any person by reason of his membership of Parliament or of any State Legislature or of any Committee thereof;

(18) any payment made, whether in cash or in kind, by the Central Government or any State Government in pursuance of gallantry awards instituted or approved by the Central Government;

(19) any amount received by the Ruler of an Indian State as privy purse under article 291 of the Constitution;

(20) the income of a local authority which is chargeable under the head "Interest on securities", "Income from house property", "Capital gains" or "Income from other sources" or from a trade or business carried on by it which accrues or arises from the supply of a commodity or service within its own jurisdictional area;

(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 which is applied solely to the purposes of that association;

(22) any income of a University or other educational institution, existing solely for educational purposes and not for purposes of profit;

(23) any income of an association or institution established in India having 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 specify in this behalf from time to time by notification in the Official Gazette:

Provided that—

(i) the association or institution applies its income, or accumulates it for application, solely to the objects for which it is established;

(ii) no part of the income of the association or institution is distributed in any manner to its members except as grants to any association or institution affiliated to it; and

(iii) the association or institution is, for the time being, approved for the purpose of this clause by the Central Government by general or special order;

(24) any income chargeable under the head "Interest on securities", "Income from house property" and "Income from other sources" of a registered union within the meaning of the Indian Trade Unions Act, 1926, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen; 16 of 1926.

(25) (i) interest on securities which are held by, or are the property of, any provident fund to which the Provident Funds Act, 1925, applies, and any capital gains of the fund arising from the sale, exchange or transfer of such securities; 19 of 1925.

(ii) any income received by the trustees on behalf of a recognised provident fund;

(iii) any income received by the trustees on behalf of an approved superannuation fund;

(26) in the case of a member of a Scheduled Tribe as defined in clause (25) of article 366 of the Constitution, residing in any area specified in Part A or Part B of the Table appended to paragraph 20 of the Sixth Schedule to the Constitution or in the Union Territories of Manipur and Tripura, who is not in the service of Government,

any income which accrues or arises to him,

(a) from any source in the area or Union Territories aforesaid, or

(b) by way of dividend or interest on securities.

Income from property held for charitable or religious purposes.

11. (1) Subject to the provisions of sections 60 to 63, the following income shall not be included in the total income of the previous year of the person in receipt of the income—

(a) income derived from property held under trust wholly for charitable or religious purposes, to the extent to which such income is applied to such purposes in India; and, where any such income is accumulated for application to such purposes in India, to the extent to which the income so accumulated is not in excess of twenty-five per cent. of the income from the property or rupees ten thousand, whichever is higher;

(b) income derived from property held under trust in part only for such purposes, the trust having been created before the commencement of this Act, to the extent to which such income is applied to such purposes in India; and where any such income is finally set apart for application to such purposes in India, to the extent to which the income so set apart is not in excess of twenty-five per cent. of the income from the property held under trust in part;

(c) income from property held under trust—

(i) created on or after the 1st day of April, 1952, for a charitable purpose which tends to promote international welfare in which India is interested, to the extent to which such income is applied to such purposes outside India, and

(ii) for charitable or religious purposes, created before the 1st day of April, 1952, to the extent to which such income is applied to such purposes outside India:

Provided that the Board, by general or special order, has directed in either case that it shall not be included in the total income of the person in receipt of such income.

*Explanation.*—For the purposes of clauses (a) and (b), in computing twenty-five per cent. of the income from any such property as is referred to in the said clauses for any previous year, the income from such property for the year immediately preceding the previous year may be adopted, if that income is higher than the income for the previous year.

(2) Where the persons in receipt of the income have complied with the following conditions, the restriction specified in clause (a) or clause (b) of sub-section (1) as respects accumulation or setting apart shall not apply for the period during which the said conditions remain complied with—

(a) such persons have, by notice in writing given to the Income-tax Officer in the prescribed manner, specified the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed ten years;

(b) the money so accumulated or set apart is invested in any Government security as defined in clause (2) of section 2 of the Public Debt Act, 1944, or in any other security which may be approved by the Central Government in this behalf.

18 of 1944.

(3) Any income referred to in sub-section (1) or sub-section (2) as is applied to purposes other than charitable or religious purposes as aforesaid or ceases to be accumulated or set apart for application thereto or is not utilised for the purpose for which it is so accumulated in the year immediately following the expiry of the period allowed in this behalf shall be deemed to be the income of such person of the previous year in which it is so applied, or ceases to be so accumulated or so set apart or, as the case may be, of the previous year immediately following the expiry of the period aforesaid.

(4) For the purposes of this section "property held under trust" includes a business undertaking so held, and where a claim is made that the income of any such undertaking shall not be included in the total income of the persons in receipt thereof, the Income-tax Officer shall have power to determine the income of such undertaking in accordance with the provisions of this Act relating to assessment; and where any income so determined is in excess of the income as shown in the accounts of the undertaking, such excess shall be deemed to be applied to purposes other than charitable or religious purposes and accordingly chargeable to tax within the meaning of sub-section (3).

Income of trusts or institutions from voluntary contributions.

12. (1) Any income of a trust for charitable or religious purposes or of a charitable or religious institution derived from voluntary contributions and applicable solely to charitable or religious purposes shall not be included in the total income of the trustees or the institution, as the case may be.

(2) Notwithstanding anything contained in sub-section (1), where any such contributions as are referred to in sub-section (1) are made to a trust or a charitable or religious institution by a trust or a charitable or religious institution to which the provisions of section 11 apply, such contributions shall, in the hands of the trust or institution receiving the contributions, be deemed to be income derived from property for the purposes of that section and the provisions of that section shall apply accordingly.

Section 11 not to apply in certain cases.

13. Nothing contained in section 11 shall operate so as to exclude from the total income of the previous year of the person in receipt thereof—

(a) any part of the income from the property held under a trust for private religious purposes which does not enure for the benefit of the public;

[trust for charitable purposes or a charitable institution]

(b) in the case of a ~~trust or charitable institution~~ created or established after the commencement of this Act, any income thereof,

(i) if the trust or institution is created or established for the benefit of any particular religious community or caste; or

(ii) if under the terms of the trust or the rules governing the institution any part of such income enures directly or indirectly for the benefit of the author of the trust or the founder of the institution or any relative of such author or founder, and, where the author of the trust or the founder of the institution is a Hindu undivided family, any part of such

↓ Sub. by Act 13 of 1963, s. 5 (Retroactively)

income enures directly or indirectly for the benefit of any member of the Hindu undivided family or any relative of any member of the family.

*Explanation 1.*—For the purposes of sections 11 and 12 and this section, “trust” includes any other legal obligation and for the purposes of this section “relative” also includes a lineal descendant of a brother or sister.

*Explanation 2.*—A trust or institution created or established for the benefit of Scheduled Castes, backward classes, Scheduled Tribes or women and children shall not be deemed to be a trust or institution created or established for the benefit of a religious community or caste within the meaning of sub-clause (i) of clause (b) of this section.

#### CHAPTER IV

#### COMPUTATION OF TOTAL INCOME

##### *Heads of income*

14. Save as otherwise provided by this Act, all income shall, for the purposes of charge of income-tax and computation of total income, be classified under the following heads of income:—

- A.—Salaries.
- B.—Interest on securities.
- C.—Income from house property.
- D.—Profits and gains of business or profession.
- E.—Capital gains.
- F.—Income from other sources.

##### *A.—Salaries*

15. The following income shall be chargeable to income-tax under the head “Salaries”—

(a) any salary due from an employer or a former employer to an assessee in the previous year, whether paid or not;

(b) any salary paid or allowed to him in the previous year by or on behalf of an employer or a former employer though not due or before it became due to him;

(c) any arrears of salary paid or allowed to him in the previous year by or on behalf of an employer or a former employer, if not charged to income-tax for any earlier previous year.

*Explanation.*—For the removal of doubts, it is hereby declared that where any salary paid in advance is included in the total income of any person for any previous year it shall not be included again in the total income of the person when the salary becomes due.

**Deductions from salaries.** 16. The income chargeable under the head "Salaries" shall be computed after making the following deductions, namely:—

(i) any amount not exceeding five hundred rupees, expended by the assessee on the purchase of books and other publications necessary for the purpose of his duties;

(ii) in respect of any allowance in the nature of an entertainment allowance specifically granted to the assessee by his employer—

(a) in the case of an assessee who is in receipt of a salary from the Government, a sum equal to one-fifth of his salary (exclusive of any allowance, benefit or other perquisite) or five thousand rupees, whichever is less; and

(b) in the case of any other assessee who is in receipt of such entertainment allowance and has been continuously in receipt of such entertainment allowance regularly from his present employer from a date before the 1st day of April, 1955, the amount of such entertainment allowance regularly received by the assessee from his present employer in any previous year ending before the 1st day of April, 1955, or a sum equal to one-fifth of his salary (exclusive of any allowance, benefit or other perquisite) or seven thousand five hundred rupees, whichever is the least;

(iii) any amount paid by the assessee in respect of taxes on professions, trades, callings or employments levied under any State or Provincial Act;

(iv) where the assessee is not in receipt of a conveyance allowance, whether as such or as part of his salary, and owns a conveyance which is used for the purposes of his employment, such sum as the Income-tax Officer may estimate in respect of such use as representing the expenditure incurred by him in its maintenance and as representing its normal wear and tear;

(v) any amount actually expended by the assessee, not being an amount expended on the purchase of books or other publications, or on entertainment or on the maintenance of a conveyance, which, by the conditions of his service, he is required to spend out of his remuneration wholly, necessarily and exclusively in the performance of his duties.

**"Salary", "perquisite" and "profits in lieu of salary" defined.** 17. For the purposes of sections 15 and 16 and of this section,—

(1) "salary" includes—

(i) wages;

(ii) any annuity or pension;

(iii) any gratuity;

(iv) any fees, commissions, perquisites or profits in lieu of or in addition to any salary or wages;

(v) any advance of salary;

(vi) the annual accretion to the balance at the credit of an employee participating in a recognised provident fund, to the extent to which it is chargeable to tax under Rule 6 of Part A of the Fourth Schedule; and

(vii) the aggregate of all sums that are comprised in the transferred balance as referred to in sub-rule (2) of Rule 11 of Part A of the Fourth Schedule of an employee participating in a recognised provident fund, to the extent to which it is chargeable to tax under sub-rule (4) thereof;

(2) "perquisite" includes—

(i) the value of rent-free accommodation provided to the assessee by his employer;

(ii) the value of any concession in the matter of rent respecting any accommodation provided to the assessee by his employer;

(iii) the value of any benefit or amenity granted or provided free of cost or at concessional rate in any of the following cases—

(a) by a company to an employee who is a director thereof;

(b) by a company to an employee being a person who has a substantial interest in the company;

(c) by any employer (including a company) to an employee to whom the provisions of paragraphs (a) and (b) of this sub-clause do not apply and whose income under the head "Salaries", exclusive of the value of all benefits or amenities not provided for by way of monetary payment, exceeds eighteen thousand rupees;

(iv) any sum paid by the employer in respect of any obligation which, but for such payment, would have been payable by the assessee; and

(v) any sum payable by the employer, whether directly or through a fund, other than a recognised provident fund or an approved superannuation fund, to effect an assurance on the life of the assessee or to effect a contract for an annuity;

(3) "profits in lieu of salary" includes—

(i) the amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with the termination of his employment or the modification of the terms and conditions relating thereto;

(ii) any payment [other than any payment referred to in clause (10), clause (11) or clause (12) of section 10], due to or received by an assessee from an employer or a former employer or from a provident or other fund (not being an approved superannuation fund), to the extent to which it does not consist of contributions by the assessee or interest on such contributions.

*B.—Interest on securities*

**Interest on securities.**

18. (1) The following amounts due to an assessee in the previous year shall be chargeable to income-tax under the head "Interest on securities",—

(i) interest on any security of the Central or State Government;

(ii) interest on debentures or other securities for money issued by or on behalf of a local authority or a company or a corporation established by a Central, State or Provincial Act.

(2) Nothing contained in sub-section (1) shall be construed as precluding an assessee from being charged to income-tax in respect of any interest on securities received by him in a previous year if such interest had not been charged to income-tax for any earlier previous year.

**Deductions from interest on securities**

19. Subject to the provisions of section 21, the income chargeable under the head "Interest on securities" shall be computed after making the following deductions—

(i) any reasonable sum expended by the assessee for the purpose of realising such interest;

(ii) any interest payable on moneys borrowed for the purpose of investment in the securities by the assessee.

**Deductions from interest on securities in the case of a banking company.**

20. (1) In the case of a banking company—

(i) the sum to be regarded as a sum reasonably expended for the purpose referred to in clause (i) of section 19 shall be an amount bearing to the aggregate of its expenses as are admissible under the provisions of sections 30, 31, 36 and 37 [other than clauses (iii), (vi) and (vii) of sub-section (1) of section 36] the same proportion as the gross receipts from interest on securities (inclusive of tax deducted at source) chargeable to income-tax

under section 18 bear to the gross receipts of the company from all sources which are included in the profit and loss account of the company;

(ii) the amount to be regarded as interest payable on moneys borrowed for the purpose referred to in clause (i) of section 19 shall be an amount which bears to the amount of interest payable on all moneys borrowed by the company the same proportion as the gross receipts from interest on securities (inclusive of tax deducted at source) chargeable to income-tax under section 18 bear to the gross receipts from all sources which are included in the profit and loss account of the company.

(2) The expenses deducted under clauses (i) and (ii) of subsection (1) shall not again form part of the deductions admissible under sections 30 to 37 for the purposes of computing the income of the company under the head "Profits and gains of business or profession".

*Explanation.*—For the purposes of this section, "moneys borrowed" includes moneys received by way of deposits.

21. Notwithstanding anything contained in sections 19 and 20, any interest chargeable under this Act which is payable outside India (not being interest on a loan issued for public subscription before the 1st day of April, 1938) on which tax has not been paid or deducted under Chapter XVII-B, and in respect of which there is no person in India who may be treated as an agent under section 163 shall not be deducted in computing the income chargeable under the head "Interest on securities".

### C.—Income from house property

22. The annual value of property consisting of any buildings or lands appurtenant thereto of which the assessee is the owner, other than such portions of such property as he may occupy for the purposes of any business or profession carried on by him the profits of which are chargeable to income-tax, shall be chargeable to income-tax under the head "Income from house property".

23. (1) For the purposes of section 22, the annual value of any property shall be deemed to be the sum for which the property might reasonably be expected to let from year to year:

Provided that where the property is in the occupation of a tenant and the taxes levied by any local authority in respect of the property are, under the law authorising such levy, payable wholly by the owner, or partly by the owner and partly by the tenant, a deduction shall be made equal to the part, if any, of the tenant's liability borne by the owner.

*Explanation.*—For the purposes of this sub-section in the case of a property the construction of which was completed before the 1st day of April, 1950, the total amount of such taxes, and in the case of any other property, one-half of the total amount of such taxes shall be deemed to be the tenant's liability:

Provided further that in the case of a building comprising one or more residential units the erection of which is begun and completed after the 1st day of April, 1961, the annual value as determined under this sub-section shall, for a period of three years from the date of completion of the building, be reduced by a sum equal to the aggregate of—

(i) in respect of any residential unit whose annual value as so determined, does not exceed six hundred rupees, by the amount of such annual value;

(ii) in respect of any residential unit whose annual value as so determined exceeds six hundred rupees, by an amount of six hundred rupees;

so, however, that the income in respect of any residential unit is in no case a loss.

(2) Where the property is in the occupation of the owner for the purposes of his own residence, the annual value shall first be determined as in sub-section (1) and further be reduced by one-half of the amount so determined or one thousand eight hundred rupees, whichever is less:

Provided that where the sum so arrived at exceeds ten per cent. of the total income of the owner, the excess shall be disregarded.

*Explanation.*—Where any such residential unit as is referred to in the second proviso to sub-section (1) is in the occupation of the owner for the purposes of his own residence, nothing contained in that proviso shall apply in computing the annual value of that residential unit.

(3) Where the property referred to in sub-section (2) consists of one residential house only and it cannot actually be occupied by the owner by reason of the fact that owing to his employment, business or profession carried on at any other place, he has to reside at that other place in a building not belonging to him, the annual value of such house shall—

(a) if the house was not actually occupied by the owner during the whole of the previous year, be taken to be nil, or

(b) if the house was actually occupied by the owner for a fraction of the previous year, be taken to be that fraction of the annual value determined under sub-section (2):

Provided that the following conditions are in either case fulfilled:—

(i) the house is not actually let, and

(ii) no other benefit therefrom is derived by the owner.

24. (1) Income chargeable under the head "Income from house property" shall, subject to the provisions of sub-section (2), be computed after making the following deductions, namely:—

Deductions from income from house property.

(i) in respect of repairs,—

(a) where the property is in the occupation of the owner, or where the property is let to a tenant and the owner has undertaken to bear the cost of repairs, a sum equal to one-sixth of the annual value;

(b) where the property is in the occupation of a tenant who has undertaken to bear the cost of repairs,—

(i) the excess of the annual value over the amount of rent payable for a year by the tenant; or

(ii) a sum equal to one-sixth of the annual value, whichever is less;

(ii) the amount of any premium paid to insure the property against risk of damage or destruction;

(iii) where the property is subject to a mortgage or other capital charge, the amount of any interest on such mortgage or charge;

(iv) where the property is subject to an annual charge, not being a capital charge, the amount of such charge;

(v) where the property is subject to a ground rent, the amount of such ground rent;

(vi) where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital;

(vii) any sums paid on account of land revenue in respect of the property;

(viii) any sums spent to collect the rent from the property, not exceeding six per cent. of the annual value of the property;

(ix) where the property is let and was vacant during a part of the year, that part of the annual value which is proportionate to the period during which the property is wholly unoccupied or, where the property is let out in parts, that portion of the annual value appropriate to any vacant part, which is proportionate to the period during which such part is wholly unoccupied; and

(x) subject to such rules as may be made in this behalf, the amount in respect of rent from property let to a tenant which the assessee cannot realise.

(2) The total amount deductible under sub-section (1) in respect of property of the nature referred to in sub-section (3) of section 23 shall not exceed the annual value of the property as determined under section 23.

Amounts not deductible from income from house property.

25. Notwithstanding anything contained in section 24, any annual charge or interest chargeable under this Act which is payable outside India (not being interest on a loan issued for public subscription before the 1st day of April, 1938), on which tax has not been paid or deducted under Chapter XVII-B and in respect of which there is no person in India who may be treated as an agent under section 163 shall not be deducted in computing the income chargeable under the head "Income from house property".

Property owned by co-owners.

26. Where property consisting of buildings or buildings and lands appurtenant thereto is owned by two or more persons and their respective shares are definite and ascertainable, such persons shall not in respect of such property be assessed as an association of persons, but the share of each such person in the income from the property as computed in accordance with sections 22 to 25 shall be included in his total income.

"Owner of house property", "annual charge", etc., defined.

27. For the purposes of sections 22 to 26—

(i) an individual who transfers otherwise than for adequate consideration any house property to his or her spouse, not being a transfer in connection with an agreement to live apart, or to a minor child not being a married daughter, shall be deemed to be the owner of the house property so transferred;

(ii) the holder of an impartible estate shall be deemed to be the individual owner of all the properties comprised in the estate;

(iii) a member of a co-operative society to whom a building or part thereof is allotted or leased under a house building scheme of the society shall be deemed to be the owner of that building or part thereof;

(iv) "annual charge" means a charge to secure an annual liability, but does not include any tax in respect of property or income from property imposed by a local authority, or the Central or a State Government;

(v) "capital charge" means a charge to secure the discharge of a liability of a capital nature;

(vi) taxes levied by a local authority in respect of any property shall be deemed to include service taxes levied by the local authority in respect of the property.

*D.—Profits and gains of business or profession*

28. The following income shall be chargeable to income-tax under the head "Profits and gains of business or profession",—

Profits and gains of business or profession.

(i) the profits and gains of any business or profession which was carried on by the assessee at any time during the previous year;

(ii) any compensation or other payment due to or received by,—

(a) any person, by whatever name called, managing the whole or substantially the whole of the affairs of an Indian company, at or in connection with the termination of his management or the modification of the terms and conditions relating thereto;

(b) any person, by whatever name called, managing the whole or substantially the whole of the affairs in India of any other company, at or in connection with the termination of his office or the modification of the terms and conditions relating thereto;

(c) any person, by whatever name called, holding an agency in India for any part of the activities relating to the business of any other person, at or in connection with the termination of the agency or the modification of the terms and conditions relating thereto;

(iii) income derived by a trade, professional or similar association from specific services performed for its members.

*Explanation 1.*—The profits and gains of a business shall include the profits and gains of managing agency.

*Explanation 2.*—Where speculative transactions carried on by an assessee are of such a nature as to constitute a business, the business (hereinafter referred to as "speculation business") shall be deemed to be distinct and separate from any other business.

29. The income referred to in section 28 shall be computed in accordance with the provisions contained in sections 30 to 43.

Income from profits and gains of business or profession how computed. Rent, rates, taxes, repairs and insurance for buildings.

30. In respect of rent, rates, taxes, repairs and insurance for premises, used for the purposes of the business or profession, the following deductions shall be allowed—

(a) where the premises are occupied by the assessee—

(i) as a tenant, the rent paid for such premises; and further if he has undertaken to bear the cost of repairs to the premises, the amount paid on account of such repairs;

(ii) otherwise than as a tenant, the amount paid by him on account of current repairs to the premises;

(b) any sums paid on account of land revenue, local rates or municipal taxes;

(c) the amount of any premium paid in respect of insurance against risk of damage or destruction of the premises.

Repairs and insurance of machinery, plant and furniture.

31. In respect of repairs and insurance of machinery, plant or furniture used for the purposes of the business or profession, the following deductions shall be allowed—

(i) the amount paid on account of current repairs thereto;

(ii) the amount of any premium paid in respect of insurance against risk of damage or destruction thereof.

Depreciation.

32. (1) In respect of depreciation of buildings, machinery, plant or furniture owned by the assessee and used for the purposes of the business or profession, the following deductions shall, subject to the provisions of section 34, be allowed—

(i) in the case of ships other than ships ordinarily plying on inland waters, such percentage on the actual cost thereof to the assessee as may in any case or class of cases be prescribed;

(ii) in the case of buildings, machinery, plant or furniture, other than ships covered by clause (i), such percentage on the written down value thereof as may in any case or class of cases be prescribed;

(iii) in the case of any building, machinery, plant or furniture which is sold, discarded, demolished or destroyed in the previous year (other than the previous year in which it is first brought into use), the amount by which the moneys payable in respect of such building, machinery, plant or furniture, together with the amount of scrap value, if any, fall short of the written down value thereof:

Provided that such deficiency is actually written off in the books of the assessee.

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

(1) “moneys payable” in respect of any building, machinery, plant or furniture includes—

(a) any insurance salvage or compensation moneys payable in respect thereof;

(b) where the building, machinery, plant or furniture is sold, the price for which it is sold;

(2) "sold" includes a transfer by way of exchange or a compulsory acquisition under any law for the time being in force.

(iv) in the case of any building which has been newly erected after the 31st day of March, 1961, where the building is used solely for the purpose of residence of persons employed in the business and drawing a remuneration not exceeding two hundred rupees per mensem, or where the building is used solely or mainly for the welfare of such persons as a hospital, creche, school, canteen, library, recreational centre, shelter, rest-room or lunch-room, a sum equal to twenty per cent. of the actual cost of the building to the assessee in respect of the previous year of erection of the building; but any such sum shall not be deductible in determining the written down value for the purposes of clause (ii) of sub-section (1).

(2) Where, in the assessment of the assessee, (or, if the assessee is a registered firm or an unregistered firm assessed as a registered firm, in the assessment of its partners) full effect cannot be given to any allowance under clause (i) or clause (ii) or clause (iv) of sub-section (1) in any previous year owing to there being no profits or gains chargeable for that previous year, or owing to the profits or gains chargeable being less than the allowance, then, subject to the provisions of sub-section (2) of section 72 and sub-section (3) of section 73, the allowance or part of the allowance to which effect has not been given as the case may be, shall be added to the amount of the allowance for depreciation for the following previous year and deemed to be part of that allowance, or if there is no such allowance for that previous year, be deemed to be the allowance for that previous year, and so on for the succeeding previous years.

33. (1) In respect of a new ship acquired or new machinery or plant (other than office appliances or road transport vehicles) installed after the 31st day of March, 1954, which is owned by the assessee and is wholly used for the purposes of the business carried on by him, a sum by way of development rebate, equivalent to—

Development  
rebate.

(i) in the case of a ship acquired after the 31st day of December, 1957, forty per cent. and in the case of a ship acquired before the 1st day of January, 1958, twenty-five per cent. of the actual cost of the ship to the assessee, and ~~and~~

~~(ii) in the case of machinery or plant installed before the 1st day of April, 1961, twenty-five per cent. and in the case of machinery or plant installed after the 31st day of March, 1961, twenty per cent. of the actual cost of the machinery or plant to the assessee.~~

↳ Omitted & Subs. by Act 43 of 1963, s. 2 (wef. 1-4-65)

shall, subject to the provisions of section 34, be allowed as a deduction in respect of the previous year in which the ship was acquired or the machinery or plant was installed or, if the ship, machinery or plant is first put to use in the immediately succeeding previous year, then, in respect of that previous year.

(2) In the case of a ship acquired or machinery or plant installed after the 31st day of December, 1957, where the total income of the assessee assessable for the assessment year relevant to the previous year in which the ship was acquired or the machinery or plant installed or the immediately succeeding previous year, as the case may be, [the total income for this purpose being computed without making any allowance under sub-section (1)] is nil or is less than the full amount of the development rebate calculated at the rate applicable thereto under that sub-section,—

(i) the sum to be allowed by way of development rebate for that assessment year under sub-section (1) shall be only such amount as is sufficient to reduce the said total income to nil; and

(ii) the amount of the development rebate, to the extent to which it has not been allowed as aforesaid, shall be carried forward to the following assessment year, and the development rebate to be allowed for the following assessment year shall be such amount as is sufficient to reduce the total income of the assessee assessable for that assessment year, computed in the manner aforesaid, to nil, and the balance of the development rebate, if any, still outstanding shall be carried forward to the following assessment year and so on, so however that no portion of the development rebate shall be carried forward for more than eight assessment years immediately succeeding the assessment year relevant to the previous year in which the ship was acquired or the machinery or plant installed or the immediately succeeding previous year, as the case may be.

*Explanation.*—Where for any assessment year development rebate is to be allowed in accordance with the provisions of sub-section (2) in respect of ships acquired or machinery or plant installed in more than one previous year, and the total income of the assessee assessable for that assessment year [the total income for this purpose being computed without making any allowance under sub-section (1)] is less than the aggregate of the amounts due to be allowed in respect of the assets aforesaid for that assessment year, the following procedure shall be followed, namely:—

(i) the allowance under clause (ii) of sub-section (2) shall be made before any allowance under clause (i) of that sub-section is made; and

(ii) where an allowance has to be made under clause (ii) of sub-section (2) in respect of amounts carried forward from more than one assessment year, the amount carried forward from an earlier assessment year shall be allowed before any amount carried forward from a later assessment year.

(3) Where in a scheme of amalgamation, a company (hereinafter in this sub-section referred to as the predecessor) sells or otherwise transfers to the company formed in pursuance of the predecessor's amalgamation with that company (hereinafter in this sub-section referred to as the successor) any ship, machinery or plant in respect of which development rebate has been allowed to the predecessor under sub-section (1),—

(a) the successor shall continue to fulfil the conditions mentioned in sub-section (3) of section 34 in respect of the reserve created by the predecessor and in respect of the period within which such ship, machinery or plant shall not be sold or otherwise transferred and in default of any of these conditions, the provisions of sub-section (5) of section 155 shall apply to the successor as they would have applied to the predecessor had it committed the default;

(b) the balance of development rebate, if any, still outstanding to the predecessor in respect of such ship, machinery or plant shall be allowed to the successor in accordance with the provisions of sub-section (2), so, however, that the total period for which the balance of development rebate shall be carried forward in the assessments of the predecessor and the successor shall not exceed the period of eight years specified in sub-section (2) and the successor shall be treated as the assessee in respect of such ship, machinery or plant for the purposes of section 33 and section 34.

*Explanation.*—For the purposes of this sub-section, “amalgamation” means the merger of two or more companies (each of which is hereinafter in this Explanation referred to as the amalgamating company) to form one company (hereinafter in this Explanation referred to as the amalgamated company) in such a manner that—

(i) all the property of the amalgamating companies immediately before the amalgamation becomes the property of the amalgamated company by virtue of the amalgamation;

(ii) all the liabilities of the amalgamating companies immediately before the amalgamation become the liabilities of the amalgamated company by virtue of the amalgamation; and

(iii) shareholders holding not less than nine-tenths in value of the shares of the amalgamating companies immediate-

ly before the amalgamation become shareholders of the amalgamated company by virtue of the amalgamation,

otherwise than as a result of the acquisition of property of one company by another company pursuant to the purchase of such property by the other company or as a result of the distribution of such property to the other company after the winding up of the first mentioned company;

and includes the merger of a subsidiary company in the holding company, where the whole of the share capital of the subsidiary company is held by the holding company or its nominee and the subsidiary company is an Indian company.

(4) Where a firm is succeeded to by a company in the business carried on by it as a result of which the firm sells or otherwise transfers to the company any ship, machinery or plant, the provisions of clauses (a) and (b) of sub-section (3) shall, so far as may be, apply to the firm and the company.

*Explanation.*—The provisions of this clause shall apply only where—

(i) all the property of the firm relating to the business immediately before the succession becomes the property of the company;

(ii) all the liabilities of the firm relating to the business immediately before the succession become the liabilities of the company; and

(iii) all the shareholders of the company were partners of the firm immediately before the succession.

Conditions  
for depreciation  
allowance and  
development  
rebate.

34. (1) The deductions referred to in sub-section (1) of section 32 shall be allowed only if the prescribed particulars have been furnished; and the deduction referred to in section 33 shall be allowed only if the particulars prescribed for the purpose of clause (i) and clause (ii) of sub-section (1) of section 32 have been furnished by the assessee in respect of the ship or machinery or plant.

(2) For the purposes of section 32—

(i) the aggregate of all deductions in respect of depreciation made under sub-section (1) of section 32 or under the Indian Income-tax Act, 1922 or under any Act repealed by that Act or under the Indian Income-tax Act, 1886, shall, in no case, exceed the actual cost to the assessee of the buildings, machinery, plant or furniture, as the case may be; 11 of 192  
2 of 1886

*Explanation.*—Where a capital asset is transferred by a company to a subsidiary company, then, if the conditions of clause (iv) of section 47 are satisfied, in determining the aggregate of all deductions in respect of depreciation under this clause, account shall also be taken of the deductions in respect of depreciation allowed in the case of the company from which the asset has been transferred.

(ii) nothing in clause (i) or clause (ii) or clause (iv) of sub-section (1) of section 32 shall be deemed to authorise the allowance for any previous year of any sum in respect of any building, machinery, plant or furniture sold, discarded, demolished or destroyed in that year.

(3) (a) The deduction referred to in section 33 shall not be allowed unless an amount equal to seventy-five per cent. of the development rebate to be actually allowed is debited to the profit and loss account of the relevant previous year and credited to a reserve account to be utilised by the assessee during a period of eight years next following for the purposes of the business of the undertaking, other than—

(i) for distribution by way of dividends or profits; or

(ii) for remittance outside India as profits or for the creation of any asset outside India:

4 of 1948. Provided that this clause shall not apply where the assessee is a company, being a licensee within the meaning of the Electricity (Supply) Act, 1948 or where the ship has been acquired or the machinery or plant has been installed before the 1st day of January, 1958.

1 of 1922. (b) If any ship, machinery or plant 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 or installed, any allowance made under section 33 or under the corresponding provisions of the Indian Income-tax Act, 1922 in respect of that ship, machinery or plant shall be deemed to have been wrongly made for the purposes of this Act, and the provisions of sub-section (5) of section 155 shall apply accordingly:

Provided that this clause shall not apply—

(i) where the ship has been acquired or the machinery or plant has been installed before the first day of January, 1958; or

(ii) where the ship, machinery or plant is sold or otherwise transferred by the assessee to the Government, a local authority, a corporation established by a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956; or

of 1956.

(iii) where the sale or transfer of the ship, machinery or plant is made in connection with the amalgamation or succession, referred to in sub-section (3) or sub-section (4) of section 33.

Expenditure on scientific research. 35. (1) In respect of expenditure on scientific research, the following deductions shall be allowed—

(i) any expenditure (not being in the nature of capital expenditure) laid out or expended on scientific research related to the business;

(ii) any sum paid to a scientific research association which has as its object the undertaking of scientific research or to a university, college or other institution to be used for scientific research:

Provided that such association, university, college or institution is for the time being approved for the purposes of this clause by the prescribed authority;

(iii) any sum paid to a university, college or other institution to be used for research in social science or statistical research related to the class of business carried on, being a university, college or institution which is for the time being approved for the purposes of this clause by the prescribed authority;

(iv) in respect of any expenditure of a capital nature on scientific research related to the business carried on by the assessee, such deduction as may be admissible under the provisions of sub-section (2).

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

(i) one-fifth of the capital expenditure incurred in any previous year shall be deducted for that previous year; and the balance of the expenditure shall be deducted in equal instalments for each of the four immediately succeeding previous years.

*Explanation.*—Where any capital expenditure has been incurred before the commencement of the business, the aggregate of the expenditure so incurred within the three years immediately preceding the commencement of the business shall

be deemed to have been incurred in the previous year in which the business is commenced;

(ii) notwithstanding anything contained in clause (i), where an asset representing expenditure of a capital nature ceases to be used in a previous year for scientific research related to the business and the value of the asset at the time of the cessation, together with the aggregate of deductions already allowed under clause (i) falls short of the said expenditure, then—

(a) there shall be allowed a deduction for that previous year of an amount equal to such deficiency, and

(b) no deduction shall be allowed under that clause for that previous year or for any subsequent previous year;

(iii) if the asset mentioned in clause (ii) is sold, without having been used for other purposes, in the year of cessation, the sale price shall be taken to be the value of the asset at the time of the cessation; and if the asset is sold, without having been used for other purposes, in a previous year subsequent to the year of cessation, and the sale price falls short of the value of the asset taken into account at the time of cessation, an amount equal to the deficiency shall be allowed as a deduction for the previous year in which the sale took place;

(iv) where a deduction is allowed for any previous year under this section in respect of expenditure represented wholly or partly by an asset, no deduction shall be allowed under clauses (i), (ii) and (iii) of sub-section (1) of section 32 for the same previous year in respect of that asset;

(v) where the asset is used in the business after it ceases to be used for scientific research related to that business, depreciation shall be admissible under clauses (i), (ii) and (iii) of sub-section (1) of section 32.

(3) If any question arises under this section as to whether, and if so, to what extent, any activity constitutes or constituted, or any asset is or was being used for, scientific research, the Board shall refer the question to the prescribed authority, whose decision shall be final.

(4) The provisions of sub-section (2) of section 32 shall apply in relation to deductions allowable under clause (iv) of sub-section (1) as they apply in relation to deductions allowable in respect of depreciation.

Other  
deductions.

36. (1) The deductions provided for in the following clauses shall be allowed in respect of the matters dealt with therein, in computing the income referred to in section 28—

(i) the amount of any premium paid in respect of insurance against risk of damage or destruction of stocks or stores used for the purposes of the business or profession;

(ii) any sum paid to an employee as bonus or commission for services rendered, where such sum would not have been payable to him as profits or dividend if it had not been paid as bonus or commission:

Provided that the amount of the bonus or commission is reasonable with reference to—

(a) the pay of the employee and the conditions of his service;

(b) the profits of the business or profession for the previous year in question; and

(c) the general practice in similar business or profession;

(iii) the amount of the interest paid in respect of capital borrowed for the purposes of the business or profession;

*Explanation.*—Recurring subscriptions paid periodically by shareholders or subscribers in Mutual Benefit Societies which fulfil such conditions as may be prescribed, shall be deemed to be capital borrowed within the meaning of this clause;

(iv) any sum paid by the assessee as an employer by way of contribution towards a recognised provident fund or an approved superannuation fund, subject to such limits as may be prescribed for the purpose of recognising the provident fund or approving the superannuation fund, as the case may be; and subject to such conditions as the Board may think fit to specify in cases where the contributions are not in the nature of annual contributions of fixed amounts or annual contributions fixed on some definite basis by reference to the income chargeable under the head 'Salaries' or to the contributions or to the number of members of the fund;

(v) any sum paid by the assessee as an employer by way of contribution towards an approved gratuity fund created by him for the exclusive benefit of his employees under an irrevocable trust;

(vi) in respect of animals which have been used for the purposes of the business or profession otherwise than as stock-in-trade and have died or become permanently useless for such purposes, the difference between the actual cost to the assessee of the animals and the amount, if any, realised in respect of the carcasses or animals;

(vii) subject to the provisions of sub-section (2), the amount of any debt, or part thereof, which is established to have become a bad debt in the previous year;

(viii) in respect of any special reserve created by a financial corporation which is engaged in providing long-term finance for industrial development in India, an amount not exceeding ten per cent. of the total income carried to such reserve account:

Provided that the corporation is for the time being approved by the Central Government for the purposes of this clause:

Provided further that where the aggregate of the amounts carried to such reserve account from time to time exceeds the paid-up share capital (excluding the amounts capitalised from reserves) of the corporation, no allowance under this clause shall be made in respect of such excess.

(2) In making any deduction for a bad debt or part thereof, the following provisions shall apply:—

(i) no such deduction shall be allowed unless such debt or part thereof—

(a) has been taken into account in computing the income of the assessee of that previous year or of an earlier previous year, or represents money lent in the ordinary course of the business of banking or money-lending which is carried on by the assessee, and

(b) has been written off as irrecoverable in the accounts of the assessee for that previous year;

(ii) if the amount ultimately recovered on any such debt or part of debt is less than the difference between the debt or part and the amount so deducted, the deficiency shall be deductible in the previous year in which the ultimate recovery is made;

(iii) any such debt or part of debt may be deducted if it has already been written off as irrecoverable in the accounts of an earlier previous year, but the Income-tax Officer had not allowed it to be deducted on the ground that it had not been established to have become a bad debt in that year;

(iv) where any such debt or part of debt is written off as irrecoverable in the accounts of the previous year and the Income-tax Officer is satisfied that such debt or part became a bad debt in any earlier previous year not falling beyond a period of four previous years immediately preceding the previous year in which such debt or part is written off, the provisions of sub-section (6) of section 155 shall apply.

**General.**

37. (1) Any expenditure (not being expenditure of the nature described in sections 30 to 36 and not being in the nature of capital expenditure or personal expenses of the assessee), laid out or expended wholly and exclusively for the purposes of the business or profession shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession".

(2) Notwithstanding anything contained in sub-section (1), no expenditure in the nature of entertainment expenditure shall be allowed in the case of a company, which exceeds the aggregate amount computed as hereunder:—

- |  |  |
|--|--|
| (i) on the first Rs. 10,00,000 of the profits and gains of the business (computed before making any allowance under section 33 or in respect of entertainment expenditure) | at the rate of 1% or Rs. 5,000, whichever is higher; |
| (ii) on the next Rs. 40,00,000 of the profits and gains of the business (computed in the manner aforesaid)   | at the rate of <del>1%</del> [1/2 %]                 |
| (iii) on the next Rs. 1,20,00,000 of the profits and gains of the business (computed in the manner aforesaid)  | at the rate of <del>1%</del> [1/4 %]                 |
| (iv) on the balance of the profits and gains of the business (computed in the manner aforesaid)  | nil.   |

Building, etc. partly used for business, etc., or not exclusively so used.

38. (1) Where a part of any premises is used as dwelling house by the assessee,—

(a) the deduction under sub-clause (i) of clause (a) of section 30, in the case of rent, shall be such amount as the

↓ Subs. by Act 220 of 1962, s. 4 [w.e.f. 1.4.1962]

Income-tax Officer may determine having regard to the proportionate annual value of the part used for the purpose of the ~~business or profession~~, and in the case of any sum paid for repairs, such sum as is proportionate to the part of the premises used for the purpose of the business or profession;

(b) the deduction under clause (b) of section 30 shall be such sum as the Income-tax Officer may determine having regard to the part so used.

(2) Where any building, machinery, plant or furniture is not exclusively used for the purposes of the business or profession, the deductions under sub-clause (ii) of clause (a) and clause (c) of section 30, clauses (i) and (ii) of section 31 and clauses (i), (ii) and (iii) of sub-section (1) of section 32 shall be restricted to a fair proportionate part thereof which the Income-tax Officer may determine, having regard to the user of such building, machinery, plant or furniture for the purposes of the business or profession.

39. Where a managing agent of a company is liable under an agreement in writing made for adequate consideration to share **managing agency commission** with a third party or third parties, the said agent and the said party or parties shall file a declaration showing the proportion in which such commission is shared between them under the agreement, and on proof to the satisfaction of the Income-tax Officer of the facts contained in such declaration, such agent and each such party shall be chargeable only on the share to which such agent or party is entitled under the agreement. **Managing agency commission.**

40. Notwithstanding anything to the contrary in sections 30 to 39, the following amounts shall not be deducted in computing the income chargeable under the head "Profits and gains of business or profession", **Amounts not deductible.**

(a) in the case of any assessee—

(i) any interest chargeable under this Act which is payable outside India (not being interest on a loan issued for public subscription before the 1st day of April, 1938), on which tax has not been paid or deducted under Chapter XVII-B and in respect of which there is no person in India who may be treated as an agent under section 163;

(ii) any sum paid on account of any rate or tax levied on the profits or gains of any business or profession or assessed at a proportion of, or otherwise on the basis of, **any such profits or gains;**

(iii) any payment which is chargeable under the head "Salaries", if it is payable outside India and if the tax has not been paid thereon nor deducted therefrom under Chapter XVII-B;

(iv) any payment to a provident or other fund established for the benefit of employees of the assessee, unless the assessee has made effective arrangements to secure that tax shall be deducted at source from any payments made from the fund which are chargeable to tax under the head "Salaries";

(b) in the case of any firm, any payment of interest, salary, bonus, commission or remuneration made by the firm to any partner of the firm;

(c) in the case of any company—

(i) any expenditure which results directly or indirectly in the provision of any remuneration or benefit or amenity to a director or to a person who has a substantial interest in the company or to a relative of the director or of such person as the case may be,

(ii) any expenditure or allowance in respect of any assets of the company used by any person referred to in sub-clause (i) either wholly or partly for his own purposes or benefit,

if in the opinion of the Income-tax Officer any such expenditure or allowance as is mentioned in sub-clauses (i) and (ii) is excessive or unreasonable having regard to the legitimate business needs of the company and the benefit derived by or accruing to it therefrom;

*Explanation.*—The provisions of this clause shall apply notwithstanding that any amount not to be allowed under this clause is included in the total income of any person referred to in sub-clause (i);

(d) in the case of a banking company, the amounts which have been allowed as a deduction in computing its income chargeable to income-tax under the head "Interest on securities" under the provisions of sub-section (1) of section 20.

↓ Ins. no. 13 of 1963, s. 6 (wef 1.4.1963)

For in sub-clause (iii) }

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41. (1) Where an allowance or deduction has been made in the assessment for any year in respect of loss, expenditure or trading liability incurred by the assessee, and subsequently during any previous year the assessee has obtained, whether in cash or in any other manner whatsoever, any amount in respect of such loss or expenditure or some benefit in respect of such trading liability by way of remission or cessation thereof, the amount obtained by him or the value of benefit accruing to him, shall be deemed to be profits and gains of business or profession and accordingly chargeable to income-tax as the income of that previous year, whether the business or profession in respect of which the allowance or deduction has been made is in existence in that year or not. Profits chargeable to tax.

(2) Where any building, machinery, plant or furniture which is owned by the assessee and which was or has been used for the purposes of business or profession is sold, discarded, demolished or destroyed and the moneys payable in respect of such building, machinery, plant or furniture, as the case may be, together with the amount of scrap value, if any, exceed the written down value, so much of the excess as does not exceed the difference between the actual cost and the written down value shall be chargeable to income-tax as income of the business or profession of the previous year in which the moneys payable for the building, machinery, plant or furniture became due:

Provided that where the building sold, discarded, demolished or destroyed is a building to which Explanation 5 to section 43 applies, and the moneys payable in respect of such building, together with the amount of scrap value, if any, exceed the actual cost as determined under that Explanation, so much of the excess as does not exceed the difference between the actual cost so determined and the written down value shall be chargeable to income-tax as income of the business or profession of such previous year.

*Explanation.*—Where the moneys payable in respect of the building, machinery, plant or furniture referred to in this sub-section become due in a previous year in which the business or profession for the purpose of which the building, machinery, plant or furniture was being used is no longer in existence, the provisions of this sub-section shall apply as if the business or profession is in existence in that previous year.

(3) Where an asset representing expenditure of a capital nature on scientific research within the meaning of clause (iv) of sub-section (1) of section 35, read with clause (4) of section 43, is sold, without having been used for other purposes, and the proceeds of

the sale together with the total amount of the deductions made under clause (i) of sub-section (2) of section 35 exceed the amount of the capital expenditure, the excess or the amount of the deductions so made, whichever is the less, shall be chargeable to income-tax as income of the business or profession of the previous year in which the sale took place.

*Explanation.*—Where the moneys payable in respect of any asset referred to in this sub-section become due in a previous year in which the business is no longer in existence, the provisions of this sub-section shall apply as if the business is in existence in that previous year.

(4) Where a deduction has been allowed in respect of a bad debt or part of debt under the provisions of clause (vii) of sub-section (1) of section 36, then, if the amount subsequently recovered on any such debt or part is greater than the difference between the debt or part of debt and the amount so allowed, the excess shall be deemed to be profits and gains of business or profession, and accordingly chargeable to income-tax as the income of the previous year in which it is recovered, whether the business or profession in respect of which the deduction has been allowed is in existence in that year or not.

*Explanation.*—The expression “moneys payable” and the expression “sold” in sub-sections (2) and (3) shall have the same meanings as in sub-section (1) of section 32.

(5) Where the business or profession referred to in this section is no longer in existence and there is income chargeable to tax under sub-section (1), sub-section (2), sub-section (3) or sub-section (4) in respect of that business or profession, any loss, not being a loss sustained in speculation business or under the head “Capital gains”, which arose in that business or profession during the previous year in which it ceased to exist and which could not be set off against any other income of that previous year shall, so far as may be, be set off against the income chargeable to tax under the sub-sections aforesaid.

Special provision for deductions in the case of business for prospecting, etc., for mineral oil, 42. For the purpose of computing the profits or gains of any business consisting of the prospecting for or extraction or production of mineral oils in relation to which the Central Government has entered into an agreement with any person for the association or participation in such business of the Central Government (which agreement has been laid on the Table of each House of Parliament), there shall be

made in lieu of, or in addition to, the allowances admissible under this Act, such allowances as are specified in the agreement in relation—

(a) to expenditure by way of infructuous or abortive exploration expenses in respect of any area surrendered prior to the beginning of commercial production by the assessee;

(b) after the beginning of commercial production, to expenditure incurred by the assessee, whether before or after such commercial production, in respect of drilling or exploration activities or services or in respect of physical assets used in that connection, except assets on which allowance for depreciation is admissible under section 32; and

(c) to the depletion of mineral oil in the mining area in respect of the assessment year relevant to the previous year in which commercial production is begun and for such succeeding year or years as may be specified in the agreement;

and such allowances shall be computed and made in the manner specified in the agreement, the other provisions of this Act being deemed for this purpose to have been modified to the extent necessary to give effect to the terms of the agreement.

43. In sections 28 to 41 and in this section, unless the context otherwise requires—

(1) "actual cost" means the actual cost of the assets to the assessee, reduced by that portion of the cost thereof, if any, as has been met directly or indirectly by any other person or authority.

Definitions of certain terms relevant to income from profits and gains of business or profession.

*Explanation 1.*—Where an asset is used in the business after it ceases to be used for scientific research related to that business and a deduction has to be made under clause (i), clause (ii) or clause (iii) of sub-section (1) of section 32 in respect of that asset, the actual cost of the asset to the assessee shall be the actual cost to the assessee as reduced by the amount of any deduction allowed under clause (iv) of sub-section (1) of section 35 or under any corresponding provision of the Indian Income-tax Act, 1922.

1 of 1922.

*Explanation 2.*—Where an asset is acquired by the assessee by way of gift or inheritance, the actual cost of the asset to the assessee shall be the written down value thereof as in the case of the previous owner for the previous year in which the asset is so acquired or the market value thereof on the date of such acquisition, whichever is the less.

*Explanation 3.*—Where, before the date of acquisition by the assessee, the assets were at any time used by any other person for the purposes of his business or profession and the Income-tax Officer is satisfied that the main purpose of the transfer of such assets, directly or indirectly to the assessee, was the reduction of a liability to income-tax (by claiming depreciation with reference to an enhanced cost), the actual cost to the assessee shall be such an amount as the Income-tax Officer may, with the previous approval of the Inspecting Assistant Commissioner, determine having regard to all the circumstances of the case.

*Explanation 4.*—Where assets which had once belonged to the assessee and had been used by him for the purposes of his business or profession and thereafter ceased to be his property by reason of transfer or otherwise, are re-acquired by him, the actual cost to the assessee shall be the actual cost to him when he first acquired the assets less the depreciation actually allowed to him under this Act or under the corresponding provisions of the Indian Income-tax Act, 1922, diminished by any loss deducted, or as the case may be, increased by any profit assessed, under the provisions of clause (iii) of sub-section (1) of section 32 or sub-section (2) of section 41 of this Act or under the corresponding provisions of the Indian Income-tax Act, 1922, or the actual price for which the asset is re-acquired by him, whichever is the less. 11 of 1922.

*Explanation 5.*—Where a building previously the property of the assessee is brought into use for the purpose of the business or profession after the 28th day of February 1946, the actual cost to the assessee shall be the actual cost of the building to the assessee, as reduced by an amount equal to the depreciation calculated at the rate in force on that date that would have been allowable had the building been used for the aforesaid purposes since the date of its acquisition by the assessee. 11 of 1922

*Explanation 6.*—When any capital asset is transferred by a company to its subsidiary company, then, if the conditions of clause (iv) of section 47 are satisfied, the actual cost of the transferred capital asset to the subsidiary company shall be taken to be the same as it would have been if the parent company had continued to hold the capital asset for the purposes of its business;

(2) "paid" means actually paid or incurred according to the method of accounting upon the basis of which the profits or gains

are computed under the head "Profits and gains of business or profession";

(3) "plant" includes ships, vehicles, books, scientific apparatus and surgical equipment used for the purposes of the business or profession;

(4) (i) "scientific research" means any activities in the fields of natural or applied science for the extension of knowledge;

(ii) references to expenditure incurred on scientific research include all expenditure incurred for the prosecution, or the provision of facilities for the prosecution, of scientific research, but do not include any expenditure incurred in the acquisition of rights in, or arising out of, scientific research;

(iii) references to scientific research related to a business or class of business include—

(a) any scientific research which may lead to or facilitate an extension of that business or, as the case may be, all businesses of that class;

(b) any scientific research of a medical nature which has a special relation to the welfare of workers employed in that business or, as the case may be, all businesses of that class;

(5) "speculative transaction" means a transaction in which a contract for the purchase or sale of any commodity, including stocks and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scrips;

Provided that for the purposes of this clause—

(a) a contract in respect of raw materials or merchandise entered into by a person in the course of his manufacturing or merchanting business to guard against loss through future price fluctuations in respect of his contracts for actual delivery of goods manufactured by him or merchandise sold by him; or

(b) a contract in respect of stocks and shares entered into by a dealer or investor therein to guard against loss in his holdings of stocks and shares through price fluctuations;  
or

(c) a contract entered into by a member of a forward market or a stock exchange in the course of any transaction in the nature of jobbing or arbitrage to guard against loss which may arise in the ordinary course of his business as such member;

shall not be deemed to be a speculative transaction;

(6) "written down value" means—

(a) in the case of assets acquired in the previous year, the actual cost to the assessee;

(b) in the case of assets acquired before the previous year, the actual cost to the assessee less all depreciation actually allowed to him under this Act, or under the Indian Income-tax Act, 1922 or any Act repealed by that Act, or under any executive orders issued when the Indian Income-tax Act, 1886 was in force.

11 of 1922.  
2 of 1886.

*Explanation 1.*—When in a case of succession in business or profession, an assessment is made on the successor under sub-section (2) of section 170 the written down value of any asset shall be the amount which would have been taken as its written down value if the assessment had been made directly on the person succeeded to.

*Explanation 2.*—When any capital asset is transferred by a company to its subsidiary company, then, if the conditions of clause (iv) of section 47 are satisfied, the written down value of the transferred capital asset to the subsidiary company shall be taken to be the same as it would have been if the parent company had continued to hold the capital asset for the purposes of its business.

*Explanation 3.*—Any allowance in respect of any depreciation carried forward under sub-section (2) of section 32 shall be deemed to be depreciation "actually allowed".

Insurance  
business.

44. Notwithstanding anything to the contrary contained in the provisions of this Act relating to the computation of income chargeable under the head "Interest on securities", "Income from house property", "Capital gains" or "Income from other sources", or in section 199 or in sections 28 to 43, the profits and gains of any business of insurance, including any such business carried on by a mutual insurance

company or by a co-operative society, shall be computed in accordance with the rules contained in the First Schedule.

*E.—Capital gains*

45. Any profits or gains arising from the transfer of a capital asset effected in the previous year shall, save as otherwise provided in sections 53 and 54, be chargeable to income-tax under the head "Capital gains", and shall be deemed to be the income of the previous year in which the transfer took place.

46. (1) Notwithstanding anything contained in section 45, where the assets of a company are distributed to its shareholders on its liquidation, such distribution shall not be regarded as a transfer by the company for the purposes of section 45.

(2) Where a shareholder on the liquidation of a company receives any money or other assets from the company, he shall be chargeable to income-tax under the head "Capital gains", in respect of the money so received or the market value of the other assets on the date of distribution, as reduced by the amount assessed as dividend within the meaning of sub-clause (c) of clause (22) of section 2 and the sum so arrived at shall be deemed to be the full value of the consideration for the purposes of section 48.

47. Nothing contained in section 45 shall apply to the following transfers:—

(i) any distribution of capital assets on the total or partial partition of a Hindu undivided family;

(ii) any distribution of capital assets on the dissolution of a firm, body of individuals or other association of persons;

(iii) any transfer of a capital asset under a gift or will or an irrevocable trust;

(iv) any transfer of a capital asset by a company to its subsidiary company, if—

(a) the parent company or its nominees hold the whole of the share capital of the subsidiary company, and

(b) the subsidiary company is an Indian company.

Mode of computation and deductions.

48. The income chargeable under the head "Capital gains" shall be computed by deducting from the full value of the consideration received or accruing as a result of the transfer of the capital asset the following amounts, namely:—

(i) expenditure incurred wholly and exclusively in connection with such transfer;

(ii) the cost of acquisition of the capital asset and the cost of any improvement thereto.

Cost with reference to certain modes of acquisition.

49. Where the capital asset became the property of the assessee—

(i) on any distribution of assets on the total or partial partition of a Hindu undivided family;

(ii) under a gift or will;

(iii) (a) by succession, inheritance or devolution, or

(b) on any distribution of assets on the dissolution of a firm, body of individuals or other association of persons, or

(c) on any distribution of assets on the liquidation of a company, or

(d) under a transfer to a revocable or an irrevocable trust, or

(e) under any such transfer as is referred to in clause

(iv) of section 47,

the cost of acquisition of the asset shall be deemed to be the cost for which the previous owner of the property acquired it, as increased by the cost of any improvement of the assets incurred or borne by the previous owner or the assessee, as the case may be.

Special provision for computing cost of acquisition in the case of depreciable assets.

50. Where the capital asset is an asset in respect of which a deduction on account of depreciation has been obtained by the assessee in any previous year either under this Act or under the Indian Income-tax Act, 1922, or any Act repealed by that Act, or under executive orders issued when the Indian Income-tax Act, 1886, was in force, the provisions of sections 48 and 49 shall be subject to the following modifications:—

(1) The written down value, as defined in clause (6) of section 43 of the asset, as adjusted, shall be taken as the cost of acquisition of the asset.

(2) Where under any provision of section 49, read with subsection (2) of section 55, the fair market value of the asset on the 1st day of January, 1954, is to be taken into account at the option of the assessee, then, the cost of acquisition of the asset shall, at the option of the assessee, be the fair market value of the asset

on the said date, as reduced by the amount of depreciation, if any, allowed to the assessee after the said date, and as adjusted.

51. Where any capital asset was on any previous occasion the subject of negotiations for its transfer, any advance or other money received and retained by the assessee in respect of such negotiations shall be deducted from the cost for which the asset was acquired or the written down value or the fair market value, as the case may be, in computing the cost of acquisition. Advance money received.

52. Where the person who acquires a capital asset from an assessee is directly or indirectly connected with the assessee and the Income-tax Officer has reason to believe that the transfer was effected with the object of avoidance or reduction of the liability of the assessee under section 45, the full value of the consideration for the transfer shall, with the previous approval of the Inspecting Assistant Commissioner, be taken to be the fair market value of the capital asset on the date of the transfer. Consideration for transfer in cases of under-statement.

53. Notwithstanding anything contained in section 45, where a capital gain arises from the transfer of one or more capital assets, being buildings or lands appurtenant thereto, the income of which is chargeable under the head "Income from house property", and the full aggregate value of the consideration for which the transfer is made does not exceed twenty-five thousand rupees, the capital gain shall not be included in the total income of the assessee: Capital gains exempt from tax.

Provided that this section shall not apply in any case where the aggregate of the fair market values of all capital assets, being buildings or lands appurtenant thereto the income of which is chargeable under the head "Income from house property" owned by the assessee immediately before the transfer aforesaid is made, exceeds the sum of rupees fifty thousand.

54. Where a capital gain arises from the transfer of a capital asset to which the provisions of section 53 are not applicable, being buildings or lands appurtenant thereto the income of which is chargeable under the head "Income from house property", which in the two years immediately preceding the date on which the transfer took place, was being used by the assessee or a parent of his mainly for the purposes of his own or the parent's own residence, and the assessee has within a period of one year before or after that date purchased, or has within a period of two years after that date constructed, a house property for the purposes of his own residence, then, instead of the capital gain being charged to income-tax as income of the previous year in which the transfer took place, Profit on sale of property used for residences.

it shall be dealt with in accordance with the following provisions of this section, that is to say,—

(i) if the amount of the capital gain is greater than the cost of the new asset, the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be nil; or

(ii) if the amount of the capital gain is equal to or less than the cost of the new asset, the capital gain shall not be charged under section 45; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be reduced by the amount of the capital gain.

Meaning of  
"adjusted",  
"cost of  
improvement"  
and "cost of  
acquisition".

55. (1) For the purposes of sections 48, 49 and 50,—

(a) "adjusted", in relation to written down value or fair market value, means diminished by any loss deducted or increased by any profit assessed, under the provisions of clause (iii) of sub-section (1) of section 32 or sub-section (2) of section 41, as the case may be, the computation for this purpose being made with reference to the period commencing from the 1st day of January, 1954, in cases to which clause (2) of section 50 applies;

(b) "cost of any improvement", in relation to a capital asset,—

(i) where the capital asset became the property of the previous owner or the assessee before the 1st day of January, 1954, and the fair market value of the asset on that day is taken as the cost of acquisition at the option of the assessee, means all expenditure of a capital nature incurred in making any additions or alterations to the capital asset on or after the said date by the previous owner or the assessee, and

(ii) in any other case, means all expenditure of a capital nature incurred in making any additions or alterations to the capital asset by the assessee after it became his property, and, where the capital asset became the property of the assessee by any of the modes specified in section 49, by the previous owner,

but does not include any expenditure which is deductible in computing the income chargeable under the head "Interest on

securities", "Income from house property", "Profits and gains of business or profession", or "Income from other sources", and the expression "improvement" shall be construed accordingly.

(2) For the purposes of sections 48 and 49, "cost of acquisition", in relation to a capital asset,—

(i) where the capital asset became the property of the assessee before the 1st day of January, 1954, means the cost of acquisition of the asset to the assessee or the fair market value of the asset on the 1st day of January, 1954, at the option of the assessee;

(ii) where the capital asset became the property of the assessee by any of the modes specified in section 49, and the capital asset became the property of the previous owner before the 1st day of January, 1954, means the cost of the capital asset to the previous owner or the fair market value of the asset on the 1st day of January, 1954, at the option of the assessee;

(iii) where the capital asset became the property of the assessee on the distribution of the capital assets of a company on its liquidation and the assessee has been assessed to income-tax under the head "Capital gains" in respect of that asset under section 46, means the fair market value of the asset on the date of distribution.

(3) Where the cost for which the previous owner acquired the property cannot be ascertained, the cost of acquisition to the previous owner means the fair market value on the date on which the capital asset became the property of the previous owner.

#### F.—Income from other sources

56. (1) Income of every kind which is not to be excluded from the total income under this Act shall be chargeable to income-tax under the head "Income from other sources", if it is not chargeable to income-tax under any of the heads specified in section 14, items A to E. Income from  
other  
sources.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), the following income shall be chargeable to income-tax under the head "Income from other sources", namely:—

(i) dividends;

(ii) income from machinery, plant or furniture belonging to the assessee and let on hire, if the income is not chargeable to income-tax under the head "Profits and gains of business or profession";

(iii) where an assessee lets on hire machinery, plant or furniture belonging to him and also buildings, and the letting of the buildings is inseparable from the letting of the said machinery, plant or furniture, the income from such letting, if it is not chargeable to income-tax under the head "Profits and gains of business or profession".

**Deductions.** 57. The income chargeable under the head "Income from other sources" shall be computed after making the following deductions, namely:—

(i) in the case of dividends, any reasonable sum paid by way of commission or remuneration to a banker or any other person for the purpose of realising such dividend on behalf of the assessee;

(ii) in the case of income of the nature referred to in clauses (ii) and (iii) of sub-section (2) of section 50, deductions, so far as may be, in accordance with the provisions of sub-clause (ii) of clause (a) and clause (c) of section 30, section 31, and sub-sections (1) and (2) of section 32 and subject to the provisions of sections 34 and 38;

(iii) any other expenditure (not being in the nature of capital expenditure) laid out or expended wholly and exclusively for the purpose of making or earning such income.

**Amounts not deductible.** 58. Notwithstanding anything to the contrary contained in section 57, the following amounts shall not be deductible in computing the income chargeable under the head "Income from other sources", namely:—

(a) in the case of any assessee—

(i) any personal expenses of the assessee;

(ii) any interest chargeable under this Act which is payable outside India (not being interest on a loan issued for public subscription before the 1st day of April, 1938) on which tax has not been paid or deducted under Chapter XVII-B and in respect of which there is no person in India who may be treated as an agent under section 163;

(iii) any payment which is chargeable under the head "Salaries", if it is payable outside India, unless tax has been paid thereon or deducted therefrom under Chapter XVII-B;

(b) in the case of a company, any expenditure or allowance of the nature referred to in clause (c) of section 40, notwithstanding that the amount thereof is included in the total income of any person referred to in sub-clause (i) of clause (c) of section 40. [or in sub-clause (ii)]

59. (1) The provisions of sub-section (1) of section 41 shall apply, so far as may be, in computing the income of an assessee under section 56, as they apply in computing the income of an assessee under the head "Profits and gains of business or profession". Profits chargeable to tax.

(2) When any buildings, machinery, plant or furniture to which clauses (ii) and (iii) of sub-section (2) of section 56 apply are sold, discarded, demolished or destroyed, the provisions of sub-section (2) of section 41 shall apply, so far as may be, in computing the income of an assessee under section 56 as they apply in computing the income of an assessee under the head "Profits and gains of business or profession".

*Explanation.*—For the purpose of this section, the expression "sold" shall have the same meaning as in sub-section (1) of section 32.

## CHAPTER V

### INCOME OF OTHER PERSONS, INCLUDED IN ASSESSEE'S TOTAL INCOME

60. All income arising to any person by virtue of a transfer whether revocable or not and whether effected before or after the commencement of this Act shall, where there is no transfer of the assets from which the income arises, be chargeable to income-tax as the income of the transferor and shall be included in his total income. Transfer of income where there is no transfer of assets.

61. All income arising to any person by virtue of a revocable transfer of assets shall be chargeable to income-tax as the income of the transferor and shall be included in his total income. Revocable transfer of assets.

62. (1) The provisions of section 61 shall not apply to any income arising to any person by virtue of a transfer— Transfer irrevocable for a specified period.

(i) by way of trust which is not revocable during the lifetime of the beneficiary, and, in the case of any other transfer, which is not revocable during the lifetime of the transferee; or

↓ Ins. by Act 13 of 1963, s. 7 (w.e.f. 1.4.1963)

(ii) made before the first day of April, 1961 which is not revocable for a period exceeding six years:

Provided that the transferor derives no direct or indirect benefit from such income in either case.

(2) Notwithstanding anything contained in sub-section (1), all income arising to any person by virtue of any such transfer shall be chargeable to income-tax as the income of the transferor as and when the power to revoke the transfer arises, and shall then be included in his total income.

"Transfer"  
and "revocable transfer" defined.

63. For the purposes of sections 60, 61 and 62 and of this section,—

(a) a transfer shall be deemed to be revocable if—

(i) it contains any provision for the re-transfer directly or indirectly of the whole or any part of the income or assets to the transferor, or

(ii) it, in any way, gives the transferor a right to re-assume power directly or indirectly over the whole or any part of the income or assets;

(b) "transfer" includes any settlement, trust, covenant, agreement or arrangement.

Income of individual to include income of spouse, minor child, etc.

64. In computing the total income of any individual, there shall be included all such income as arises directly or indirectly—

(i) to the spouse of such individual from the membership of the spouse in a firm carrying on a business in which such individual is a partner;

(ii) to a minor child of such individual from the admission of the minor to the benefits of partnership in a firm in which such individual is a partner;

(iii) subject to the provisions of clause (i) of section 27, to the spouse of such individual from assets transferred directly or indirectly to the spouse by such individual otherwise than for adequate consideration or in connection with an agreement to live apart;

(iv) subject to the provisions of clause (i) of section 27, to a minor child, not being a married daughter of such individual, from assets transferred directly or indirectly to the minor child by such individual otherwise than for adequate consideration; and

(v) to any person or association of persons from assets transferred otherwise than for adequate consideration to the person or association of persons by such individual, to the extent to which the income from such assets is for the immediate or deferred benefit of his or her spouse or minor child (not being a married daughter) or both.

*Explanation.*—For the purpose of clause (i), the individual in computing whose total income the income referred to in that clause is to be included shall be the husband or wife whose total income (excluding the income referred to in that clause) is greater; and, for the purpose of clause (ii), where both the parents are members of the firm in which the minor child is a partner, the income of the minor child from the partnership shall be included in the income of that parent whose total income (excluding the income referred to in that clause) is greater; and where any such income is once included in the total income of either spouse or parent, any such income arising in any succeeding year shall not be included in the total income of the other spouse or parent unless the Income-tax Officer is satisfied, after giving that spouse or parent an opportunity of being heard, that it is necessary so to do.

65. Where, by reason of the provisions contained in this Chapter or in clause (i) of section 27, the income from any asset or from membership in a firm of a person other than the assessee is included in the total income of the assessee, the person in whose name such asset stands or who is a member of the firm shall, notwithstanding anything to the contrary contained in any other law for the time being in force, be liable, on the service of a notice of demand by the Income-tax Officer in this behalf, to pay that portion of the tax levied on the assessee which is attributable to the income so included, and the provisions of Chapter XVII-D shall, so far as may be, apply accordingly:

Provided that where any such asset is held jointly by more than one person, they shall be jointly and severally liable to pay the tax which is attributable to the income from the assets so included.

## CHAPTER VI

## AGGREGATION OF INCOME AND SET OFF OR CARRY FORWARD OF LOSS

*Aggregation of Income*

Total  
income.

66. In computing the total income of an assessee, there shall be included all income on which no income-tax is payable under Chapter VII and any amount in respect of which the assessee is entitled to a deduction from the amount of income-tax on his total income with which he is chargeable for any assessment year in accordance with, and to the extent provided in sections 87 and 88.

Method of  
computing a  
partner's  
share in the  
income of  
the firm.

67. (1) In computing the total income of an assessee who is a partner of a firm, whether the net result of the computation of total income of the firm is a profit or a loss, his share (whether a net profit or a net loss) shall be computed as follows:—

(a) any interest, salary, commission or other remuneration paid to any partner in respect of the previous year shall be deducted from the total income of the firm and the balance ascertained and apportioned among the partners;

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

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

(2) The share of a partner in the income or loss of the firm, 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 firm has been determined under each head of income.

(3) Any interest paid by a partner on capital borrowed by him for the purposes of investment in the firm shall, in computing his

income chargeable under the head "Profits and gains of business or profession" in respect of his share in the income of the firm, be deducted from the share.

(4) If the share of a partner in the income of a registered firm or a firm treated as registered in accordance with the provisions of clause (b) of section 183, as computed under this section, is a loss, such loss may be set off, or carried forward and set off, in accordance with the provisions of this Chapter.

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

68. Where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the Income-tax Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year. Cash credits.

69. Where in the financial year immediately preceding the assessment year the assessee has made investments which are not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of the investments or the explanation offered by him is not, in the opinion of the Income-tax Officer, satisfactory, the value of the investments may be deemed to be the income of the assessee of such financial year. Unexplained investments.

*Set off, or carry forward and set off*

~~70. Save as otherwise provided in this Act, where the net result for any assessment year in respect of any source falling under any head of income is a loss, the assessee shall be entitled to have the amount of such loss set off against his income from any other source under the same head.~~ Set off of loss from one source against income from another source under the same head of income.

~~71. Where in respect of any assessment year the net result of the computation under any of the heads of income mentioned in section 14 other than "Capital gains" is a loss to the assessee, the assessee shall, subject to the other provisions of this Chapter, be entitled to have the amount of such loss set off against his income assessable for that assessment year under any other head.~~ Set off of loss from one head against income from another.

*Subs. by Act 20 of 1962, S. 5 w.e.f. (1.4.1962)*

Provided that, where the total income includes any income assessable under the head "Capital gains", the loss computed under any other head of income, if the assessee so desires, shall not be set off against the income under the head "Capital gains" but shall be set off against his income assessable under any other head of income.

Carry forward and set off of business losses.

~~72. (1) Where for any assessment year the net result of the computation under the head "Profits and gains of business or profession" is a loss to the assessee, not being a loss sustained in a speculation business, and such loss cannot be wholly set off in accordance with the provisions of section 71, so much of the loss as is not so set off or the whole loss, where the assessee had no income under any other head except "Capital gains", shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year, and~~

~~(i) it shall be set off against the profits and gains, if any, of any business or profession carried on by him and assessable for that assessment year:~~

~~Provided that the business or profession for which the loss was originally computed continued to be carried on by him in the previous year relevant for that assessment year; and~~

~~(ii) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following assessment year and so on.~~

(2) Where any allowance or part thereof is, under sub-section (2) of section 32 or sub-section (4) of section 35, to be carried forward, effect shall first be given to the provisions of this section.

(3) No loss shall be carried forward under this section for more than eight assessment years immediately succeeding the assessment year for which the loss was first computed.

Losses in speculation business.

73. (1) Any loss, computed in respect of a speculation business carried on by the assessee, shall not be set off except against profits and gains, if any, of another speculation business.

(2) Where for any assessment year any loss computed in respect of a speculation business has not been wholly set off under sub-section (1), so much of the loss as is not so set off or the whole loss where the assessee had no income from any other speculation business, shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year, and—

↓ Subs. by Act No. 20 of 1962, s. 6. (w.e.f. 1.4.1962)

(i) it shall be set off against the profits and gains, if any, of any speculation business carried on by him assessable for that assessment year; and

(ii) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following assessment year and so on.

(3) In respect of allowance on account of depreciation or capital expenditure on scientific research, the provisions of sub-section (2) of section 72 shall apply in relation to speculation business as they apply in relation to any other business.

(4) No loss shall be carried forward under this section for more than eight assessment years immediately succeeding the assessment year for which the loss was first computed.

~~74. (1) Where in respect of any assessment year the net result of the computation under the head "Capital gains" is a loss to the assessee, such loss shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year and set off against capital gains assessable for that assessment year, and if it cannot be so set off, the amount thereof not so set off shall be carried forward to the following assessment year and so on:~~ Losses under the head "Capital gains".

~~Provided that where the loss computed in respect of any assessee, not being a company, for any assessment year does not exceed five thousand rupees, it shall not be carried forward under this sub-section.~~

~~(2) No loss shall be carried forward under sub-section (1) for more than eight assessment years immediately succeeding the assessment year for which the loss was first computed.~~

75. (1) Where the assessee is a registered firm, any loss which cannot be set off against any other income of the firm shall be apportioned between the partners of the firm, and they alone shall be entitled to have the amount of the loss set off and carried forward for set off under sections 70, 71, 72, 73 and 74: Losses of registered firms.

(2) Nothing contained in sub-section (1) of section 72, sub-section (2) of section 73 or sub-section (1) of section 74 shall entitle any assessee, being a registered firm, to have its loss carried forward and set off under the provisions of the aforesaid sections.

76. In the case of an unregistered firm assessed under the provisions of clause (b) of section 183 in respect of any assessment year, its losses for that assessment year shall be dealt with as if it were a registered firm. Losses of unregistered firms assessed as registered firms.

↓ Substituted by Act 20 of 1962, S. 7 (w.e.f. 1. 4. 1962)

Losses of  
unregistered  
firms or their  
partners.

77. (1) Where the assessee is an unregistered firm which has not been assessed as a registered firm under the provisions of clause (b) of section 183, any loss of the firm shall be set off or carried forward and set off only against the income of the firm.

(2) Where the assessee is a partner of an unregistered firm which has not been assessed as a registered firm under the provisions of clause (b) of section 183 and his share in the income of the firm is a loss, then, whether the firm has already been assessed or not—

(a) such loss shall not be set off under the provisions of section 70, section 71, or sub-section (1) of section 73;

(b) nothing contained in sub-section (1) of section 72 or sub-section (2) of section 73 or sub-section (1) of section 74 shall entitle the assessee to have such loss carried forward and set off against his own income.

Carry forward and set off of losses in case of change in constitution of firm or on succession.

78. (1) Where a change has occurred in the constitution of a firm, nothing in this Chapter shall entitle the firm to have carried forward and set off so much of the loss proportionate to the share of a retired or deceased partner computed in accordance with section 67 as exceeds his share of profits, if any, of the previous year in the firm, or entitle any partner to the benefit of any portion of the said loss which is not apportionable to him under section 67.

(2) Where any person carrying on any business or profession has been succeeded in such capacity by another person otherwise than by inheritance, nothing in this Chapter shall entitle any person other than the person incurring the loss to have it carried forward and set off against his income.

Carry forward and set off of losses in the case of certain companies.

79. Notwithstanding anything contained in this Chapter, where a change in shareholding has taken place in a previous year in the case of a company, not being a company in which the public are substantially interested, no loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year unless—

(a) on the last day of the previous year the shares of the company carrying not less than fifty-one per cent. of the voting power were beneficially held by persons who beneficially held shares of the company carrying not less than fifty-one per cent. of the voting power on the last day of the year or years in which the loss was incurred; or

(b) the Income-tax Officer is satisfied that the change in the

shareholding was not effected with a view to avoiding or reducing any liability to tax.

80. Notwithstanding anything contained in this Chapter, no loss which has not been determined in pursuance of a return filed under section 139, shall be carried forward and set off under sub-section (1) of section 72 or sub-section (2) of section 73 or sub-section (1) of section 74.

Submission  
of return  
for losses.

## CHAPTER VII

### INCOMES FORMING PART OF TOTAL INCOME ON WHICH NO INCOME-TAX IS PAYABLE

81. Income-tax shall not be payable by a co-operative society—

Income of  
co-operative  
societies.

(i) in respect of the profits and gains of business carried on by it, if it is—

(a) a society engaged in carrying on the business of banking or providing credit facilities to its members; or

(b) a society engaged in a cottage industry; or

(c) a society engaged in the marketing of the agricultural produce of its members; or

(d) a society engaged in the purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to its members; or

(e) a society engaged in the processing without the aid of power of the agricultural produce of its members; or

(f) a primary society engaged in supplying milk raised by its members to a federal milk co-operative society:

Provided that, in the case of a co-operative society which is also engaged in activities other than those mentioned in this clause, nothing contained herein shall apply to that part of its profits and gains as is attributable to such activities and as exceeds fifteen thousand rupees;

(ii) in respect of so much of the profits and gains of business carried on by it as does not exceed fifteen thousand rupees, if it is a co-operative society other than a co-operative society referred to in clause (i);

(iii) in respect of any interest and dividends derived from its investments with any other co-operative society;

(iv) in respect of any income derived from the letting of godowns or warehouses for storage, processing or facilitating the marketing of commodities;

(v) in respect of any interest on securities chargeable under section 18 or any income from property chargeable under section 22, where the total income of the co-operative society does not exceed twenty thousand rupees and the society is not a housing society or an urban consumer's society or a society carrying on transport business or a society engaged in the performance of any manufacturing operations with the aid of power:

Provided that nothing contained in this section shall apply to a co-operative society carrying on insurance business in respect of the profits and gains of that business computed in accordance with section 44.

*Explanation.*—For the purposes of this section, “an urban consumer's co-operative society” means a society for the benefit of the consumers within the limits of a municipal corporation, municipality, municipal committee, notified area committee, town area or cantonment.

**Dividends from co-operative society.** 82. Income-tax shall not be payable by an assessee, who is a member of a co-operative society in respect of any dividends received by him from the society.

**Income of marketing society.** 83. Income-tax shall not be payable by an assessee, which is an authority constituted under any law for the time being in force for the marketing of commodities, in respect of any income derived from the letting of godowns or warehouses for storage, processing or facilitating the marketing of commodities.

**Income of newly established industrial undertakings or hotels.** 84. (1) Save as otherwise hereinafter provided, income-tax shall not be payable by an assessee on so much of the profits or gains derived from any industrial undertaking or hotel to which this section applies as do not exceed six per cent. per annum on the capital employed in the undertaking or hotel, computed in the prescribed manner.

(2) This section applies to any industrial undertaking which fulfils all the following conditions, namely:—

(i) it is not formed by the splitting up, or the reconstruction of, a business already in existence;

(ii) it is not formed by the transfer to a new business of a building, machinery or plant previously used for any purpose;

(iii) it has begun or begins to manufacture or produce articles in any part of India at any time within a period of eighteen years from the 1st day of April, 1948, or such further period as the Central Government may, by notification in the Official Gazette, specify with reference to any particular industrial undertaking;

(iv) it employs ten or more workers in a manufacturing process carried on with the aid of power, or employs twenty or more workers in a manufacturing process carried on without the aid of power.

(3) This section applies to any hotel which—

(a) starts functioning on or after the first day of April, 1961, and is not formed by the splitting up, or the reconstruction of, business already in existence or by the transfer to a new business of building, machinery or plant previously used for any purpose;

(b) is owned and run by a company registered in India with a paid-up capital of not less than five hundred thousand rupees;

(c) is run in premises which are owned by the company;

(d) has such number and types of guest rooms and provides such amenities as may be prescribed, having regard to the population and the tourist importance of the place in which the hotel is located; and

(e) is for the time being approved for the purposes of this sub-section by the Central Government.

*Explanation.*—Where any building, machinery or plant or any part thereof previously used for any purpose is transferred to a new business and the total value of the building, machinery or plant or part so transferred does not exceed twenty per cent. of the total value of the building, machinery or plant used in the business, then, for the purposes of clause (ii) of sub-section (2) and clause (a) of sub-section (3), the industrial undertaking or hotel to which the transfer has been made shall be deemed to have complied with the condition specified therein and the total value of the building, machinery or plant or part so transferred shall not be taken into account in computing the capital employed in the industrial undertaking or hotel.

(4) The Central Government may, after making such inquiry as it may think fit, direct, by notification in the Official Gazette, that the exemption conferred by this section shall not apply to any class of industrial undertakings with effect from such date as it may specify in the notification.

(5) The profits or gains of an industrial undertaking or hotel to which this section applies shall be computed in accordance with the provisions contained in Chapter IV-D.

(6) Nothing in this section shall affect the application of the provisions contained in Chapter XI-D in relation to the profits or gains of an industrial undertaking or hotel to which this section applies.

(7) The provisions of this section shall, in relation to an industrial undertaking, apply to the assessment—

(i) for the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce articles, and

(ii) where the assessee is a co-operative society, for the six assessment years immediately succeeding, and where the assessee is any other person, for the four assessment years immediately succeeding.

(8) The provisions of this section shall, in relation to a hotel, apply to the assessment for the financial year next following the previous year in which the hotel starts functioning and for the four assessments immediately succeeding.

Dividend from new industrial undertaking or hotel.

85. Subject to any rules that may be made by the Board in this behalf, income-tax shall not be payable by a shareholder in respect of so much of any dividend paid or deemed to be paid to him by an industrial undertaking or a hotel to which section 84 applies as is attributable to that part of the profits or gains on which income-tax is not payable under section 84.

Other incomes.

86. Income-tax shall not be payable by an assessee in respect of the following—

(i) the interest due on any security of the Central Government issued or declared to be income-tax free;

(ii) the interest due on any security of a State Government issued income-tax free, the income-tax whereon is payable by the State Government;

(iii) if the assessee is a partner of an unregistered firm, any portion of the assessee's share in the profits and gains of the firm computed in the manner laid down in section 67 on which income-tax has already been paid by the firm;

(iv) if the assessee is a partner of a registered firm, the amount which represents the difference between—

(a) the assessee's share in the total income of the firm, and

(b) his share in such total income as reduced by the income-tax, if any, payable by the firm,

the shares in either case being computed in the manner laid down in section 67; and

(v) if 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, any portion of the amount which he is entitled to receive from the association or body on which income-tax has already been paid by the association or body.

## CHAPTER VIII

### REBATES AND RELIEFS

#### A.—Rebate of income-tax

87. (1) Subject to the provisions of this section, the assessee shall be entitled to a deduction, from the amount of income-tax on his total income with which he is chargeable for any assessment year, of an amount equal to the income-tax calculated at the average rate of income-tax on the following sums, namely:—

Rebate on life insurance premia, annuities and contributions to provident funds, etc.

(a) where the assessee is an individual, any sums paid in the previous year by the assessee out of his income chargeable to tax—

(i) to effect or to keep in force an insurance on the life of the assessee or on the life of the wife or husband of the assessee; or

(ii) to effect or to keep in force a contract for a deferred annuity on the life of the assessee or on the life of the wife or husband of the assessee; or

(iii) as a contribution to any provident fund to which the Provident Funds Act, 1925 applies;

(b) where the assessee is a Hindu undivided family, any sums paid in the previous year by the assessee out of its in-

come chargeable to tax, to effect or to keep in force an insurance on the life of any male member of the family or of the wife of any such member;

(c) any sum deducted in the previous year from the salary payable by or on behalf of the Government to any individual, being a sum deducted in accordance with the conditions of his service, for the purpose of securing to him a deferred annuity or making provision for his wife or children, in so far as the sum so deducted does not exceed one-fifth of the salary;

(d) if the assessee is an employee participating in a recognised provident fund, his own contributions to his individual account in the fund in the previous year, to the extent provided in rule 7 of Part A of the Fourth Schedule;

(e) if the assessee is an employee participating in an approved superannuation fund, any sum paid in the previous year by him by way of contribution towards the superannuation fund;

(2) The provisions of clauses (a) and (b) of sub-section (1) shall apply only to so much of any premium or other payment made on a policy other than a contract for a deferred annuity as is not in excess of ten per cent. of the actual capital sum assured.

*Explanation.*—In calculating any such capital sum, no account shall be taken—

(i) of the value of any premiums agreed to be returned, or

(ii) of any benefit by way of bonus or otherwise over and above the sum actually assured, which is to be or may be received under the policy by any person.

(3) The aggregate of the sums in respect of which a deduction of income-tax is allowed under sub-section (1) shall not exceed—

(i) in the case of an individual being an author, playwright, artist, musician or actor, such percentage of his total income or such amount as may be prescribed;

(ii) in the case of any other individual, twenty-five per cent. of the total income or ~~eight thousand rupees~~, whichever is less;

(iii) in the case of a Hindu undivided family, twenty-five per cent. of its total income or ~~sixteen thousand rupees~~, whichever is less;

↓ as amended by Act No. 20 of 1962, s. 8 (w.e.f. 1.4.1962)

88. (1) Subject to the provisions of this section, the assessee shall be entitled to a deduction from the amount of income-tax on his total income with which he is chargeable for any assessment year of an amount equal to the income-tax calculated at the average rate of income-tax on any sums paid by him in the previous year as donations to any institution or fund to which this section applies or in respect of any sums paid by him on or after the 1st day of April, 1960, as donations to Government or to any local authority to be utilised for any charitable purpose.

Donations  
for chari-  
table pur-  
poses, etc.

(2) No deduction shall be made under sub-section (1) if the aggregate of the sums paid as aforesaid by the assessee is less than two hundred and fifty rupees.

(3) No deduction shall be made under sub-section (1) in respect of any sums paid in excess of seven and a half per cent. of the assessee's total income as reduced by any portion thereof on which income-tax is not payable under any provision of this Act and by any amount in respect of which a deduction of income-tax have been granted under any other provision of this Chapter, or one hundred and fifty thousand rupees, whichever is less.

(4) The amount of income-tax deductible under this section, together with the amount of super-tax deductible under section 100 shall not in any case exceed half the aggregate of the donations in respect of which the deduction is allowed under this section.

(5) This section applies only to donations to an institution or fund established in India for a charitable purpose which fulfils the following conditions, namely:—

(i) if the institution or fund derives any income, such income would not be liable to inclusion in its total income under the provisions of sections 11 and 12 or clause (22) of section 10;

(ii) the instrument under which the institution or fund is constituted does not, or the rules governing the institution or the fund do not, contain any provision for the transfer or application at any time of the whole or any part of the income or assets of the institution or fund for any purpose other than a charitable purpose;

(iii) the institution or fund is not expressed to be for the benefit of any particular religious community or caste;

(iv) the institution or fund maintains regular accounts of its receipts and expenditure; and

(v) the institution or fund is either constituted as a public charitable trust or is registered under the Societies Registration Act, 1860, or under any law corresponding to that Act in force in any part of India or under section 25 of the Companies Act, 1956,

21 of 1860.  
1 of 1956.

↓ Added by Act 20 of 1962, S. 2 (w.e.f. 1.4.1962)  
↓ Subs. by Act 54 of 1962, S. 3 (w.e.f. 13.12.1962)  
3 Ins. by S. 3 of 1962

or is a university established by law, or is any other educational institution recognised by the Government or by a university established by law, or affiliated to any university established by law or is an institution financed wholly or in part by the Government or a local authority.

*Explanation 1.*—An institution or fund established for the benefit of scheduled castes, backward classes, scheduled tribes or of women and children shall not be deemed to be an institution or fund expressed to be for the benefit of a religious community or caste within the meaning of clause (iii) of this sub-section.

*Explanation 2.*—For the removal of doubts, it is hereby declared that a deduction to which the assessee is entitled in respect of any donation made to an institution or fund to which sub-section (5) applies shall not be affected merely by reason of the fact that subsequent to the donation any part of the income of the institution or fund has become chargeable to tax due to non-compliance with any of the provisions of section 11.

(6) Notwithstanding anything contained in sub-section (5), this section shall apply to donations given for the renovation or repair of any temple, mosque, gurdwara, church or any other place which is notified by the Central Government in the Official Gazette to be of historic, archaeological or artistic importance.

#### B.—Relief for income-tax

Relief when salary, etc. is paid in arrears or in advance.

89. (1) Where, by reason of any portion of an assessee's salary being paid in arrears or in advance or by reason of his having received in any one financial year salary for more than twelve months or a payment which under the provisions of clause (3) of section 17 is a profit in lieu of salary, his income is assessed at a rate higher than that at which it would otherwise have been assessed, the Commissioner may, on an application made in this behalf by the assessee, grant such relief as he considers appropriate.

(2) Where, by reason of any portion of income from interest on securities being received in arrears, an assessee's total income is assessed at a rate higher than that at which it would otherwise have been assessed, the Commissioner may, on an application made in this behalf by the assessee, grant such relief as he considers appropriate.

### CHAPTER IX

#### DOUBLE TAXATION RELIEF

Agreement with foreign countries.

90. The Central Government may enter into an agreement—

(a) with the Government of any country outside India for the granting of relief in respect of income on which have been

paid both income-tax (including super-tax) under this Act and income-tax in that country, or

(b) with the Government of any country outside India for the avoidance of double taxation of income under this Act and under the corresponding law in force in that country;

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

91. (1) If any person who is resident in India in any previous year proves that, in respect of his income which accrued or arose during that previous year outside India (and which is not deemed to accrue or arise in India), he has paid in any country with which there is no agreement under section 90 for the relief or avoidance of double taxation, income-tax, by deduction or otherwise, under the law in force in that country, he shall be entitled to the deduction from the Indian income-tax payable by him of a sum calculated on such doubly taxed income at the Indian rate of tax or the rate of tax of the said country, whichever is the lower, or at the Indian rate of tax if both the rates are equal.

Countries with which no agreement exists.

(2) If any person who is resident in India in any previous year proves that in respect of his income which accrued or arose to him during that previous year in Pakistan he has paid in that country, by deduction or otherwise, tax payable to the Government under any law for the time being in force in that country relating to taxation of agricultural income, he shall be entitled to a deduction from the Indian income-tax payable by him—

(a) of the amount of the tax paid in Pakistan under any law aforesaid on such income which is liable to tax under this Act also; or

(b) of a sum calculated on that income at the Indian rate of tax;

whichever is less.

(3) If any non-resident person is assessed on his share in the income of a registered firm assessed as resident in India in any previous year and such share includes any income accruing or arising outside India during that previous year (and which is not deemed to accrue or arise in India) in a country with which there is no agreement under section 90 for the relief or avoidance of double taxation and he proves that he has paid income-tax by deduction or otherwise under the law in force in that country in respect of the income so included he shall be entitled to a deduction from the Indian income-tax payable by him of a sum calculated on such doub-

ly taxed income so included at the Indian rate of tax or the rate of tax of the said country, whichever is the lower, or at the Indian rate of tax if both the rates are equal.

*Explanation.*—In this section,—

(i) the expression “Indian income-tax” means income-tax and super-tax charged in accordance with the provisions of this Act;

(ii) the expression “Indian rate of tax” means the rate determined by dividing the amount of Indian income-tax after deduction of any relief due under the provisions of this Act but before deduction of any relief due under this section, by the total income;

(iii) the expression “rate of tax of the said country” means income-tax and super-tax actually paid in the said country in accordance with the corresponding laws in force in the said country after deduction of all relief due, but before deduction of any relief due in the said country in respect of double taxation, divided by the whole amount of the income as assessed in the said country.

(iv) the expression “income-tax” in relation to any country includes any excess profits tax or business profits tax charged on the profits by the Government of any part of that country or a local authority in that country.

## CHAPTER X

### SPECIAL PROVISIONS RELATING TO AVOIDANCE OF TAX

Income from transactions with non-residents, how computed in certain cases.

92. Where a business is carried on between a resident and a non-resident and it appears to the Income-tax Officer that, owing to the close connection between them, the course of business is so arranged that the business transacted between them produces to the resident either no profits or less than the ordinary profits which might be expected to arise in that business, the Income-tax Officer shall determine the amount of profits which may reasonably be deemed to have been derived therefrom and include such amount in the total income of the resident.

Avoidance of income-tax by transactions resulting in transfer of income to non-residents.

[transfer]

93. (1) Where there is a transfer of assets by virtue or in consequence whereof, either alone or in conjunction with associated operations, any income becomes payable to a non-resident, the following provisions shall apply—

(a) where any person has, by means of any such transfer, either alone or in conjunction with associated operations, acquired any rights by virtue of which he has, within the meaning of this section, power to enjoy, whether forthwith or in the future, any income of a non-resident person which, if it were income of the first-mentioned person, would be chargeable to income-tax, that income shall, whether it would or would not have been chargeable to income-tax apart from the provisions of this section, be deemed to be income of the first-mentioned person for all the purposes of this Act;

(b) where, whether before or after any such transfer, any such first-mentioned person receives or is entitled to receive any capital sum the payment whereof is in any way connected with the transfer or any associated operations, then any income which, by virtue or in consequence of the transfer, either alone or in conjunction with associated operations, has become the income of a non-resident shall, whether it would or would not have been chargeable to income-tax apart from the provisions of this section, be deemed to be the income of the first mentioned person for all the purposes of this Act.

*Explanation.*—The provisions of this sub-section shall apply also in relation to transfers of assets and associated operations carried out before the commencement of this Act.

(2) Where any person has been charged to income-tax on any income deemed to be his under the provisions of this section and that income is subsequently received by him, whether as income or in any other form, it shall not again be deemed to form part of his income for the purposes of this Act.

(3) The provisions of this section shall not apply if the first mentioned person in sub-section (1) shows to the satisfaction of the Income-tax Officer that—

(a) neither the transfer nor any associated operation had for its purpose or for one of its purposes the avoidance of liability to taxation; or

(b) the transfer and all associated operations were *bona fide* commercial transactions and were not designed for the purpose of avoiding liability to taxation.

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

(a) references to assets representing any assets, income or accumulations of income include references to shares in or

obligation of any company to which, or obligation of any other person to whom, those assets, that income or those accumulations are or have been transferred;

(b) any body corporate incorporated outside India shall be treated as if it were a non-resident;

(c) a person shall be deemed to have power to enjoy the income of a non-resident if—

(i) the income is in fact so dealt with by any person as to be calculated at some point of time and, whether in the form of income or not, to enure for the benefit of the first-mentioned person in sub-section (1), or

(ii) the receipt or accrual of the income operates to increase the value to such first-mentioned person of any assets held by him or for his benefit, or

(iii) such first-mentioned person receives or is entitled to receive at any time any benefit provided or to be provided out of that income or out of moneys which are or will be available for the purpose by reason of the effect or successive effects of the associated operations on that income and assets which represent that income, or

(iv) such first-mentioned person has power by means of the exercise of any power of appointment or power of revocation or otherwise to obtain for himself, whether with or without the consent of any other person, the beneficial enjoyment of the income, or

(v) such first-mentioned person is able, in any manner whatsoever and whether directly or indirectly, to control the application of the income;

(d) in determining whether a person has power to enjoy income, regard shall be had to the substantial result and effect of the transfer and any associated operations, and all benefits which may at any time accrue to such person as a result of the transfer and any associated operations shall be taken into account irrespective of the nature or form of the benefits.

(4) (a) "assets" includes property or rights of any kind and "transfer" in relation to rights includes the creation of those rights;

(b) "associated operation", in relation to any transfer, means an operation of any kind effected by any person in relation to—

(i) any of the assets transferred, or

(ii) any assets representing, whether directly or indirectly, any of the assets transferred, or

(iii) the income arising from any such assets, or

(iv) any assets representing, whether directly or indirectly, the accumulations of income arising from any such assets;

(c) "benefit" includes a payment of any kind;

(d) "capital sum" means—

(i) any sum paid or payable by way of a loan or repayment of a loan; and

(ii) any other sum paid or payable otherwise than as income, being a sum which is not paid or payable for full consideration in money or money's worth.

94. (1) Where the owner of any securities (in this sub-section and in sub-section (2) referred to as "the owner") sells or transfers those securities, and buys back or re-acquires the securities, then, if the result of the transaction is that any interest becoming payable in respect of the securities is receivable otherwise than by the owner, the interest payable as aforesaid shall, whether it would or would not have been chargeable to income-tax apart from the provisions of this sub-section be deemed, for all the purposes of this Act, to be income of the owner and not to be the income of any other person.

Avoidance  
of tax by  
certain tran-  
sactions in  
securities.

*Explanation.*—The references in this sub-section to buying back or re-acquiring the securities shall be deemed to include references to buying or acquiring similar securities, so however, that where similar securities are bought or acquired, the owner shall be under no greater liability to income-tax than he would have been under if the original securities had been bought back or re-acquired.

(2) Where any person has had at any time during any previous year any beneficial interest in any securities, and the result of any transaction relating to such securities or the income thereof is that in respect of such securities within such year, either no income is received by him or the income received by him is less than the sum to which the income would have amounted if the income from such securities had accrued from day to day and been apportioned accordingly, then the income from such securities for such year shall be deemed to be the income of such person.

(3) The provisions of sub-section (1) or sub-section (2) shall not apply if the owner, or the person who has had a beneficial interest

in the securities, as the case may be, proves to the satisfaction of the Income-tax Officer---

(a) that there has been no avoidance of income-tax, or

(b) that the avoidance of income-tax was exceptional and not systematic and that there was not in his case in any of the three preceding years any avoidance of income-tax by a transaction of the nature referred to in sub-section (1) or sub-section (2).

(4) Where any person carrying on a business which consists wholly or partly in dealing in securities buys or acquires any securities and sells back or re-transfers the securities, then, if the result of the transaction is that interest becoming payable in respect of the securities is receivable by him but is not deemed to be his income by reason of the provisions contained in sub-section (1), no account shall be taken of the transaction in computing for any of the purposes of this Act the profits arising from or loss sustained in the business.

(5) Sub-section (4) shall have effect, subject to any necessary modifications, as if references to selling back or re-transferring the securities included references to selling or transferring similar securities.

(6) The Income-tax Officer may, by notice in writing, require any person to furnish him within such time as he may direct (not being less than twenty-eight days), in respect of all securities of which such person was the owner or in which he had a beneficial interest at any time during the period specified in the notice, such particulars as he considers necessary for the purposes of this section and for the purpose of discovering whether income-tax has been borne in respect of the interest on all those securities.

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

(a) "interest" includes a dividend;

(b) "securities" includes stocks and shares;

(c) securities shall be deemed to be similar if they entitle their holders to the same rights against the same persons as to capital and interest and the same remedies for the enforcement of those rights, notwithstanding any difference in the total nominal amounts of the respective securities or in the form in which they are held or in the manner in which they can be transferred.

## CHAPTER XI

## SUPER-TAX

## A.—General

95. (1) In addition to the income-tax charged for any assessment year, and save as otherwise provided in this Act, there shall be charged for that assessment year in respect of the total income of the previous year or previous years, as the case may be, of every person, not being a registered firm, an additional duty of income-tax (in this Act referred to as super-tax) at the rate or rates laid down for that assessment year by any Central Act: Charge of super-tax.

Provided that, where by virtue of any provision of this Act super-tax is to be charged in respect of the income of a period other than the previous year, super-tax shall be charged accordingly.

(2) In respect of income chargeable under sub-section (1), super-tax shall be deducted at the source or paid in advance, where it is so deductible or payable under any provision of this Act.

(3) In the case of a registered firm, or an unregistered firm which has been assessed in the manner applicable to a registered firm under the provisions of clause (b) of section 183, super-tax shall be payable by each partner of the firm individually on his share in the income of the firm and not by the firm itself.

96. Subject to the provisions of this Chapter, the total income of any person shall, for the purposes of super-tax, be the total income as assessed for the purposes of income-tax, and where an assessment of total income has become final and conclusive for the purposes of income-tax for any assessment year, the assessment shall also be final and conclusive for the purposes of super-tax for the same assessment year. Total income for super-tax.

97. (1) All the provisions of this Act relating to the charge, assessment, collection and recovery of income-tax shall apply, so far as may be and save as otherwise provided, to the charge, assessment, collection and recovery of super-tax. Applicability of Act to super-tax.

(2) Save as expressly provided in any other section in this Chapter, the provisions of section 4, section 181 and sub-section (1) of section 191 and of Chapters VII and VIII and rules 7 and 8 of Part A of the Fourth Schedule and rule 3 (c) of the First Schedule shall not apply to the charge, assessment, collection and recovery of super-tax.

Avoidance  
of super-tax.

98. Without prejudice to the generality of the provisions of section 96, the *Explanation* to sub-section (1) of section 94, sub-sections (2), (3) and (6) of that section and section 270 shall apply in relation to super-tax as they apply in relation to income-tax, with the modification that references therein to income-tax shall be construed as references to super-tax.

*B.—Incomes forming part of total income on which no super-tax is payable*

Incomes not  
chargeable to  
super-tax.

99. (1) Super-tax shall not be payable by an assessee in respect of the following amounts which are included in his total income—

(i) if the assessee is a partner of an unregistered firm, any portion of the assessee's share in the profits and gains of the firm computed in the manner laid down in section 67 on which super-tax has already been paid by the firm;

(ii) if the assessee is a member of an association of persons or any other body of individuals, any portion of the amount which he is entitled to receive from the association or body, on which super-tax has already been paid by the association or body, as the case may be;

(iii) any dividends received by the assessee from a co-operative society as a member thereof;

(iv) if the assessee is a company, any dividend received by it from an Indian company, subject to the provisions contained in the Fifth Schedule.

(v) where the assessee is a co-operative society, any income in respect whereof no income-tax is payable by it by virtue of the provisions of section 81.

(2) Super-tax shall not be payable by an assessee which is an authority constituted under any law for the time being in force for the marketing of commodities on any income derived from the letting of godowns or warehouses for storage, processing or facilitating the marketing of commodities.

*C.—Rebate of super-tax*

Donations  
for charitable  
purposes.

100. (1) Where under the provisions of section 88, an assessee is entitled to a deduction of income-tax in respect of any sum paid as donation, he shall also be entitled, subject to the provisions of sub-section (4) of that section, to a deduction, from the amount of

super-tax with which he is chargeable on his total income, of an amount equal to the super-tax calculated at the average rate of super-tax on such sum.

(2) The provisions of this section do not apply to a company.

101. (1) The assessee shall be entitled to a deduction from the amount of super-tax with which he is chargeable on his total income, of an amount equal to the super-tax, calculated at the average rate of super-tax, on profits or gains derived from an industrial undertaking or hotel in cases where and to the extent to which income-tax is not payable on such profits or gains under section 84.

Newly established industrial undertakings or hotels.

(2) Subject to any rules that may be made by the Board in this behalf, a shareholder shall be entitled to a deduction, from the amount of super-tax with which he is chargeable on his total income, of an amount equal to the super-tax, calculated at the average rate of super-tax, on so much of any dividend paid or deemed to be paid to him by an industrial undertaking or hotel as is attributable to that part of the profits or gains on which it is entitled to a deduction of super-tax under this section.

102. Where the assessee is a partner of a registered firm, he shall be entitled to a deduction, from the amount of super-tax with which he is chargeable on his total income, of an amount equal to the super-tax calculated at the average rate of super-tax on the following sum, that is to say—

Share from registered firm.

the amount which represents the difference between—

(i) the assessee's share in the total income of the firm, and

(ii) his share in the total income of the firm as reduced by the income-tax, if any, payable by the firm, at the rate of income-tax applicable to its total income, on the amount of its income from all sources other than from any business carried on by it

the shares in either case being computed in the manner laid down in section 67.

103. The provisions of section 89 apply in relation to super-tax as they apply in relation to income-tax.

Relief for salary, etc., received in arrear, etc.

#### D.—Additional super-tax on undistributed profits

104. (1) Subject to the provisions of sub-section (2) and of sections 105, 106 and 107, where the Income-tax Officer is satisfied that in respect of any previous year the profits and gains distributed as dividends by any company within the twelve months imme-

Super-tax on undistributed income of certain companies.

diately following the expiry of that previous year are less than the statutory percentage of the distributable income of the company of that previous year, the Income-tax Officer shall make an order in writing that the company shall, apart from the sum determined as payable by it on the basis of the assessment under section 143 or section 144, be liable to pay super-tax at the rate of—

(a) fifty per cent., in the case of an investment company, and

(b) thirty-seven per cent. in the case of any other company, on the distributable income as reduced by—

(i) the amount of dividends actually distributed, and

(ii) any expenditure actually incurred *bona fide* for the purposes of the business, but not deducted in computing the income chargeable under the head "Profits and gains of business or profession" being—

(a) a bonus or gratuity paid to an employee,

(b) legal charges,

(c) any such expenditure as is referred to in clause (c) of section 40,

(d) any expenditure claimed as a revenue expenditure but not allowed to be deducted as such and not resulting in the creation of an asset or enhancement in the value of an existing asset.

(2) The Income-tax Officer shall not make an order under subsection (1) if he is satisfied—

(i) that, having regard to the losses incurred by the company in earlier years or to the smallness of the profits made in the previous year, the payment of a dividend or a larger dividend than that declared would be unreasonable; or

(ii) that the payment of a dividend or a larger dividend than that declared would not have resulted in a benefit to the revenue; or

(iii) that at least seventy-five per cent. of the share capital of the company is throughout the previous year beneficially held by an institution or fund established in India for a charitable purpose the income from dividend whereof is exempt under section 11.

105. (1) No order under section 104 shall be made,—

(i) in the case of an investment company which has distributed not less than eighty per cent. of its distributable income;

Special provisions for certain companies.

or

(ii) in the case of any other company whose distribution falls short of the statutory percentage by not more than ten per cent. of its distributable income; or

(iii) in any case where according to the return made by a company under section 139 it has distributed not less than the statutory percentage of its distributable income, but in the assessment made by the Income-tax Officer under section 143 or section 144 a higher total income is arrived at and the difference in the total income does not arise out of the application of the proviso to sub-section (1) of section 145 or sub-section (2) of section 145 or section 144 or the omission by the company to disclose its income fully and truly; or

(iv) in the case of a company where a re-assessment is made under the provisions of clause (b) of section 147 and the sum distributed as dividends falls short of the statutory percentage of the distributable income determined on the basis of the re-assessment:

unless the company, on receipt of a notice from the Income-tax Officer that he proposes to make such an order, fails to make within three months of the receipt of such notice, a further distribution of its profits and gains so that the total distribution made is not less than the statutory percentage of the distributable income.

(2) Any further distribution made under sub-section (1) shall not be taken into account in deciding whether the provisions of section 104 apply in respect of the previous year in which the further distribution is made.

106. No order under section 104 shall be made after the expiry of four years from the end of the assessment year relevant to the previous year referred to in sub-section (1) of that section or after the expiry of one year from the end of the financial year in which the assessment or re-assessment of the profits and gains of the previous year aforesaid is made, whichever is later.

Period of limitation for making orders under section 104.

107. No order shall be made by the Income-tax Officer under section 104 unless the previous approval of the Inspecting Assistant Commissioner has been obtained, and the Inspecting Assistant Commissioner shall not give his approval to any order proposed to be made by the Income-tax Officer until he has given the company concerned an opportunity of being heard.

Approval of Inspecting Assistant Commissioner for orders under section 104.

Savings for company in which public are substantially interested.

108. Nothing contained in section 104 shall apply—

(a) to any company in which the public are substantially interested; or

(b) to a subsidiary company 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.

“Distributable income”, “Investment company” and “statutory percentage” defined.

109. For the purposes of sections 104 and 105,—

(i) “distributable income” means the total income of a company as reduced by—

(a) the amount of income-tax and super-tax payable by the company in respect of its total income, but excluding the amount of any super-tax payable under section 104;

(b) the amount of any other tax levied under any law for the time being in force on the company by the Government or by a local authority in excess of the amount, if any, which has been allowed in computing the total income;

(c) any sum in respect of which a deduction of income-tax is allowed under the provisions of section 88;

(d) losses under the head “Capital gains”;

(e) income arising outside India in a country the laws of which prohibit or restrict the remittance of money to India:

Provided that, when the prohibition or restriction is subsequently removed, any reduction allowed under this provision shall be deemed to be a part of the distributable income of the previous year in which the prohibition or restriction is removed;

(f) in the case of a banking company, the amount actually transferred to a reserve fund under section 17 of the Banking Companies Act, 1949.

(ii) “investment company” means a company whose business consists wholly or mainly in the dealing in or holding of investments;

(iii) "statutory percentage" means,—

(1) in the case of an investment company.....90%

(2) in the case of an Indian company whose business consists wholly in the manufacture or processing of goods or in mining or in the generation or distribution of electricity or any other form of power.....~~50%~~ [45%]

(3) in the case of an Indian company, a part only of whose business consists in any of the activities specified in the preceding clause—

(a) in relation to the said part of the company's business .....~~50%~~ [45%]

(b) in relation to the remaining part of the company's business—

(1) if it is a company which satisfies the conditions specified in sub-clause (a) of clause (4) ..90%

(2) in any other case.....~~65%~~ [60%]

the said percentages being applied separately with reference to the amounts of profits and gains attributable to the two parts of the company's business aforesaid as if the said amounts were respectively the total income of the company in relation to each of its parts, the amount of dividends and taxes also being similarly apportioned, for the purposes of section 104 and this section;

(4) in the case of any other company not referred to in the preceding clauses,—

(a) where the accumulated profits and reserves (including depreciation reserves and any amounts capitalised from the earlier reserves) representing accumulations of past profits which have not been the subject of an order under section 104 or the corresponding provision of the Indian Income-tax Act, 1922 exceed—

11 of 1922.

either

I. the aggregate of—

(i) the paid-up capital of the company exclusive of the capital, if any, created out of its profits and gains which have not been the subject of an order under section 104, and

(ii) any loan capital which is the property of the shareholders;

Subs. by Act 20 of 1962 s. 10 (w.e.f. 1.4.1962)

or

II. the value of the fixed assets as shown in the books of the company,

whichever of these is greater.....90%

(b) where sub-clause (a) does not apply.....65% [60%]

## CHAPTER XII

## DETERMINATION OF TAX IN CERTAIN SPECIAL CASES

Determina-  
tion of tax  
where total  
income  
includes  
income on  
which no tax  
is payable.

110. Where there is included in the total income of an assessee any income on which no income-tax or, as the case may be, no super-tax is payable under the provisions of this Act, the assessee shall be entitled to a deduction—

(a) from the amount of income-tax with which he is chargeable on his total income, of an amount equal to the income-tax calculated at the average rate of income-tax on the amount on which no income-tax is payable, and

(b) from the amount of super-tax with which he is chargeable on his total income, of an amount equal to the super-tax calculated at the average rate of super-tax on the amount on which no super-tax is payable.

Tax on  
accumulated  
balance of  
recognised  
provident  
fund.

111. (1) Where the accumulated balance due to an employee participating in a recognised provident fund is included in his total income, owing to the provisions of rule 8 of Part A of the Fourth Schedule not being applicable, the Income-tax Officer shall calculate the total of the various sums of income-tax and super-tax in accordance with the provisions of sub-rule (1) of rule 9 thereof.

(2) Where the accumulated balance due to an employee participating in a recognised provident fund which is not included in his total income under the provisions of rule 8 of Part A of the Fourth Schedule becomes payable, super-tax shall be calculated in the manner provided in sub-rule (2) of rule 9 thereof.

Tax on com-  
pensation.

112. Where the total income of an assessee, not being a company, includes any compensation or other payment which is chargeable as the profits and gains of business or profession in accordance with the provisions of clause (ii) of section 28, the tax payable by him on his total income shall be—

(i) the income-tax payable on the total income as reduced by the amount of such compensation or other payment, and of the capital gains, if any;

↓ Subs. by Act 23 of 1962, s. 10 (w.e.f. 1.4.1962)

(ii) the super-tax payable on the total income as reduced by the amount of such compensation or other payment and of capital gains, if any;

(iii) the tax on such compensation or other payment equal to the amount which bears to the income-tax and super-tax which would have been payable on the total income as reduced by the amount of capital gains, if any, and two-thirds of the amount of such inclusion, the same proportion as the whole amount of such compensation or other payment bears to such reduced total income; and

(iv) the tax on capital gains, if any, computed in accordance with the provisions of clause (b) of section 114.

113. (1) Where a person is a non-resident and is not a company, the tax payable by him or on his behalf, on his total income shall be an amount equal to— Tax in the case of non-resident.

(a) the income-tax which would be payable on his total income at the maximum rate, plus

(b) either the super-tax which would be payable on his total income at the rate of nineteen per cent. or the super-tax which would be payable on his total income if it were the total income of a resident, whichever is greater.

(2) Notwithstanding anything contained in sub-section (1), where a citizen of India, not resident in India, is in receipt of salary from the Government for rendering service outside India, the tax payable by him on his total income for the assessment years commencing with the assessment year 1960-61 shall be determined with reference to his total world income in the manner specified in sub-section (4).

(3) Any non-resident, other than a company, may, on or before the 30th day of June of the assessment year in which he first becomes assessable as a non-resident, by notice in writing to the Income-tax Officer, declare (such declaration being final and being applicable to all assessments thereafter) that the tax payable by him or on his behalf on his total income shall be determined with reference to his total world income, and thereupon, notwithstanding the provisions of sub-section (1), such tax shall be determined in accordance with sub-section (4).

(4) Where under the provisions of sub-section (3) any non-resident has exercised his option to be taxed with reference to his total world income, the tax payable by him or on his behalf shall be the

tax payable on his total income as if it were the total income of a resident; or an amount bearing to the total amount of tax which would have been payable on his total world income had it been his total income the same proportion as the total income bears to the total world income, whichever is greater.

(5) Where any person referred to in sub-section (1) satisfies the Income-tax Officer that he was prevented by sufficient cause from making the declaration referred to in sub-section (3) or in any similar provision of the Indian Income-tax Act, 1922, on the first <sup>11 of 1922</sup> occasion on which he became assessable as a non-resident under this Act or the said Act, as the case may be, and his failure to make such declaration has not resulted in reducing his liability to tax for any year, the Income-tax Officer may, with the previous approval of the Inspecting Assistant Commissioner, allow such person to make the declaration at any time after the expiry of the period specified, and such declaration shall have effect in relation to the assessment for the year in which the declaration is made (if such assessment had not been completed before such declaration), any assessment pending on the date of such declaration and all assessments for subsequent assessment years.

Tax on capital gains in cases of assessee other than companies.

~~114. Where the total income of an assessee, not being a company, includes any income chargeable under the head "Capital gains", the tax payable by him on his total income shall be—~~

~~(a) the amount of income-tax and super-tax payable on the total income as reduced by the amount of such inclusion and by the amount of compensation or other payment, if any, referred to in clause (i) of section 28, had the total income so reduced been his total income, plus~~

~~(b) the tax on the whole amount of such inclusion equal to the amount which bears to the income-tax which would have been payable on the total income as reduced by two-thirds of such inclusion and by the amount of compensation or other payment aforesaid, if any, the same proportion as the whole amount of such inclusion bears to such reduced total income:~~

~~Provided that—~~

~~(i) where the total income does not exceed the sum of ten thousand rupees, the amount payable under clause (b) shall be nil; and~~

~~(ii) in no case shall the amount payable under clause (b) exceed one-half of the amount, if any, by which the~~

~~↓ Ins. by Act 20, of 1962, s. 11 (w.e.f. 1.4.1962)~~

income chargeable under the head "Capital gains" exceeds the sum of five thousand rupees,  
*plus*

(c) the tax on such compensation or other payment aforesaid, if any, computed in accordance with the provisions of clause (iii) of section 112.

115. Where the total income of a company includes any income chargeable under the head "Capital gains", the tax payable by it shall be—

Tax on capital gains in case of companies.

(a) the amount of income-tax with which it is chargeable on its total income, *plus*

(b) the amount of super-tax equal to the aggregate of the tax calculated at the rate of ten per cent. on the amount of capital gains which is included and at the rate applicable to the company on its total income as reduced by the amount of the capital gains, had such reduced income been its total income.

### CHAPTER XIII

#### INCOME-TAX AUTHORITIES

##### A.—Appointment and control

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

Income-tax authorities.

(a) ~~the Central Board of Revenue,~~

(b) Directors of Inspection,

(c) Commissioners of Income-tax,

(d) Assistant Commissioners of Income-tax, who may be either Appellate Assistant Commissioners of Income-tax or Inspecting Assistant Commissioners of Income-tax,

(e) Income-tax Officers, and

(f) Inspectors of Income-tax.

117. (1) The Central Government may appoint as many Directors of Inspection, Commissioners of Income-tax, Appellate or Inspecting Assistant Commissioners of Income-tax and Income-tax Officers of Class I Service, as it thinks fit.

Appointment of Income-tax authorities.

↳ Subs. by Act 54 of 1963, s. 15(1) (w.e.f. 1-1-64)

(2) The Commissioner may, subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, appoint as many Income-tax Officers of Class II Service and as many Inspectors of Income-tax as may be sanctioned by the Central Government.

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

Control of  
Income-tax  
authorities.

118. (1) Inspecting Assistant Commissioners shall be subordinate to the Commissioner within whose jurisdiction they perform their functions, and also to the Director of Inspection.

(2) Income-tax Officers shall be subordinate to the Commissioner and the Inspecting Assistant Commissioner within whose jurisdiction they perform their functions and also to the Director of Inspection.

(3) Inspectors of Income-tax shall be subordinate to the Income-tax Officer or other Income-tax authority under whom they are appointed to work and to any other Income-tax authority to whom the said officer or other authority is subordinate.

*Explanation.*—For the purposes of sub-section (1), "Director of Inspection" does not include a Deputy Director of Inspection or an Assistant Director of Inspection; and for the purposes of sub-section (2), "Director of Inspection" does not include an Assistant Director of Inspection.

Instructions  
to subordi-  
nate authori-  
ties.

119. (1) All officers and persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Board:

Provided that no such orders, instructions or directions shall be given so as to interfere with the discretion of the Appellate Assistant Commissioner in the exercise of his appellate functions.

(2) Every Income-tax Officer employed in the execution of this Act shall observe and follow such instructions as may be issued to him for his guidance by the Director of Inspection or by the Commissioner or by the Inspecting Assistant Commissioner within whose jurisdiction he performs his functions.

#### B.—Jurisdiction

Jurisdiction  
of Directors  
of Inspec-  
tion.

120. Directors of Inspection shall perform such functions of any other Income-tax authority as may be assigned to them by the Board.

121. (1) Commissioners shall perform their functions in respect of such areas or of such persons or classes of persons or of such incomes or classes of income or of such cases or classes of cases as the Board may direct. Jurisdiction  
of Commis-  
sioners.

(2) Where any directions issued under sub-section (1) have assigned to two or more Commissioners, the same area or the same persons or classes of persons or the same incomes or classes of income or the same cases or classes of cases, they shall have concurrent jurisdiction, subject to any orders which the Board may make for the distribution and allocation of the work to be performed.

122. (1) Appellate Assistant Commissioners shall perform their functions in respect of such areas or of such persons or classes of persons or of such incomes or classes of income as the Board may direct. Jurisdiction  
of Appellate  
Assistant  
Commis-  
sioners.

(2) Where any directions issued under sub-section (1) have assigned to two or more Appellate Assistant Commissioners, the same area or the same persons or classes of persons or the same incomes or classes of income, they shall perform their functions in accordance with any orders which the Board may make for the distribution and allocation of the work to be performed.

123. (1) Inspecting Assistant Commissioners shall perform their functions in respect of such areas or of such persons or classes of persons or of such incomes or classes of income as the Commissioner may direct. Jurisdiction  
of Inspecting  
Assistant  
Commis-  
sioners.

(2) Where any directions issued under sub-section (1) have assigned to two or more Inspecting Assistant Commissioners, the same area or the same persons or classes of persons or the same incomes or classes of income, they shall perform their functions in accordance with any orders which the Commissioner may make for the distribution and allocation of the work to be performed.

124. (1) Income-tax Officers shall perform their functions in respect of such areas or of such persons or classes of persons or of such incomes or classes of income as the Commissioner may direct. Jurisdiction  
of Income-  
tax Officers.

(2) Where any directions issued under sub-section (1) have assigned to two or more Income-tax Officers, the same area or the same persons or classes of persons or the same incomes or classes of income, they shall perform their functions in accordance with any orders which the Commissioner may make for the distribution and allocation of the work to be performed.

(3) Within the limits of the area assigned to him, the Income-tax Officer shall have jurisdiction—

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

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

(4) Where a question arises under this section as to whether an Income-tax Officer has jurisdiction to assess any person, the question shall be determined by the Commissioner; or where the question is one relating to areas within the jurisdiction of different Commissioners, by the Commissioners concerned or if they are not in agreement, by the Board.

(5) No person shall be entitled to call in question the jurisdiction of an Income-tax Officer—

(a) after the expiry of one month from the date on which he has made a return under sub-section (1) of section 139 or after the completion of the assessment, whichever is earlier;

(b) where he has made no such return, after the expiry of the time allowed by the notice under sub-section (2) of section 139 or under section 148 for the making of the return.

(6) Subject to the provisions of sub-section (5), where an assessee calls in question the jurisdiction of an Income-tax Officer, then, the Income-tax Officer shall, if not satisfied with the correctness of the claim, refer the matter for determination under sub-section (4) before assessment is made.

(7) Notwithstanding anything contained in this section, every Income-tax Officer shall have all the powers conferred by or under this Act on an Income-tax Officer in respect of any income accruing or arising or received within the area for which he is appointed.

**Powers of  
Commis-  
sioner res-  
pecting  
specified  
cases or  
persons.**

125. (1) The Commissioner may, by general or special order in writing, direct that the powers conferred on the Income-tax Officer and the Appellate Assistant Commissioner by or under this Act, shall, in respect of any specified case or classes of cases or of any specified persons or classes of persons, be exercised by the Inspecting Assistant Commissioner and the Commissioner respectively.

(2) Where an order under sub-section (1) is issued, then for the purposes of any case or person in respect of which any such order applies, references in this Act or in any rule made hereunder to the Income-tax Officer and the Appellate Assistant Commissioner shall

be deemed to be references to the Inspecting Assistant Commissioner and the Commissioner respectively.

(3) For the purposes of any case or person in respect of which or whom an order under sub-section (1) applies—

(a) any provision of this Act requiring an approval or sanction of the Inspecting Assistant Commissioner shall not apply;

(b) any appeal which would otherwise have lain to the Appellate Assistant Commissioner shall lie to the Commissioner;

(c) any appeal which would have lain from an order of the Appellate Assistant Commissioner to the Appellate Tribunal shall lie from the order of the Commissioner.

126. Notwithstanding anything contained in the foregoing sections, the Board may, by notification in the Official Gazette, empower Commissioners, Appellate Assistant Commissioners, Inspecting Assistant Commissioners and Income-tax Officers to perform such functions in respect of such area or of such classes of persons or of such classes of income as may be specified in the notification, and thereupon the functions so specified shall cease to be performed in respect of the area or classes of persons or classes of income by the other authorities under section 121, section 122, section 123 or section 124.

Powers of Board respecting specified area, classes of persons or incomes.

127. (1) The Commissioner may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, transfer any case from one Income-tax Officer subordinate to him to another also subordinate to him, and the Board may similarly transfer any case from one Income-tax Officer to another:

Transfer of cases from one Income-tax Officer to another.

Provided that nothing in this sub-section shall be deemed to require any such opportunity to be given where the transfer is from one Income-tax Officer to another whose offices are situate in the same city, locality or place.

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

*Explanation.*—In this section and in sections 121 and 125, the word "case", in relation to any person whose name is specified in any order or direction issued thereunder, means all proceedings under this Act in respect of any year which may be pending on the

date of such order or direction or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order or direction in respect of any year.

Functions of  
Inspectors of  
Income-tax.

128. Inspectors of Income-tax shall perform such functions in the execution of this Act as are assigned to them by the Income-tax Officer or other Income-tax authority under whom they are appointed to work.

Change of  
incumbent  
of an office.

129. Whenever in respect of any proceeding under this Act an Income-tax authority ceases to exercise jurisdiction and is succeeded by another who has and exercises jurisdiction, the Income-tax authority so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor:

Provided that the assessee concerned may demand that before the proceeding is so continued the previous proceeding or any part thereof be re-opened or that before any order of assessment is passed against him, he be re-heard.

Authority  
competent  
to take or  
continue  
certain pro-  
ceedings.

130. For the purposes of sections 253, 254, 256, 263 and 264, the Commissioner referred to therein shall, in relation to an assessee, be the Commissioner having for the time being jurisdiction over the assessee.

#### C.—Powers

Power  
regarding  
discovery,  
production  
of evidence,  
etc.

131. (1) The Income-tax Officer, Appellate Assistant Commissioner and Commissioner shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely:—

- (a) discovery and inspection;
- (b) enforcing the attendance of any person, including any officer of a banking company and examining him on oath;
- (c) compelling the production of books of account and other documents; and
- (d) issuing commissions.

(2) Without prejudice to the provisions of any other law for the time being in force, where a person to whom a summons is issued either to attend to give evidence or produce books of account or other documents at a certain place and time, intentionally omits to attend or produce the books of account or documents at the place or time, the Income-tax authority may impose upon him such fine not

exceeding five hundred rupees as it thinks fit, and the fine so levied may be recovered in the manner provided in Chapter XVII-D.

(3) Subject to any rules made in this behalf, any authority referred to in sub-section (1) may impound and retain in its custody for such period as it thinks fit any books of account or other documents produced before it in any proceeding under this Act:

Provided that an Income-tax Officer shall not—

(a) impound any books of account or other documents without recording his reasons for so doing, or

(b) retain in his custody any such books or documents for a period exceeding fifteen days (exclusive of holidays) without obtaining the approval of the Commissioner therefor.

132. (1) Subject to any rules made in this behalf, any Income-tax Officer specially authorised by the Commissioner in this behalf may,— Powers of search and seizure.

(i) enter and search any building or place where he has reason to believe that any books of account or other documents which in his opinion will be useful for, or relevant to, any proceeding under this Act, may be found, and examine them, if found;

(ii) seize any such books of account or other documents;

(iii) place marks of identification on any such books of account or other documents or make or cause to be made extracts or copies therefrom;

(iv) make a note or an inventory of any articles or things found in the course of any search under this section which in his opinion will be useful for, or relevant to, any proceeding under this Act.

5 of 1898.

(2) The provisions of the Code of Criminal Procedure, 1898, relating to searches shall apply, so far as may be, to searches under this section.

133. The Income-tax Officer, the Appellate Assistant Commissioner or the Inspecting Assistant Commissioner may, for the purposes of this Act,— Power to call for information.

(1) require any firm to furnish him with a return of the names and addresses of the partners of the firm and their respective shares;

(2) require any Hindu undivided family to furnish him with a return of the names and addresses of the manager and the members of the family;

(3) require any person whom he has reason to believe to be a trustee, guardian or agent, to furnish him with a return of the names of the persons for or of whom he is trustee, guardian or agent, and of their addresses;

(4) require any assessee to furnish a statement of the names and addresses of all persons to whom he has paid in any previous year rent, interest, commission, royalty or brokerage, or any annuity, not being any annuity taxable under the head "Salaries" amounting to more than four hundred rupees, together with particulars of all such payments made;

(5) require any dealer, broker or agent or any person concerned in the management of a stock or commodity Exchange to furnish a statement of the names and addresses of all persons to whom he or the Exchange has paid any sum in connection with the transfer, whether by way of sale, exchange or otherwise, of assets, or on whose behalf or from whom he or the Exchange has received any such sum, together with particulars of all such payments and receipts;

(6) require any person, including a banking company or any officer thereof, to furnish information in relation to such points or matters, or to furnish statements of accounts and affairs verified in the manner specified by the Income-tax Officer, the Appellate Assistant Commissioner or the Inspecting Assistant Commissioner, giving information in relation to such points or matters as, in the opinion of the Income-tax Officer, the Appellate Assistant Commissioner or the Inspecting Assistant Commissioner, will be useful for, or relevant to, any proceeding under this Act.

Power to  
inspect  
registers of  
companies.

134. The Income-tax Officer, the Appellate Assistant Commissioner or the Inspecting Assistant Commissioner, or any person subordinate to him authorised in writing in this behalf by the Income-tax Officer, the Appellate Assistant Commissioner or the Inspecting Assistant Commissioner, may inspect, and if necessary, take copies, or cause copies to be taken, of any register of the members, debenture holders or mortgagees of any company or of any entry in such register.

135. The Director of Inspection, the Commissioner and the Inspecting Assistant Commissioner shall be competent to make any enquiry under this Act, and for this purpose shall have all the powers that an Income-tax Officer has under this Act in relation to the making of enquiries.

Power of Director of Inspection, Commissioner and Inspecting Assistant Commissioner.

136. Any proceeding under this Act before an Income-tax authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code.

Proceedings before Income-tax authorities to be judicial proceedings.

45 of 1860.

*D.—Disclosure of information*

137. (1) All particulars contained in any statement made, return furnished or accounts or documents produced under the provisions of this Act, or in any evidence given, or affidavit or deposition made in the course of any proceedings under this Act, other than proceedings under Chapter XXII, or in any record of any assessment proceeding, or any proceeding relating to recovery of a demand, prepared for the purposes of this Act, shall be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall, save as provided in this Act, be entitled to require any public servant to produce before it any such return, accounts, documents or record or any part of any such record, or to give evidence before it in respect thereof.

Disclosure of information prohibited.

1 of 1872.

(2) No public servant shall disclose any particulars contained in any such statement, return, accounts, documents, evidence, affidavit, deposition or record.

(3) Nothing in this section shall apply to the disclosure—

(i) of any such particulars for the purposes of a prosecution for any offence under the Indian Penal Code in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition, or for the purposes of a prosecution for any offence under this Act; or

45 of 1860.

(ii) of any such particulars to any person acting in the execution of this Act, where it is necessary or desirable to disclose the same to him for the purposes of this Act; or

(iii) of any such particulars, where the disclosure is occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand; or

(iv) of any such particulars to a civil court in any suit or proceeding to which the Government or any Income-tax autho-

rity is a party, which relates to any matter arising out of any proceeding under this Act or under any other law for the time being in force authorising any Income-tax authority to exercise any powers thereunder; or

(v) of any such particulars to the Comptroller and Auditor-General of India for the purpose of enabling him to discharge his functions under the Constitution; or

(vi) of any such particulars to any officer appointed by the Comptroller and Auditor-General of India or the Board to audit income-tax receipts or refunds; or

(vii) of any such particulars, relevant to any inquiry into the conduct of an official of the Income-tax Department, to any person appointed Commissioner under the Public Servants (Inquiries) Act, 1850, or to an officer otherwise appointed to hold such inquiry, or to a Public Service Commission established under the Constitution, when exercising its functions in relation to any matter arising out of any such inquiry, or to a court in connection with the prosecution arising out of any such inquiry; or

(viii) with the previous permission of the Central Government, of any such particulars as may be required by any Commission of Inquiry appointed by the Central Government under the Commissions of Inquiry Act, 1952, or by any authority to which the provisions of that Act have been made applicable by the Central Government, for the purpose of any inquiry by such Commission or authority; or

(ix) of any such particulars relevant to any inquiry into a charge of misconduct in connection with income-tax proceedings against a legal practitioner or chartered accountant, to the authority empowered to take disciplinary action against members of the profession to which he belongs; or

(x) of any such particulars by any public servant, where the disclosure is occasioned by the lawful exercise by him of his powers under the Indian Stamp Act, 1899, to impound an insufficiently stamped document; or

(xi) of such facts, to an authorised officer of the Government of any country outside India for the granting of relief in respect of or avoidance of double taxation as may be necessary for the purpose of enabling such relief or a refund under section 90 to be given or such avoidance under that section to be made effective; or

(xii) of such facts, to an officer of a State Government authorised in this behalf as may be necessary for the purpose of enabling that Government to levy or realise any tax imposed by it; or

(xiii) of such facts, to an officer of the Central Government authorised in this behalf as may be necessary for the purpose of enabling that Government to levy or realise any tax imposed by it; or

3 of 1878. (xiv) of such facts, to any authority exercising powers under the Sea Customs Act, 1878, or any Central Act imposing a duty of excise as may be necessary for enabling it duly to exercise such powers; or

(xv) of such facts, to any person charged by law with the duty of inquiring into the qualifications of electors as may be necessary to establish whether a person is or is not entitled to be entered on an electoral roll; or

(xvi) of so much of such particulars, to the appropriate authority, as may be necessary to establish whether a person has or has not been assessed to income-tax in any particular year or years, where under the provisions of any law for the time being in force such fact is required to be established; or

(xvii) of such particulars to the Reserve Bank of India as are required by that Bank to enable it to compile financial statistics of international investment and balance of payments; or

(xviii) of such information as may be required by any officer or department of the Central Government or of a State Government for the purpose of investigation into the conduct and affairs of any public servant or to a court in connection with any prosecution of the public servant arising out of any such investigation; or

31 of 1950. (xix) of any such particulars to the Custodian of Evacuee Property appointed under the Administration of Evacuee Property Act, 1950, for the purpose of enabling him to discharge the duties imposed upon him by or under the said Act; or

7 of 1947. (xx) of any such particulars as may be required by any order made under sub-section (2) of section 19 of the Foreign Exchange Regulation Act, 1947, or for the purposes of any proceeding or of a prosecution for an offence under section 23 of that Act; or

(xxi) of so much of such particulars to any person as is evidence of the fact that any property does not belong to the assessee but belongs to such person:

Provided that the assessee had, prior to such disclosure, been examined by the Income-tax Officer in respect of his right to such property.

(4) Nothing in this section shall apply to the production by a public servant before a court of any document, declaration or affidavit filed, or the record of any statement or deposition made in a proceeding under section 171 or sections 184 to 186 or to the giving of evidence by a public servant in respect thereof.

(5) Nothing in this section shall be construed as prohibiting the voluntary disclosure of any particulars referred to in sub-section (1) by the person by whom the statement was made, the return furnished, the accounts or documents produced, the evidence given or the affidavit or deposition made, as the case may be.

*Explanation.*—In sub-sections (1), (2) and (4), “public servant” means any public servant employed in the execution of this Act.

Disclosure of information respecting tax payable.

138. Where a person makes an application to the Commissioner in the prescribed form and pays the prescribed fee for information as to the amount of tax determined as payable by any assessee in respect of any assessment made either under this Act or the Indian Income-tax Act, 1922, on or after the 1st day of April, 1960, the Commissioner may, notwithstanding anything contained in section 137, if he is satisfied that there are no circumstances justifying its refusal, furnish or cause to be furnished the information asked for. II of 1922.

## CHAPTER XIV

### PROCEDURE FOR ASSESSMENT

Return of income.

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

(a) in the case of every person whose total income, or the total income of any other person in respect of which he is assessable under this Act, includes any income from business or profession, before the expiry of six months from the end of the

previous year or where there is more than one previous year, from the end of the previous year which expired last before the commencement of the assessment year, or before the 30th day of June of the assessment year, whichever is later;

(b) in the case of every other person, before the 30th day of June of the assessment year:

Provided that, on an application made in the prescribed manner, the Income-tax Officer may, in his discretion, extend the date for furnishing the return—

(i) in the case of any person whose total income includes any income from business or profession the previous year in respect of which expired on or before the 31st day of December of the year immediately preceding the assessment year, and in the case of any person referred to in clause (b), up to a period not extending beyond the 30th day of September of the assessment year without charging any interest;

(ii) in the case of any person whose total income includes any income from business or profession the previous year in respect of which expired after the 31st day of December of the year immediately preceding the assessment year, up to the 31st day of December of the assessment year without charging any interest; and

(iii) up to any period falling beyond the dates mentioned in clauses (i) and (ii), in which case, interest at six per cent. per annum shall be payable from the 1st day of October or the 1st day of January, as the case may be, of the assessment year to the date of the furnishing of the return—

(a) in the case of a registered firm or an unregistered firm which has been assessed under clause (b) of section 183, on the amount of tax which would have been payable if the firm had been assessed as an unregistered firm; and

(b) in any other case, on the amount of tax payable on the total income as finally assessed, reduced by the advance tax, if any, paid or by any tax deducted at source, as the case may be.

(2) In the case of any person who, in the Income-tax Officer's opinion, is assessable under this Act, whether on his own total income or on the total income of any other person during the previous year, the Income-tax Officer may, before the end of the relevant assessment year, serve a notice upon him requiring him to furnish, with-

↓ Omitted by Act 13 of 1963, s. 8 (Retrospectively.)

in thirty days from the date of service of the notice, a return of his income or the income of such other person during the previous year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed:

Provided that on an application made in the prescribed manner the Income-tax Officer may, in his discretion, extend the date for the furnishing of the return, and when the date for furnishing the return, whether fixed originally or on extension, falls beyond the 30th day of September or, as the case may be, the 31st day of December of the assessment year, the provisions of sub-clause (iii) of the proviso to sub-section (1) shall apply.

(3) If any person who has not been served with a notice under sub-section (2), has sustained a loss in any previous year under the head "Profits and gains of business or profession" or under the head "Capital gains" and claims that the loss or any part thereof should be carried forward under sub-section (1) of section 72 or sub-section (2) of section 73, or sub-section (1) of section 74, he may furnish within the time allowed under sub-section (1), a return of loss in the prescribed form and verified in the prescribed manner and containing such other particulars as may be prescribed, and all the provisions of this Act shall apply as if it were a return under sub-section (1).

(4) Any person who has not furnished a return within the time allowed to him under sub-section (1) or sub-section (2) may before the assessment is made furnish the return for any previous year at any time before the end of four assessment years from the end of the assessment year to which the return relates, and the provisions of sub-clause (iii) of the proviso to sub-section (1) shall apply in every such case.

(5) If any person having furnished a return under sub-section (1) or sub-section (2), discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the assessment is made.

(6) The prescribed form of the returns referred to in sub-sections (1), (2) and (3) shall, in the case of an assessee engaged in business or profession, require him to furnish particulars of the location and style of the principal place where he carries on the business or profession and all the branches thereof, the names and addresses of his partners, if any, in such business or profession and if he is a member of an association or body of individuals, the names of the

other members of the association or the body and the extent of the share of the assessee and the shares of all such partners or the members, as the case may be, in the profits of the business or profession and any branches thereof.

(7) No return under sub-section (1) need be furnished by any person for any previous year if he has already furnished a return of income for such year in accordance with the provisions of sub-section (2).

**140. The return under section 139 shall be signed and verified—**

Return by whom to be signed.

(a) in the case of an individual, by the individual himself; where the individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf; and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;

(b) in the case of a Hindu undivided family, by the Karta, and, where the Karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family;

(c) in the case of a company or local authority, by the principal officer thereof;

(d) in the case of a firm, by any partner thereof, not being a minor;

(e) in the case of any other association, by any member of the association or the principal officer thereof; and

(f) in the case of any other person, by that person or by some person competent to act on his behalf.

**141. (1) The Income-tax Officer may, at any time after the receipt of a return made under section 139, proceed to make, in a summary manner, a provisional assessment of the tax payable by the assessee, on the basis of his return and the accounts and documents, if any, accompanying it.**

Provisional assessment.

(2) In making any assessment under this section due effect shall be given to—

(a) the allowance referred to in sub-section (2) of section 32; and

(b) any loss carried forward under sub-section (1) of section 72 or sub-section (2) of section 73 or sub-section (1) of section 74.

(3) A partner of a firm may be assessed under sub-section (1) in respect of his share in the income of the firm, if its return has been received, even if the return of the partner himself has not been received.

(4) A firm may be assessed under sub-section (1) as an un-registered firm, except in the following cases, where it shall be assessed as a registered firm—

(a) where the firm was assessed as a registered firm for the latest assessment year for which its assessment has been completed, and it has before the expiry of the period laid down in Chapter XVI-B filed its application for registration or declaration under sub-section (7) of section 184 for the assessment year for which the provisional assessment is to be made;

(b) where no regular assessment has been made on the firm for any assessment year preceding the assessment year for which the provisional assessment is to be made, and the firm has, before the expiry of the period laid down in Chapter XVI-B filed its application for registration, or declaration as aforesaid, for the assessment year for which the provisional assessment is to be made.

(5) After a regular assessment has been made, any amount paid or deemed to have been paid towards the provisional assessment made under sub-section (1) shall be deemed to have been paid towards the regular assessment; and where the amount paid or deemed to have been paid towards the provisional assessment exceeds the amount payable under the regular assessment, the excess shall be refunded to the assessee.

(6) Nothing done or suffered by reason or in consequence of any provisional assessment made under this section shall prejudice the determination, on the merits, of any issue which may arise in the course of the regular assessment.

(7) There shall be no right of appeal against a provisional assessment made under sub-section (1).

Enquiry  
before  
assessment.

142. (1) For the purpose of making an assessment under this Act, the Income-tax Officer may serve on any person who has made a return under section 139 or upon whom a notice has been served under sub-section (2) of section 139 (whether a return has been made or not) a notice requiring him, on a date to be therein specified,—

(i) to produce, or cause to be produced, such accounts or documents as the Income-tax Officer may require, or

↳ Enq. Inv. Act 13 of 1963, s. 9 (w.e.f. 1.4.1963)

(ii) to furnish in writing and verified in the prescribed manner information in such form and on such points or matters (including a statement of all assets and liabilities of the assessee, whether included in the accounts or not) as the Income-tax Officer may require:

Provided that—

(a) the previous approval of the Inspecting Assistant Commissioner shall be obtained before requiring the assessee to furnish a statement of all assets and liabilities not included in the accounts;

(b) the Income-tax Officer shall not require the production of any accounts relating to a period more than three years prior to the previous year.

(2) For the purpose of obtaining full information in respect of the income or loss of any person, the Income-tax Officer may make such enquiry as he considers necessary.

(3) The assessee shall, except where the assessment is made under section 144, be given an opportunity of being heard in respect of any material gathered on the basis of any enquiry under sub-section (2) and proposed to be utilised for the purpose of the assessment.

143. (1) Where a return has been made under section 139 and the Income-tax Officer is satisfied without requiring the presence of the assessee or the production by him of any evidence that the return is correct and complete, he shall assess the total income or loss of the assessee, and shall determine the sum payable by him or refundable to him on the basis of such return. Assessment.

(2) Where a return has been made under section 139 but the Income-tax Officer is not satisfied without requiring the presence of the assessee or the production of evidence that the return is correct and complete, he shall serve on the assessee a notice requiring him, on a date to be therein specified, either to attend at the Income-tax Officer's office or to produce, or to cause to be there produced, any evidence on which the assessee may rely in support of the return.

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

Best judgment assessment.

144. If any person—

(a) fails to make the return required by any notice given under sub-section (2) of section 139 and has not made a return or a revised return under sub-section (4) or sub-section (5) of that section, or

(b) fails to comply with all the terms of a notice issued under sub-section (1) of section 142, or

(c) having made a return, fails to comply with all the terms of a notice issued under sub-section (2) of section 143,

the Income-tax Officer, after taking into account all relevant material which the Income-tax Officer has gathered, shall make the assessment of the total income or loss to the best of his judgment and determine the sum payable by the assessee or refundable to the assessee on the basis of such assessment.

Method of accounting.

145. (1) Income chargeable under the head "Profits and gains of business or profession" or "Income from other sources" shall be computed in accordance with the method of accounting regularly employed by the assessee:

Provided that in any case where the accounts are correct and complete to the satisfaction of the Income-tax Officer but the method employed is such that, in the opinion of the Income-tax Officer, the income cannot properly be deduced therefrom, then the computation shall be made upon such basis and in such manner as the Income-tax Officer may determine.

(2) Where the Income-tax Officer is not satisfied about the correctness or the completeness of the accounts of the assessee, or where no method of accounting has been regularly employed by the assessee, the Income-tax Officer may make an assessment in the manner provided in section 144.

Reopening of assessment at the instance of the assessee.

146. Where an assessee assessed under section 144 makes an application to the Income-tax Officer, within one month from the date of service of a notice of demand issued in consequence of the assessment, for the cancellation of the assessment on the ground—

(i) that he was prevented by sufficient cause from making the return required under sub-section (2) of section 139, or

(ii) that he did not receive the notice issued under sub-section (1) of section 142 or sub-section (2) of section 143, or

(iii) that he had not a reasonable opportunity to comply, or was prevented by sufficient cause from complying, with the terms of any notice referred to in clause (ii).

the Income-tax Officer shall, if satisfied about the existence of such ground, cancel the assessment and proceed to make a fresh assessment [in accordance with the provisions of section 143 or ~~144~~, ~~Section~~ 144]

## 147. If—

Income  
escaping  
assessment.

(a) the Income-tax Officer has reason to believe that, by reason of the omission or failure on the part of an assessee to make a return under section 139 for any assessment year to the Income-tax Officer or to disclose fully and truly all material facts necessary for his assessment for that year, income chargeable to tax has escaped assessment for that year, or

(b) notwithstanding that there has been no omission or failure as mentioned in clause (a) on the part of the assessee, the Income-tax Officer has in consequence of information in his possession reason to believe that income chargeable to tax has escaped assessment for any assessment year,

he may, subject to the provisions of sections 148 to 153 assess or reassess such income or recompute the loss or the depreciation allowance, as the case may be, for the assessment year concerned (hereafter in sections 148 to 153 referred to as the relevant assessment year).

*Explanation 1.*—For the purposes of this section, the following shall also be deemed to be cases where income chargeable to tax has escaped assessment, namely:—

(a) where income chargeable to tax has been under-assessed; or

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

(c) where such income has been made the subject of excessive relief under this Act or under the Indian Income-tax Act, 1922; or

11 of 1922.

(d) where excessive loss or depreciation allowance has been computed.

*Explanation 2.*—Production before the Income-tax Officer of account books or other evidence from which material evidence could with due diligence have been discovered by the Income-tax Officer will not necessarily amount to disclosure within the meaning of this section.

Subs. by Act 13 of 1963, s. 10 (wef. 28. 12. 1963)

Issue of notice where income has escaped assessment.

**148. (1)** Before making the assessment, reassessment or recomputation under section 147, the Income-tax Officer shall serve on the assessee a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 139; and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section.

(2) The Income-tax Officer shall, before issuing any notice under this section, record his reasons for doing so.

Time limit for notice.

**149. (1)** No notice under section 148 shall be issued,

(a) in cases falling under clause (a) of section 147—

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

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

(b) in cases falling under clause (b) of section 147, at any time after the expiry of four years from the end of the relevant assessment year.

(2) The provisions of sub-section (1) as to the issue of notice shall be subject to the provisions of section 151.

(3) If the person on whom a notice under section 148 is to be served is a person treated as the agent of a non-resident under section 163 and the assessment, reassessment or recomputation to be made in pursuance of the notice is to be made on him as the agent of such non-resident, the notice shall not be issued after the expiry of a period of two years from the end of the relevant assessment year.

Provision for cases where assessment is in pursuance of an order on appeal, etc.

**150. (1)** Notwithstanding anything contained in section 149, the notice under section 148 may be issued at any time for the purpose of making an assessment or reassessment or recomputation in consequence of or to give effect to any finding or direction contained in an order passed by any authority in any proceeding under this Act by way of appeal, reference or revision.

(2) The provisions of sub-section (1) shall not apply in any case where any such assessment, reassessment or recomputation as is referred to in that sub-section relates to an assessment year in respect of which an assessment, reassessment or recomputation could not have been made at the time the order which was the subject-matter of the appeal, reference or revision, as the case may be, was

made by reason of any other provision limiting the time within which any action for assessment, reassessment or recomputation may be taken.

151. (1) No notice shall be issued under section 148 after the expiry of eight years from the end of the relevant assessment year, unless the Board is satisfied on the reasons recorded by the Income-tax Officer that it is a fit case for the issue of such notice. Sanction for issue of notice.

(2) No notice shall be issued under section 148 after the expiry of four years from the end of the relevant assessment year, unless the Commissioner is satisfied on the reasons recorded by the Income-tax Officer that it is a fit case for the issue of such notice.

152. (1) In an assessment, reassessment or recomputation made under section 147, the tax shall be chargeable at the rate or rates at which it would have been charged had the income not escaped assessment. Other provisions.

(2) Where an assessment is reopened in circumstances falling under clause (b) of section 147, the assessee may, if he has not impugned any part of the original assessment order for that year either under sections 246 to 248 or under section 264, claim that the proceedings under section 147 shall be dropped on his showing that he had been assessed on an amount or to a sum not lower than what he would be rightly liable for even if the income alleged to have escaped assessment had been taken into account, or the assessment or computation had been properly made:

Provided that in so doing he shall not be entitled to reopen matters concluded by an order under section 154, 155, 260, 262 or 263.

153. (1) No order of assessment shall be made under section 143 or section 144 at any time after— Time limit for completion of assessments and re-assessments.

(a) the expiry of four years from the end of the assessment year in which the income was first assessable; or

(b) the expiry of eight years from the end of the assessment year in which the income was first assessable, in a case falling within clause (c) of sub-section (1) of section 271; or

(c) the expiry of one year from the date of the filing of a return or a revised return under sub-section (4) or sub-section (5) of section 139;

whichever is latest.

(2) No order of assessment, reassessment or recomputation shall be made under section 147—

(a) where the assessment, reassessment or recomputation is to be made under clause (a) of that section, after the expiry of

four years from the end of the assessment year in which the notice under section 148 was served;

(b) where the assessment, reassessment or recomputation is to be made under clause (b) of that section, after—

(i) the expiry of four years from the end of the assessment year in which the income was first assessable, or

(ii) the expiry of one year from the date of service of the notice under section 148,

whichever is later.

(3) The provisions of sub-sections (1) and (2) shall not apply to the following classes of assessments, reassessments and recomputations which may be completed at any time—

(i) where a fresh assessment is made under section 146;

(ii) where the assessment, reassessment or recomputation is made on the assessee or any person in consequence of or to give effect to any finding or direction contained in an order under section 250, 254, 260, 262, 263 or 264;

(iii) where in the case of a firm, an assessment is made on a partner of the firm in consequence of an assessment made on the firm under section 147.

*Explanation 1.*—In computing the period of limitation for the purposes of this section, the time taken in reopening the whole or any part of the proceeding or in giving an opportunity to the assessee to be reheard under the proviso to section 129 or any period during which the assessment proceeding is stayed by an order or injunction of any court, shall be excluded.

*Explanation 2.*—Where, by an order under section 250, 254, 260, 262, 263 or 264, any income is excluded from the total income of the assessee for an assessment year, then, an assessment of such income for another assessment year shall, for the purposes of section 150 and this section, be deemed to be one made in consequence of or to give effect to any finding or direction contained in the said order.

*Explanation 3.*—Where, by an order under section 250, 254, 260, 262, 263 or 264, any income is excluded from the total income of one person and held to be the income of another person, then, an assessment of such income on such other person shall, for the purposes of section 150 and this section, be deemed to be one made in consequence of or to give effect to any finding or direction

contained in the said order, provided such other person was given an opportunity of being heard before the said order was passed.

154. (1) With a view to rectifying any mistake apparent from the record— Rectification  
of mistake.

(a) the Income-tax Officer may amend any order of assessment or of refund or any other order passed by him;

(b) the Appellate Assistant Commissioner may amend any order passed by him in appeal under section 250;

(c) the Commissioner may amend any order passed by him in revision under section 263 or section 264.

(2) Subject to the other provisions of this section, the authority concerned—

(a) may make an amendment under sub-section (1) of its own motion, and

(b) shall make such amendment for rectifying any such mistake which has been brought to its notice by the assessee, and where the authority concerned is the Appellate Assistant Commissioner, by the Income-tax Officer also.

(3) An amendment, which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall not be made under this section unless the authority concerned has given notice to the assessee of its intention so to do and has allowed the assessee a reasonable opportunity of being heard.

(4) Where an amendment is made under this section, an order shall be passed in writing by the Income-tax authority concerned.

(5) Subject to the provisions of section 241, where any such amendment has the effect of reducing the assessment, the Income-tax Officer shall make any refund which may be due to such assessee.

(6) Where any such amendment has the effect of enhancing the assessment or reducing a refund already made, the Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 156 and the provisions of this Act shall apply accordingly.

(7) Save as otherwise provided in section 155 or sub-section (4) of section 186 no amendment under this section shall be made after the expiry of four years from the date of the order sought to be amended.

Other  
amend-  
ments.

155. (1) Where in respect of any completed assessment of a partner in a firm it is found—

(a) on the assessment or reassessment of the firm, or

(b) on any reduction or enhancement made in the income of the firm under this section, section 154, section 250, section 254, section 260, section 262, section 263 or section 264,

that the share of the partner in the income of the firm has not been included in the assessment of the partner or, if included, is not correct, the Income-tax Officer may amend the order of assessment of the partner with a view to the inclusion of the share in the assessment or the correction thereof, as the case may be; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the date of the final order passed in the case of the firm.

(2) Where in respect of any completed assessment of a member of an association of persons or of a body of individuals it is found—

(a) on the assessment or reassessment of the association or body, or

(b) on any reduction or enhancement made in the income of the association or body under this section, section 154, section 250, section 254, section 260, section 262, section 263 or section 264,

that the share of the member in the income of the association or body, as the case may be, has not been included in the assessment of the member or, if included, is not correct, the Income-tax Officer may amend the order of assessment of the member with a view to the inclusion of the share in the assessment or the correction thereof, as the case may be; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the date of the final order passed in the case of the association or body, as the case may be.

(3) Where the excess profits tax or the business profits tax payable by an assessee has been modified in appeal, revision or any other proceeding, or where any excess profits tax has been assessed after the completion of the corresponding assessment for income-tax and in consequence thereof, it is necessary to amend the total income of the assessee chargeable to income-tax, the Income-tax Officer may make the necessary amendment and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the date of the order making or modifying the assessment of such excess profits tax or business profits tax, as the case may be.

*Explanation.*—For the purposes of this sub-section, where the assessee is a firm, the provisions of sub-section (1) shall also apply as they apply to the amendment of the assessment of the partners of the firm.

(4) Where as a result of proceedings initiated under section 147, a less or depreciation has been recomputed and in consequence thereof it is necessary to recompute the total income of the assessee for the succeeding year or years to which the loss or depreciation allowance has been carried forward and set off under the provisions of sub-section (1) of section 72, or sub-section (2) of section 73, or sub-section (1) of section 74, the Income-tax Officer may proceed to recompute the total income in respect of such year or years and make the necessary amendment; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the date of the order passed under section 147.

(5) Where an allowance by way of development rebate has been made wholly or partly to an assessee in respect of a ship, machinery or plant installed after the 31st day of December, 1957, in any assessment year under section 33 or under the corresponding provisions of the Indian Income Tax Act, 1922, and subsequently—

II of 1922.

(i) at any time before the expiry of eight years from the end of the previous year in which the ship was acquired or the machinery or plant was installed, the ship, machinery or plant is sold or otherwise transferred by the assessee to any person other than the Government, a local authority, a corporation established by a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956, or in connection with any amalgamation or succession referred to in sub-section (3) or sub-section (4) of section 33; or

I of 1956.

(ii) at any time before the expiry of the eight years referred to in sub-section (3) of section 34, the assessee utilises the amount credited to the reserve account under clause (a) of that sub-section—

(a) for distribution by way of dividends or profits; or

(b) for remittance outside India as profits or for the creation of any asset outside India; or

(c) for any other purpose which is not a purpose of the business of the undertaking;

the development rebate originally allowed shall be deemed to have been wrongly allowed, and the Income-tax Officer may, notwithstanding anything contained in this Act, recompute the total income of the

assessee for the relevant previous year and make the necessary amendment; and the provisions of section 154 shall, so far as may be apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the sale or transfer took place or the money was so utilised.

(6) Where any such debt or part of debt as is referred to in clause (vii) of sub-section (1) of section 36 is written off as irrecoverable in the accounts of the assessee for a previous year and the Income-tax Officer is satisfied that such debt or part thereof became a bad debt in an earlier previous year not falling beyond a period of four previous years immediately preceding the previous year in which the debt or part is written off, the Income-tax Officer may, notwithstanding anything contained in this Act, allow such debt or part as a deduction for such earlier previous year, if the assessee accepts such a finding of the Income-tax Officer, and recompute the total income of the assessee for such earlier previous year and make the necessary amendment; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the financial year in which the assessment relating to the previous year in which the debt is written off is made.

(7) Where as a result of any proceeding under this Act, in the assessment for any year of a company in whose case an order under section 104 has been made for that year, it is necessary to recompute the distributable income of that company, the Income-tax Officer may proceed to recompute the distributable income and determine the supertax payable on the basis of such recomputation and make the necessary amendment, and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the date of the final order passed in the case of the company in respect of that proceeding.

(8) Where in the assessment for any year a capital gain arising from the transfer of any such capital asset as is referred to in section 54 is charged to tax and within a period of one year after the date of the transfer the assessee purchases, or within two years from that date constructs, a house property for the purpose of his own residence, the Income-tax Officer shall amend the order of assessment so as to exclude the amount of the capital gain not chargeable to tax under the provisions of section 54, and the provisions of section 154 shall, so far as may be, apply thereto, the period

of four years specified in sub-section (7) of that section being reckoned from the date of the assessment.

156. When any tax, interest, penalty, fine or any other sum is payable in consequence of any order passed under this Act, the Income-tax Officer shall serve upon the assessee a notice of demand in the prescribed form specifying the sum so payable. Notice of demand.

157. When, in the course of the assessment of the total income of any assessee, it is established that a loss has taken place which the assessee is entitled to have carried forward and set off under the provisions of sub-section (1) of section 72, sub-section (2) of section 73 or sub-section (1) of section 74, the Income-tax Officer shall notify to the assessee by an order in writing the amount of the loss as computed by him for the purposes of sub-section (1) of section 72, sub-section (2) of section 73 or sub-section (1) of section 74. Intimation of loss.

158. Whenever a registered firm is assessed, or an unregistered firm is assessed under the provisions of clause (b) of section 183, the income-tax Officer shall notify to the firm by an order in writing the amount of its total income assessed and the apportionment thereof between the several partners. Intimation of assessment of firm.

## CHAPTER XV

### LIABILITY IN SPECIAL CASES

#### A.—Legal representatives

159. (1) Where a person dies, his legal representative shall be liable to pay any sum which the deceased would have been liable to pay if he had not died, in the like manner and to the same extent as the deceased. Legal representatives.

(2) For the purpose of making an assessment (including an assessment, reassessment or recomputation under section 147) of the income of the deceased and for the purpose of levying any sum in the hands of the legal representative in accordance with the provisions of sub-section (1),—

(a) any proceeding taken against the deceased before his death shall be deemed to have been taken against the legal repre-

representative and may be continued against the legal representative from the stage at which it stood on the date of the death of the deceased;

(b) any proceeding which could have been taken against the deceased if he had survived, may be taken against the legal representative; and

(c) all the provisions of this Act shall apply accordingly.

(3) The legal representative of the deceased shall, for the purposes of this Act, be deemed to be an assessee.

(4) Every legal representative shall be personally liable for any tax payable by him in his capacity as legal representative if, while his liability for tax remains undischarged, he creates a charge on or disposes of or parts with any assets of the estate of the deceased, which are in, or may come into, his possession, but such liability shall be limited to the value of the asset so charged, disposed of or parted with.

(5) The provisions of sub-section (2) of section 161, section 162 and section 167, shall, so far as may be and to the extent to which they are not inconsistent with the provisions of this section, apply in relation to a legal representative.

(6) The liability of a legal representative under this section shall, subject to the provisions of sub-section (4) and sub-section (5), be limited to the extent to which the estate is capable of meeting the liability.

*B.—Representative assessee—general provisions*

**Representative assessee.** 160. (1) For the purposes of this Act, "representative assessee" means—

(i) in respect of the income of a non-resident specified in clause (i) of sub-section (1) of section 9, the agent of the non-resident, including a person who is treated as an agent under section 163;

(ii) in respect of the income of a minor, lunatic or idiot, the guardian or manager who is entitled to receive or is in receipt of such income on behalf of such minor, lunatic or idiot;

(iii) in respect of income which the Court of Wards, the Administrator-General, the Official Trustee or any receiver or

manager (including any person, whatever his designation, who in fact manages property on behalf of another) appointed by or under any order of a court, receives or is entitled to receive, on behalf or for the benefit of any person, such Court of Wards, Administrator-General, Official Trustee, receiver or manager;

6 of 1913.

(iv) in respect of income which a trustee appointed under a trust declared by a duly executed instrument in writing whether testamentary or otherwise (including any Wakf deed which is valid under the Mussalman Wakf Validating Act, 1913) receives or is entitled to receive on behalf or for the benefit of any person, such trustee or trustees.

(2) Every representative assessee shall be deemed to be an assessee for the purposes of this Act.

161. (1) Every representative assessee, as regards the income in respect of which he is a representative assessee, shall be subject to the same duties, responsibilities and liabilities as if the income were income received by or accruing to or in favour of him beneficially, and shall be liable to assessment in his own name in respect of that income; but any such assessment shall be deemed to be made upon him in his representative capacity only, and the tax shall, subject to the other provisions contained in this Chapter, be levied upon and recovered from him in like manner and to the same extent as it would be leviable upon and recoverable from the person represented by him.

Liability of representative assessee.

(2) Where any person is, in respect of any income, assessable under this Chapter in the capacity of a representative assessee, he shall not, in respect of that income, be assessed under any other provision of this Act.

162. (1) Every representative assessee who, as such, pays any sum under this Act, shall be entitled to recover the sum so paid from the person on whose behalf it is paid, or to retain out of any moneys that may be in his possession or may come to him in his representative capacity, an amount equal to the sum so paid.

Right of representative assessee to recover tax paid.

(2) Any representative assessee, or any person who apprehends that he may be assessed as a representative assessee, may retain out of any money payable by him to the person on whose behalf he is liable to pay tax (hereinafter in this section referred to as the principal), a sum equal to his estimated liability under this Chapter, and in the event of any disagreement between the principal and such representative assessee or person as to the amount to be so retained, such representative assessee or person may secure from the Income-tax Officer a certificate stating the amount to be so retained pending

final settlement of the liability, and the certificate so obtained shall be his warrant for retaining that amount.

(3) The amount recoverable from such representative assessee or person at the time of final settlement shall not exceed the amount specified in such certificate, except to the extent to which such representative assessee or person may at such time have in his hands additional assets of the principal.

*C.—Representative assessee—special cases*

Who may be regarded as agent.

163. (1) For the purposes of this Act, "agent", in relation to a non-resident, includes any person in India—

(a) who is employed by or on behalf of the non-resident; or

(b) who has any business connection with the non-resident;

or

(c) from or through whom the non-resident is in receipt of any income, whether directly or indirectly; or

(d) who is the trustee of the non-resident;

and includes also any other person who, whether a resident or non-resident, has acquired by means of a transfer, a capital asset in India:

Provided that a broker in India who in respect of any transactions, does not deal directly with or on behalf of a non-resident principal but deals with or through a non-resident broker shall not be deemed to be an agent under this section in respect of such transactions, if the following conditions are fulfilled, namely:—

(i) the transactions are carried on in the ordinary course of business through the first-mentioned broker; and

(ii) the non-resident broker is carrying on such transactions in the ordinary course of his business and not as a principal.

(2) No person shall be treated as the agent of a non-resident unless he had had an opportunity of being heard by the Income-tax Officer as to his liability to be treated as such.

Charge of tax where share of beneficiaries unknown.

164. Where any income in respect of which the persons mentioned in clauses (iii) and (iv) of sub-section (1) of section 160 are liable as representative assessee or any part thereof, is not specifically receivable on behalf or for the benefit of any one person, or where the individual shares of the persons on whose behalf or for whose benefit such income or such part thereof is receivable (which persons are hereinafter in this section referred to as the beneficiaries) are indeterminate or unknown, tax shall be charged as if such income or

such part thereof were the total income of an association of persons, or, where such income or such part thereof is actually received by a beneficiary, then at the rate or rates applicable to the total income or total world income of the beneficiary if such course would result in a benefit to the revenue.

165. Where part only of the income of a trust is chargeable under this Act, that proportion only of the income receivable by a beneficiary from the trust which the part so chargeable bears to the whole income of the trust shall be deemed to have been derived from that part. Case where part of trust income is chargeable.

*D.—Representative assessee—miscellaneous provisions*

166. Nothing in the foregoing sections in this Chapter shall prevent either the direct assessment of the person on whose behalf or for whose benefit income therein referred to is receivable, or the recovery from such person of the tax payable in respect of such income. Direct assessment or recovery not barred.

167. The Income-tax Officer shall have the same remedies against all property of any kind vested in or under the control or management of any representative assessee as he would have against the property of any person liable to pay any tax, and in as full and ample a manner, whether the demand is raised against the representative assessee or against the beneficiary direct. Remedies against property in cases of representative assessee.

*E.—Executors*

168. (1) Subject as hereinafter provided, the income of the estate of a deceased person shall be chargeable to tax in the hands of the executor,— Executors.

(a) if there is only one executor, then, as if the executor were an individual; or

(b) if there are more executors than one, then, as if the executors were an association of persons;

and for the purposes of this Act, the executor shall be deemed to be resident or non-resident according as the deceased person was a resident or non-resident during the previous year in which his death took place.

(2) The assessment of an executor under this section shall be made separately from any assessment that may be made on him in respect of his own income.

(3) Separate assessments shall be made under this section on the total income of each completed previous year or part thereof as is included in the period from the date of the death to the date of

complete distribution to the beneficiaries of the estate according to their several interests.

(4) In computing the total income of any previous year under this section, any income of the estate of that previous year distributed to, or applied to the benefit of, any specific legatee of the estate during that previous year shall be excluded; but the income so excluded shall be included in the total income of the previous year of such specific legatee.

*Explanation.*—In this section, “executor” includes an administrator or other person administering the estate of a deceased person.

**Right of executor to recover tax paid.** 169. The provisions of section 162 shall, so far as may be, apply in the case of an executor in respect of tax paid or payable by him as they apply in the case of a representative assessee.

*F.—Succession to business or profession*

**Succession to business otherwise than on death.** 170. (1) Where a person carrying on any business or profession (such person hereinafter in this section being referred to as the predecessor) has been succeeded therein by any other person (hereinafter in this section referred to as the successor) who continues to carry on that business or profession,—

(a) the predecessor shall be assessed in respect of the income of the previous year in which the succession took place up to the date of succession;

(b) the successor shall be assessed in respect of the income of the previous year after the date of succession.

(2) Notwithstanding anything contained in sub-section (1), when the predecessor cannot be found, the assessment of the income of the previous year in which the succession took place up to the date of succession and of the previous year preceding that year shall be made on the successor in like manner and to the same extent as it would have been made on the predecessor, and all the provisions of this Act shall, so far as may be, apply accordingly.

(3) When any sum payable under this section in respect of the income of such business or profession for the previous year in which the succession took place up to the date of succession or for the previous year preceding that year, assessed on the predecessor, cannot be recovered from him, the Income-tax Officer shall record a finding to that effect and the sum payable by the predecessor shall thereafter be payable by and recoverable from the successor, and the successor shall be entitled to recover from the predecessor any sum so paid.

(4) Where any business or profession carried on by a Hindu undivided family is succeeded to, and simultaneously with the succession or after the succession there has been a partition of the joint family property between the members or groups of members, the tax due in respect of the income of the business or profession succeeded to, up to the date of succession, shall be assessed and recovered in the manner provided in section 171, but without prejudice to the provisions of this section.

*Explanation.*—For the purposes of this section, “income” includes any gain accruing from the transfer, in any manner whatsoever, of the business or profession as a result of the succession.

#### G.—Partition

171. (1) A Hindu family hitherto assessed as undivided shall be deemed for the purposes of this Act to continue to be a Hindu undivided family, except where and in so far as a finding of partition has been given under this section in respect of the Hindu undivided family.

Assessment  
after parti-  
tion of a  
Hindu  
undivided  
family.

(2) Where, at the time of making an assessment under section 143 or section 144, it is claimed by or on behalf of any member of a Hindu family assessed as undivided that a partition, whether total or partial, has taken place among the members of such family, the Income-tax Officer shall make an inquiry thereinto after giving notice of the inquiry to all the members of the family.

(3) On the completion of the inquiry, the Income-tax Officer shall record a finding as to whether there has been a total or partial partition of the joint family property, and, if there has been such a partition, the date on which it has taken place.

(4) Where a finding of total or partial partition has been recorded by the Income-tax Officer under this section, and the partition took place during the previous year,—

(a) the total income of the joint family in respect of the period up to the date of partition shall be assessed as if no partition had taken place; and

(b) each member or group of members shall, in addition to any tax for which he or it may be separately liable and notwithstanding anything contained in clause (2) of section 10, be jointly and severally liable for the tax on the income so assessed.

(5) Where a finding of total or partial partition has been recorded by the Income-tax Officer under this section, and the partition took place after the expiry of the previous year, the total income of the

previous year of the joint family shall be assessed as if no partition had taken place; and the provisions of clause (b) of sub-section (4) shall, so far as may be, apply to the case.

(6) Notwithstanding anything contained in this section, if the Income-tax Officer finds after completion of the assessment of a Hindu undivided family that the family has already effected a partition, whether total or partial, the Income-tax Officer shall proceed to recover the tax from every person who was a member of the family before the partition, and every such person shall be jointly and severally liable for the tax on the income so assessed.

(7) For the purposes of this section, the several liability of any member or group of members thereunder shall be computed according to the portion of the joint family property allotted to him or it at the partition, whether total or partial.

(8) The provisions of this section shall, so far as may be, apply in relation to the levy and collection of any penalty, interest, fine or other sum in respect of any period up to the date of the partition, whether total or partial, of a Hindu undivided family as they apply in relation to the levy and collection of tax in respect of any such period.

*Explanation.*—In this section,—

(a) “partition” means—

(i) where the property admits of a physical division, a physical division of the property, but a physical division of the income without a physical division of the property producing the income shall not be deemed to be a partition; or

(ii) where the property does not admit of a physical division, then such division as the property admits of, but a mere severance of status shall not be deemed to be a partition;

(b) “partial partition” means a partition which is partial as regards the persons constituting the Hindu undivided family, or the properties belonging to the Hindu undivided family, or both.

*H.—Profits of non-residents from occasional shipping business*

Shipping  
business  
of non-  
residents.

172. (1) The provisions of this section shall, notwithstanding anything contained in the other provisions of this Act, apply for the purpose of the levy and recovery of tax in the case of any ship, belonging to or chartered by a non-resident, which carries passengers, live-stock, mail or goods shipped at a port in India, unless the

Income-tax Officer is satisfied that there is an agent of the non-resident from whom the tax will be recoverable under the other provisions of this Act.

(2) Where such a ship carries passengers, live-stock, mail or goods shipped at a port in India, one-sixth of the amount paid or payable on account of such carriage to the owner or the charterer or to any person on his behalf, whether that amount is paid or payable in or out of India, shall be deemed to be income accruing in India to the owner or charterer on account of such carriage.

(3) Before the departure from any port in India of any such ship, the master of the ship shall prepare and furnish to the Income-tax Officer a return of the full amount paid or payable to the owner or charterer or any person on his behalf, on account of the carriage of all passengers, live-stock, mail or goods shipped at that port since the last arrival of the ship thereat:

Provided that where the Income-tax Officer is satisfied that it is not possible for the master of the ship to furnish the return required by this sub-section before the departure of the ship from the port and provided the master of the ship has made satisfactory arrangements for the filing of the return and payment of the tax by any other person on his behalf, the Income-tax Officer may, if the return is filed within thirty days of the departure of the ship, deem the filing of the return by the person so authorised by the master as sufficient compliance with this sub-section.

(4) On receipt of the return, the Income-tax Officer shall assess the income referred to in sub-section (2) and determine the sum payable as tax thereon at the rate or rates for the time being applicable to the total income of a company which has not made the arrangements referred to in section 194 and such sum shall be payable by the master of the ship.

(5) For the purpose of determining the tax payable under sub-section (4), the Income-tax Officer may call for such accounts or documents as he may require.

(6) A port clearance shall not be granted to the ship until the Collector of Customs, or other officer duly authorised to grant the same, is satisfied that the tax assessable under this section has been duly paid or that satisfactory arrangements have been made for the payment thereof.

(7) Nothing in this section shall be deemed to prevent the owner or charterer of a ship from claiming before the expiry of the assessment year relevant to the previous year in which the date of departure of the ship from the Indian port falls, that an assessment be made of his total income of the previous year and the tax payable on the basis thereof be determined in accordance with the other provisions of this Act, and if he so claims, any payment made under this section in respect of the passengers, live-stock, mail or goods shipped at Indian ports during that previous year shall be treated as a payment in advance of the tax leviable for that assessment year, and the difference between the sum so paid and the amount of tax found payable by him on such assessment shall be paid by him or refunded to him, as the case may be.

*I.—Recovery of tax in respect of non-residents*

173. Without prejudice to the provisions of sub-section (1) of section 161 or of section 167, where the person entitled to the income referred to in clause (i) of sub-section (1) of section 9 is a non-resident, the tax chargeable thereon, whether in his name or in the name of his agent who is liable as a representative assessee, may be recovered by deduction under any of the provisions of Chapter XVII-B and any arrears of tax may be recovered also in accordance with the provisions of this Act from any assets of the non-resident which are, or may at any time come, within India.

Recovery of tax in respect of non-resident from his assets.

*J.—Persons leaving India*

174. (1) Notwithstanding anything contained in section 4, when it appears to the Income-tax Officer that any individual may leave India during the current assessment year or shortly after its expiry and that he has no present intention of returning to India, the total income of such individual for the period from the expiry of the previous year for that assessment year up to the probable date of his departure from India shall be chargeable to tax in that assessment year.

Assessment of persons leaving India.

(2) The total income of each completed previous year or part of any previous year included in such period shall be chargeable to tax at the rate or rates in force in that assessment year, and separate assessments shall be made in respect of each such completed previous year or part of any previous year.

(3) The Income-tax Officer may estimate the income of such individual for such period or any part thereof, where it cannot be readily determined in the manner provided in this Act.

(4) For the purpose of making an assessment under sub-section (1), the Income-tax Officer may serve a notice upon such individual requiring him to furnish, within such time, not being less than seven days, as may be specified in the notice, a return in the same form and verified in the same manner as a return under sub-section (2) of section 139, setting forth his total income for each completed previous year comprised in the period referred to in sub-section (1) and his estimated total income for any part of the previous year comprised in that period; and the provisions of this Act shall, so far as may be, and subject to the provisions of this section, apply as if the notice were a notice issued under sub-section (2) of section 139.

(5) The tax chargeable under this section shall be in addition to the tax, if any, chargeable under any other provision of this Act.

(6) Where the provisions of sub-section (1) are applicable, any notice issued by the Income-tax Officer under sub-section (2) of section 139 or sub-section (1) of section 148 in respect of any tax chargeable under any other provision of this Act may, notwithstanding anything contained in sub-section (2) of section 139 or sub-section (1) of section 148, as the case may be, require the furnishing of the return by such individual within such period, not being less than seven days, as the Income-tax Officer may think proper.

#### *K.—Persons trying to alienate their assets*

175. Notwithstanding anything contained in section 4, if it appears to the Income-tax Officer during any current assessment year that any person is likely to charge, sell, transfer, dispose of or otherwise part with any of his assets with a view to avoiding payment of any liability under the provisions of this Act, the total income of such person for the period from the expiry of the previous year for that assessment year to the date when the Income-tax Officer commences proceedings under this section shall be chargeable to tax in that assessment year, and the provisions of sub-sections (2), (3), (4), (5) and (6) of section 174 shall, so far as may be, apply to any proceedings in the case of any such person as they apply in the case of persons leaving India.

Assessment of persons likely to transfer property to avoid tax.

#### *L.—Discontinuance of business, or dissolution*

176. (1) Notwithstanding anything contained in section 4, where any business or profession is discontinued in any assessment year, the income of the period from the expiry of the previous year for

Discontinued business.

that assessment year up to the date of such discontinuance may, at the discretion of the Income-tax Officer, be charged to tax in that assessment year.

(2) The total income of each completed previous year or part of any previous year included in such period shall be chargeable to tax at the rate or rates in force in that assessment year, and separate assessments shall be made in respect of each such completed previous year or part of any previous year.

(3) Any person discontinuing any business or profession shall give to the Income-tax Officer notice of such discontinuance within fifteen days thereof.

(4) Where any profession is discontinued in any year on account of the cessation of the profession by, or the retirement or death of, the person carrying on the profession, any sum received after the discontinuance shall be deemed to be the income of the recipient and charged to tax accordingly in the year of receipt, if such sum would have been included in the total income of the aforesaid person had it been received before such discontinuance.

(5) Where an assessment is to be made under the provisions of this section, the Income-tax Officer may serve on the person whose income is to be assessed or, in the case of a firm, on any person who was a partner of such firm at the time of its discontinuance or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 139 and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under sub-section (2) of section 139.

(6) The tax chargeable under this section shall be in addition to the tax, if any, chargeable under any other provision of this Act.

(7) Where the provisions of sub-section (1) are applicable, any notice issued by the Income-tax Officer under sub-section (2) of section 139 or sub-section (1) of section 148 in respect of any tax chargeable under any other provisions of this Act may, notwithstanding anything contained in sub-section (2) of section 139 or sub-section (1) of section 148, as the case may be, require the furnishing of the return by the person to whom the aforesaid notices are issued within such period, not being less than seven days, as the Income-tax Officer may think proper.

177. (1) Where any business or profession carried on by an association of persons has been discontinued or where an association of persons is dissolved, the Income-tax Officer shall make an assessment of the total income of the association of persons as if no such discontinuance or dissolution had taken place, and all the provisions of this Act, including the provisions relating to the levy of a penalty or any other sum chargeable under any provision of this Act shall apply, so far as may be, to such assessment.

Association dissolved or business discontinued.

(2) Without prejudice to the generality of the foregoing sub-section, if the Income-tax Officer or the Appellate Assistant Commissioner in the course of any proceeding under this Act in respect of any such association of persons as is referred to in that sub-section is satisfied that the association of persons was guilty of any of the acts specified in Chapter XXI, he may impose or direct the imposition of a penalty in accordance with the provisions of that Chapter.

(3) Every person who was at the time of such discontinuance or dissolution a member of the association of persons, and the legal representative of any such person who is deceased, shall be jointly and severally liable for the amount of tax, penalty or other sum payable, and all the provisions of this Act, so far as may be, shall apply to any such assessment or imposition of penalty or other sum.

(4) Where such discontinuance or dissolution takes place after any proceedings in respect of an assessment year have commenced, the proceedings may be continued against the persons referred to in sub-section (3) from the stage at which the proceedings stood at the time of such discontinuance or dissolution, and all the provisions of this Act shall, so far as may be, apply accordingly.

(5) Nothing in this section shall affect the provisions of sub-section (6) of section 159.

178. (1) Every person—

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

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

(hereinafter referred to as the liquidator) shall, within thirty days after he has become such liquidator, give notice of his appointment as such to the Income-tax Officer who is entitled to assess the income of the company.

Company in liquidation.

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

(3) On being notified by the Income-tax Officer under sub-section (2), the liquidator shall set aside an amount equal to the amount so notified and until he so sets aside such amount, he shall not part with any of the assets of the company or the properties in his hands except for the purpose aforesaid or for making any payment to secured creditors whose debts are entitled under law to priority of payment over debts due to Government on the date of liquidation.

(4) The liquidator shall, if he has not set aside the amount notified under sub-section (2), be personally liable to the extent of that amount for the payment of the tax on behalf of the company.

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

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

*M.—Private company in liquidation*

Liability of directors of private company in liquidation. 179. Notwithstanding anything contained in the Companies Act, 1956, when any private company is wound up after the commencement of this Act, and any tax assessed on the company, whether before or in the course of or after its liquidation, in respect of any income of any previous year cannot be recovered, then, every person who was a director of the private company at any time during the relevant previous year shall be jointly and severally liable for the payment of such tax unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company. 1 of 1956.

*N.—Special provisions for certain kinds of income*

Royalties or copyright fees for literary or artistic work. 180. Where the time taken by the author of a literary or artistic work in the making thereof is more than twelve months, the amount received or receivable by him during any previous year on

account of any lump sum consideration for the assignment or grant of any of his interests in the copyright of that work or of royalties or copyright fees (whether receivable in lump sum or otherwise), in respect of that work, shall, if he so claims, be allocated for purposes of assessment in such manner and to such period as may be prescribed.

*Explanation.*—For the purposes of this section, the expression “author” includes a joint author, and the expression “lump sum”, in regard to royalties or copyright fees, includes an advance payment on account of such royalties or copyright fees which is not returnable.

#### O.—Liability of State Governments

181. Income-tax shall be payable by a State Government on the interest on any security issued by it tax free.

Interest on  
tax-free  
securities of  
a State  
Government.

### CHAPTER XVI

#### SPECIAL PROVISIONS APPLICABLE TO FIRMS

##### A.—Assessment of firms

182. (1) Notwithstanding anything contained in sections 143 and 144 and subject to the provisions of sub-section (3), in the case of a registered firm, after assessing the total income of the firm,—

Assessment  
of registered  
firms.

(i) the income-tax payable by the firm itself shall be determined; and

(ii) the share of each partner in the income of the firm shall be included in his total income and assessed to tax accordingly.

(2) If such share of any partner is a loss it shall be set off against his other income or carried forward and set off in accordance with the provisions of sections 70 to 75.

(3) When any of the partners of a registered firm is a non-resident, the tax on his share in the income of the firm shall be assessed

on the firm at the rate or rates which would be applicable if it were assessed on him personally, and the tax so assessed shall be paid by the firm.

(4) A registered firm may retain out of the share of each partner in the income of the firm a sum not exceeding thirty per cent. thereof until such time as the tax which may be levied on the partner in respect of that share is paid by him; and where the tax so levied cannot be recovered from the partner, whether wholly or in part, the firm shall be liable to pay the tax, to the extent of the amount retained or could have been so retained.

Assessment  
of unregis-  
tered firms.

183. In the case of an unregistered firm, the Income-tax Officer—

(a) may determine the tax payable by the firm itself on the basis of the total income of the firm; or

(b) if, in his opinion, the aggregate amount of the tax payable by the partners if the firm were treated as a registered firm would be greater than the aggregate amount of the tax which would be payable by the firm under clause (a) and the tax which would be payable by the partners individually, may proceed to make the assessment under clause (ii) of sub-section (1) of section 182 as if the firm were a registered firm; and where the procedure specified in this clause is applied to any unregistered firm, the provisions of sub-sections (2), (3) and (4) of section 182 shall apply thereto as they apply in the case of a registered firm.

#### B.—Registration of firms

Application  
for regis-  
tration.

184. (1) An application for registration of a firm for the purposes of this Act may be made to the Income-tax Officer on behalf of any firm if—

(i) the partnership is evidenced by an instrument; and

(ii) the individual shares of the partners are specified in that instrument.

(2) Such application may, subject to the provisions of this section, be made either during the existence of the firm or after its dissolution.

(3) The application shall be made to the Income-tax Officer having jurisdiction to assess the firm, and shall be signed—

(a) by all the partners (not being minors) personally; or

(b) in the case of a dissolved firm, by all persons (not being minors) who were partners in the firm immediately before its

dissolution and by the legal representative of any such partner who is deceased.

*Explanation.*—In the case of any partner who is absent from India or is a lunatic or an idiot, the application may be signed by any person duly authorised by him in this behalf, or, as the case may be, by a person entitled under law to represent him.

(4) The application shall be made before the end of the previous year for the assessment year in respect of which registration is sought:

Provided that the Income-tax Officer may entertain an application made after the end of the previous year, if he is satisfied that the firm was prevented by sufficient cause from making the application before the end of the previous year.

(5) The application shall be accompanied by the original instrument evidencing the partnership, together with a copy thereof:

Provided that if the Income-tax Officer is satisfied that for sufficient reason the original instrument cannot conveniently be produced, he may accept a copy of it certified in writing by all the partners (not being minors), or, where the application is made after the dissolution of the firm, by all the persons referred to in clause (b) of sub-section (3), to be a correct copy, or a certified copy of the instrument; and in such cases the application shall be accompanied by a duplicate copy of the original instrument.

(6) The application shall be made in the prescribed form and shall contain the prescribed particulars.

(7) Where registration is granted to any firm for any assessment year, it shall have effect for every subsequent assessment year:

Provided that—

(i) there is no change in the constitution of the firm or the shares of the partners as evidenced by the instrument of partnership on the basis of which the registration was granted; and

(ii) the firm furnishes, along with its return of income for the assessment year concerned, a declaration to that effect, in the prescribed form and verified in the prescribed manner.

(8) Where any such change has taken place in the previous year, the firm shall apply for fresh registration for the assessment year concerned in accordance with the provisions of this section.

185 (1) On receipt of an application for the registration of a firm, the Income-tax Officer shall inquire into the genuineness of receipt of application. Procedure on

the firm and its constitution as specified in the instrument of partnership, and—

(a) if he is satisfied that there is or was during the previous year in existence a genuine firm with the constitution so specified, he shall pass an order in writing registering the firm for the assessment year;

(b) if he is not so satisfied, he shall pass an order in writing refusing to register the firm.

(2) The Income-tax Officer shall not reject an application for registration merely on the ground that the application is not in order, but shall intimate the defect to the firm and give it an opportunity to rectify the defect in the application within a period of one month from the date of such intimation.

(3) If the defect is not rectified within such time, the Income-tax Officer may reject the application.

(4) Where a firm is registered for any assessment year, the Income-tax Officer shall record a certificate on the instrument of partnership or on the certified copy submitted in lieu of the original instrument, as the case may be, to the effect that the firm has been registered under this Act, for that assessment year; and where a declaration under sub-section (7) of section 184 is furnished by the firm, for the relevant subsequent assessment year.

(5) Notwithstanding anything contained in this section, where, in respect of any assessment year, there is, on the part of a firm, any such failure as is mentioned in section 144, the Income-tax Officer may refuse to register the firm for the assessment year.

Cancellation  
of registra-  
tion.

186. (1) If, where a firm has been registered, or its registration has effect under sub-section (7) of section 184 for an assessment year, the Income-tax Officer is of opinion that there was during the previous year no genuine firm in existence as registered, he may, after giving the firm a reasonable opportunity of being heard and with the previous approval of the Inspecting Assistant Commissioner, cancel the registration of the firm for that assessment year:

Provided that no such cancellation shall be made after the expiry of eight years from the end of the assessment year in respect of which registration has been granted or has effect.

(2) If, where a firm has been registered or its registration has effect under sub-section (7) of section 184 for any assessment year, there is, on the part of the firm, any such failure in respect of the assessment year as is mentioned in section 144, the Income-tax Officer may cancel the registration of the firm for the assessment year, after giving the firm not less than fourteen days' notice intimat-

ing his intention to cancel its registration and after giving it a reasonable opportunity of being heard.

(3) Where the registration of a firm is cancelled for any assessment year, the Income-tax Officer shall amend the assessments of the firm and its partners for that assessment year on the footing that the firm is an unregistered firm.

(4) The provisions of section 154 shall, so far as may be, apply to the amendments of the assessments of the firm and its partners under sub-section (3) of this section, the period of four years specified in sub-section (7) of that section being reckoned from the date of the order cancelling the registration.

*C.—Changes in constitution, succession and dissolution*

187. (1) Where at the time of making an assessment under section 143 or section 144 it is found that a change has occurred in the constitution of a firm, the assessment shall be made on the firm as constituted at the time of making the assessment: Change in constitution of a firm.

Provided that—

(i) the income of the previous year shall, for the purposes of inclusion in the total incomes of the partners, be apportioned between the partners who, in such previous year, were entitled to receive the same; and

(ii) when the tax assessed upon a partner cannot be recovered from him, it shall be recovered from the firm as constituted at the time of making the assessment.

(2) For the purposes of this section, there is a change in the constitution of the firm—

(a) if one or more of the partners cease to be partners or one or more new partners are admitted, in such circumstances that one or more of the persons who were partners of the firm before the change continue as partner or partners after the change; or

(b) where all the partners continue with a change in their respective shares or in the shares of some of them.

188. Where a firm carrying on a business or profession is succeeded by another firm, and the case is not one covered by section 187, separate assessments shall be made on the predecessor firm and the successor firm in accordance with the provisions of section 170. Succession of one firm by another firm.

189. (1) Where any business or profession carried on by a firm has been discontinued or where a firm is dissolved, the Income-tax Officer shall make an assessment of the total income of the firm Firm dissolved or business discontinued.

as if no such discontinuance or dissolution had taken place, and all the provisions of this Act, including the provisions relating to the levy of a penalty or any other sum chargeable under any provision of this Act, shall apply, so far as may be, to such assessment.

(2) Without prejudice to the generality of the foregoing subsection, if the Income-tax Officer or the Appellate Assistant Commissioner in the course of any proceeding under this Act in respect of any such firm as is referred to in that sub-section is satisfied that the firm was guilty of any of the acts specified in Chapter XXI he may impose or direct the imposition of a penalty in accordance with the provisions of that Chapter.

(3) Every person who was at the time of such discontinuance or dissolution a partner of the firm, and the legal representative of any such person who is deceased, shall be jointly and severally liable for the amount of tax, penalty or other sum payable, and all the provisions of this Act, so far as may be, shall apply to any such assessment or imposition of penalty or other sum.

(4) Where such discontinuance or dissolution takes place after any proceedings in respect of an assessment year have commenced, the proceedings may be continued against the persons referred to in sub-section (3) from the stage at which the proceedings stood at the time of such discontinuance or dissolution, and all the provisions of this Act shall, so far as may be, apply accordingly.

(5) Nothing in this section shall affect the provisions of sub-section (6) of section 159.

## CHAPTER XVII

### COLLECTION AND RECOVERY OF TAX

#### A.—General

**Deduction at source and advance payment.** 190. (1) Notwithstanding that the regular assessment in respect of any income is to be made in a later assessment year, the tax on such income shall be payable by deduction at source or by advance payment, as the case may be, in accordance with the provisions of this Chapter.

(2) Nothing in this section shall prejudice the charge of tax on such income under the provisions of sub-section (1) of section 4.

**Direct payment.** 191. (1) In the case of income in respect of which provision is not made under this Chapter for deducting income-tax at the time of payment, and in any case where income-tax has not been deducted in accordance with the provisions of this Chapter, income-tax shall be payable by the assessee direct.

(2) Save as provided in this Chapter, super-tax shall be payable by the assessee direct.

*B.—Deduction at source*

192. (1) Any person responsible for paying any income chargeable under the head "Salaries" shall, at the time of payment, deduct income-tax and super-tax on the amount payable at the average rate of income-tax and average rate of super-tax respectively computed on the basis of the rates of tax in force for the financial year in which the payment is made, on the estimated income of the assessee under this head for that financial year.

(2) Any person responsible for paying any income chargeable under the head "Salaries" to a non-resident, not being a citizen of India in receipt of salary from the Government for rendering service outside India, shall, at the time of payment, deduct tax at the rates in force on the estimated income of the assessee under this head for the financial year.

(3) The person responsible for making the payment referred to in sub-section (1) or sub-section (2) may, at the time of making any deduction, increase or reduce the amount to be deducted under this section for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct during the financial year.

(4) The trustees of a recognised provident fund, or any person authorised by the regulations of the fund to make payment of accumulated balances due to employees, shall, in cases where sub-rule (1) of rule 9 of Part A of the Fourth Schedule applies, at the time an accumulated balance due to an employee is paid, make therefrom the deduction provided in rule 10 of Part A of the Fourth Schedule.

(5) Where any contribution made by an employer, including interest on such contributions, if any, in an approved superannuation fund is paid to the employee, income-tax and super-tax on the amount so paid shall be deducted by the trustees of the fund to the extent provided in rule 6 of Part B of the Fourth Schedule.

(6) For the purposes of deduction of tax on salary payable in foreign currency, the value in rupees of such salary shall be calculated at the prescribed rate of exchange.

*Explanation.*—In sub-section (2), and in sections 193, 194, 195 and 197, the expression "rates in force" means the rate or rates specified for the purpose of deduction by the Finance Act of the year in which such deduction is required to be made.

193. The person responsible for paying any income chargeable under the head "Interest on securities" shall, at the time of payment, deduct income-tax and super-tax at the rates in force on the amount of the interest payable.

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 ↓ added by Act 54 of 1962, s. 4. (wef. 13.12.1962)

**Dividends.** 194. The principal officer of an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends (including dividends on preference shares) within India, shall, before making any payment in cash or before issuing any cheque or warrant in respect of any dividend or before making any distribution or payment to a shareholder, of any dividend within the meaning of sub-clause (a) or sub-clause (b) or sub-clause (c) or sub-clause (d) or sub-clause (e) of clause (22) of section 2, deduct from the amount of such dividend, income-tax and super-tax at the rates in force:

Provided that where in the case of any shareholder, not being a company, the Income-tax Officer gives a certificate in writing in the prescribed manner that to the best of his belief the total income or the total world income of the shareholder will be less than the minimum liable to income-tax, the person responsible for paying any dividend to the shareholder shall so long as the certificate is in force pay the dividend without any deduction.

**Other sums.** 195. (1) Any person responsible for paying to a non-resident, not being a company, or to a company which is neither an Indian company nor a company which has made the prescribed arrangements for the declaration and payment of dividends within India, any interest, not being "Interest on securities", or any other sum, not being dividends, chargeable under the provisions of this Act, shall, at the time of payment, unless he is himself liable to pay any income-tax and super-tax thereon as an agent, deduct income-tax and super-tax thereon at the rates in force:

Provided that nothing in this sub-section shall apply to any payment made in the course of transactions in respect of which a person responsible for the payment is deemed under the proviso to sub-section (1) of section 163 not to be an agent of the payee.

(2) Where the person responsible for paying any such sum chargeable under this Act (other than interest including interest on securities, dividend and salary) to a non-resident considers that the whole of such sum would not be income chargeable in the case of the recipient, he may make an application to the Income-tax Officer to determine, by general or special order, the appropriate proportion of such sum so chargeable, and upon such determination, tax shall be deducted under sub-section (1) only on that proportion of the sum which is so chargeable.

Interest or dividend payable to Government or the Reserve Bank.

196 Notwithstanding anything contained in sections 192 to 195, no deduction of tax shall be made on any interest or dividend payable to the Government or to the Reserve Bank of India in respect of any securities or shares owned by it or in which it has full beneficial interest.

197. (1) Where, in the case of any income of any person other than a company—

Certificate  
for deduc-  
tion at lower  
rate.

(a) income-tax or super-tax is required to be deducted at the time of payment at the rates in force under the provisions of sections 192, 193 and 195,

(b) being a non-resident, super-tax is required to be deducted at the time of payment at the rates in force under the provisions of section 194,

the Income-tax Officer is satisfied that the total income or the total world income of the recipient justifies the deduction of income-tax or super-tax at any lower rates or no deduction of income-tax or super-tax, as the case may be, the Income-tax Officer shall, on an application made by the assessee in this behalf, give to him such certificate as may be appropriate.

(2) Where any such certificate is given, the person responsible for paying the income shall, until such certificate is cancelled by the Income-tax Officer, deduct income-tax and super-tax at the rates specified in such certificate or deduct no tax, as the case may be.

(3) Where the principal officer of a company considers that, by reason of the provisions of sections 84 and 101, no tax will be payable by the recipient on the whole or any portion of the dividend referred to in section 85 and sub-section (2) of section 101, he may, before paying the dividend to the shareholder or issuing any cheque or warrant in respect thereof, make an application to the Income-tax Officer to determine the appropriate proportion of the dividend on which tax is not payable by the recipient under the provisions of sections 85 and 101; and on such determination by the Income-tax Officer no tax shall be deducted on such proportionate amount.

198. All sums deducted in accordance with the provisions of sections 192 to 195 shall, for the purpose of computing the income of an assessee, be deemed to be income received.

Tax deduc-  
ted is income  
received.

199. Any deduction made in accordance with the provisions of sections 192 to 195 and paid to the Central Government shall be treated as a payment of income-tax or super-tax, as the case may be, on behalf of the person from whose income the deduction was made, or of the owner of the security or of the shareholder, as the case may be, and credit shall be given to him for the amount so deducted on the production of the certificate furnished under section 203 in the assessment, if any, made for the immediately following assessment year under this Act:

Credit for  
tax deducted.

Provided that where such person or owner or shareholder is a person whose income is included under the provisions of section 60, section 61, section 64, section 93 or section 94 in the total income

of another person, the payment shall be deemed to have been made on behalf of, and the credit shall be given to, such other person:

Provided further that where any security or share in a company is owned jointly by two or more persons not constituting a partnership, credit in respect of the tax deducted may be given to each such person in the same proportion in which the interest on such security or dividend on such share has been included in his total income.

Duty of person deducting tax.

200. Any person deducting any sum in accordance with the provisions of sections 192 to 195 shall pay within the prescribed time, the sum so deducted to the credit of the Central Government or as the Board directs.

Consequences of failure to deduct or pay.

201. (1) If any such person and in the cases referred to in section 194, the principal officer and the company of which he is the principal officer does not deduct or after deducting fails to pay the tax as required by or under this Act, he or it shall, without prejudice to any other consequences which he or it may incur, be deemed to be an assessee in default in respect of the tax:

Provided that no penalty shall be charged under section 221 from such person, principal officer or company unless the Income-tax officer is satisfied that such person or principal officer or company, as the case may be, has wilfully failed to deduct and pay the tax.

(2) Where the tax has not been paid as aforesaid after it is deducted, it shall be a charge upon all the assets of the person, or the company, as the case may be, referred to in sub-section (1).

Deduction only one mode of recovery.

202. The power to levy tax by deduction under sections 192 to 195 shall be without prejudice to any other mode of recovery.

Certificate for tax deducted.

203. Every person deducting income-tax or super-tax in accordance with the provisions of sections 192 to 195 shall, at the time of payment of the sum, or, as the case may be, at the time of issue of a cheque or warrant for payment of any dividend to a shareholder, furnish to the person to whom such payment is made, or the cheque or warrant is issued, a certificate to the effect that income-tax or super-tax has been deducted, and specifying the amount so deducted, the rate at which the tax has been deducted and such other particulars as may be prescribed.

Meaning of Persons responsible for paying.

204. For the purposes of sections 192 to 203 and section 285, the expression "person responsible for paying" means—

(i) in the case of payments of income chargeable under the head "Salaries", other than payments by the Central Govern-

ment or the Government of a State, the employer himself or, if the employer is a company, the company itself, including the principal officer thereof;

(ii) in the case of payments of income chargeable under the head "Interest on securities", other than payments made by or on behalf of the Central Government or the Government of a State, the local authority, corporation or company, including the principal officer thereof;

(iii) in the case of payments of any other sum chargeable under the provisions of this Act, the payer himself, or, if the payer is a company, the company itself including the principal officer thereof.

205. Where tax is deductible at the source under sections 192 to 195 the assessee shall not be called upon to pay the tax himself to the extent to which tax has been deducted from that income. Bar against direct demand on assessee.

206. (1) The prescribed person in the case of every office of the Government, the principal officer in the case of every company, the prescribed person in the case of every local authority or other public body or association, and every private employer shall prepare, and within thirty days from the 31st day of March in each year, deliver or cause to be delivered to the Income-tax Officer in the prescribed form and verified in the prescribed manner, a return in writing showing— Person paying salary to furnish prescribed return.

(a) the name and, so far as it is known, the address of every person who was receiving on the 31st day of March, or has received or to whom was due during the year ending on that date, from the Government, company, authority, body, association or private employer, as the case may be, any income chargeable under the head "Salaries" of such amount as may be prescribed;

(b) the amount of the income so received by or so due to each such person, and the time or times at which the same was paid or due, as the case may be;

(c) the amount deducted in respect of income-tax and super-tax from the income of each such person.

(2) Where an employer deducts from the emoluments paid to an employee or pays on his behalf any contributions of that employee to an approved superannuation fund, he shall include all such deductions or payments in the return which he is required to furnish under this section.

## C.—Advance payment of tax

Advance tax  
and income  
subject to  
advance tax.

207. (1) Tax shall be payable in advance in accordance with the provisions of sections 208 to 219 in the case of income other than income chargeable under the head "Capital gains".

(2) Such income is hereinafter in this Chapter referred to as "income subject to advance tax", and such tax is hereinafter in this Chapter referred to as "advance tax".

Condition of  
liability to  
pay advance  
tax.

208. Advance tax shall be payable in the financial year—

(a) where the total income exclusive of capital gains of the assessee referred to in sub-clause (i) of clause (a) of section 209 exceeded the maximum amount not chargeable to income-tax in his case by two thousand five hundred rupees; or

(b) where it is payable by virtue of the provisions of sub-section (3) of section 212.

Computation  
of advance  
tax.

209. The amount of advance tax payable by an assessee in the financial year shall be computed as follows:—

(a) (i) his total income of the latest previous year in respect of which he has been assessed by way of regular assessment shall first be ascertained;

(ii) the amount of capital gains, if any, included in such total income shall be deducted therefrom, and on the balance, income-tax and super-tax shall be calculated at the rates in force in the financial year;

(iii) the income-tax and super-tax so calculated shall be reduced by the amount of income-tax and super-tax which would be deductible during the said financial year in accordance with the provisions of sections 192 to 195 on any income, included in the said total income;

(iv) the net amount of income-tax and super-tax calculated in accordance with sub-clause (iii) shall, subject to the provisions of clauses (b) and (c), be the advance tax payable;

(b) in cases where under the provisions of section 113, the tax payable by the assessee is to be determined with reference to his total world income, the advance tax payable by him shall be calculated in the manner laid down in that section;

(c) in cases where an estimate is sent by the assessee under sub-section (1) or sub-section (2) or sub-section (3) of section 212, the total income so estimated shall, for the purposes of calculation of tax under this section, be substituted for the total income referred to in clause (a).

4 Am. by Act 13 of 1963, s. 11 (w.e.f. 1.4.1963)

*Explanation.*—If the assessee is a partner of a registered firm and an assessment of the firm has been completed for a previous year later than the latest previous year for which the assessee's assessment has been completed, his share in the income of the firm shall, for the purposes of clauses (a) and (b), be included in his total income on the basis of the said assessment of the firm.

11 of 1922. 210. (1) Where a person has been previously assessed by way of regular assessment under this Act or under the Indian Income-tax Act, 1922, the Income-tax Officer may, on or after the 1st day of April in the financial year, by order in writing, require him to pay to the credit of the Central Government advance tax determined in accordance with the provisions of sections 207, 208 and 209. Order by  
Income-tax  
Officer.

(2) The notice of demand issued under section 156 in pursuance of such order shall specify the instalments in which the advance tax is payable under section 211.

~~(3) If, after the making of an order by the Income-tax Officer under this section and before the 15th day of February of the financial year, an assessment of the assessee (or of the registered firm of which he is a partner) is completed in respect of a previous year later than that referred to in the order of the Income-tax Officer, the Income-tax Officer may make an amended order requiring the assessee to pay in one instalment on the specified date, or in equal instalments on the specified dates if more than one, falling after the date of the amended order, the advance tax computed on the revised basis as reduced by the amount, if any, paid in accordance with the original order:~~

~~Provided that in every case where an assessment of the assessee (or of the registered firm of which he is a partner) is completed in respect of a previous year later than that referred to in the order of the Income-tax Officer and the advance tax payable on the basis of such assessment is less than the advance tax determined as payable in accordance with the original order under sub-section (1), the Income-tax Officer shall make an amended order determining the advance tax on the revised basis and refund the amount already paid, if any, in excess of the advance tax so determined.~~

211. (1) Subject to the provisions of this section and of section 212, advance tax shall be payable in equal instalments on the 1st day of June, 1st day of September, 1st day of December and 1st day of March in the financial year: Instalments  
of advance  
tax.

Provided that, where the previous year of the assessee in respect of any source of income ends after the 31st day of December and before the 30th day of April, the advance tax on that source of

4. Subs. by Act 13 of 1963, 2-12 (w.e.f. 1.4.1963)

income shall, subject as aforesaid, be payable in three equal instalments on the 1st day of September, the 1st day of December and the 15th day of March, respectively.

(2) If the notice of demand issued under section 156 in pursuance of the order under section 210 is served after any of the dates on which the instalments specified therein are payable, the advance tax shall be payable in equal instalments on each of such of those dates as fall after the date of the service of the notice of demand, or in one sum on the 1st day of March if the notice is served after the 1st day of December.

Estimate by  
assessee.

212. (1) If any assessee, who is required to pay advance tax by an order under section 210, estimates at any time before the last instalment is due that his income subject to advance tax for the period which would be the previous year for the immediately following assessment year, is less than the income on which he is required to pay such tax, and accordingly wishes to pay an amount less than the amount which he is so required to pay, he may send to the Income-tax Officer—

(i) an estimate of the total income exclusive of capital gains for that period;

(ii) an estimate of the advance tax payable by him calculated in the manner laid down in section 209;

and shall pay such amount as accords with his estimate in equal instalments on such of the dates specified in section 211 as have not expired, or in one sum if only the last of such dates has not expired.

(2) The assessee may send a revised estimate of the advance tax payable by him before any one of the dates specified in section 211 and adjust any excess or deficiency in respect of any instalment already paid in a subsequent instalment or in subsequent instalments.

(3) Any person who has not previously been assessed by way of regular assessment under this Act or under the Indian Income-tax Act, 1922, shall, before the 1st day of March in each financial year, if his total income exclusive of capital gains of the period which would be the previous year for the immediately following assessment year is likely to exceed the maximum amount not chargeable to income-tax in his case by two thousand five hundred rupees, send to the Income-tax Officer—

11 of 1922.

(i) an estimate of the total income exclusive of capital gains of the said previous year;

(ii) an estimate of the advance tax payable by him calculated in the manner laid down in section 209;

and shall pay such amount as accords with his estimate, on such of the dates specified in section 211 as have not expired, by instalments which may be revised according to sub-section (2).

(4) Every estimate under this section shall be sent in the prescribed form and verified in the prescribed manner.

213. Where part of the income subject to advance tax consists of any income of the nature of commission which is receivable periodically and is not received or adjusted by the payer in the assessee's account before any of the quarterly instalments of advance tax become due, he may defer payment of advance tax on that part of his income to the date on which such income would be normally received or adjusted, and, if he does so, he shall communicate to the Income-tax Officer the date to which such payment is deferred: Commission receipts.

Provided that, if the advance tax of which the payment is deferred is not paid within fifteen days of the date on which such income or part thereof is received or adjusted by the payer in the assessee's account, the advance tax shall be payable with four per cent. simple interest per annum from the date of such receipt or adjustment to the date of payment of the advance tax.

214. (1) The Central Government shall pay simple interest at four per cent. per annum on the amount by which the aggregate sum of any instalments of advance tax paid during any financial year in which they are payable under sections 207 to 213 exceeds the amount of the tax determined on regular assessment, from the 1st day of April next following the said financial year to the date of the regular assessment for the assessment year immediately following the said financial year, and where any such instalment is paid after the expiry of the financial year during which it is payable by reason of the provisions of section 213, interest as aforesaid shall also be payable on that instalment from the date of its payment to the date of regular assessment. Interest payable by Government.

(2) On any portion of such amount which is refunded under this Chapter, interest shall be payable only up to the date on which the refund was made.

215. (1) Where in any financial year an assessee has paid advance tax under section 212 on the basis of his own estimate, and the advance tax so paid is less than seventy-five per cent. of the tax determined on the basis of the regular assessment (reduced by the amount of tax deductible in accordance with the provisions of sections 192 to 195) so far as such tax relates to income subject to advance tax and so far as it is not due to variations in the rates of tax Interest payable by assessee.

made by the Finance Act enacted for the year for which the regular assessment is made, simple interest at the rate of four per cent. per annum from the 1st day of April next following the said financial year up to the date of the said regular assessment shall be payable by the assessee upon the amount by which the advance tax so paid falls short of the said seventy-five per cent.

~~(2) Where provisional assessment is made under section 141—~~

~~(i) interest shall be calculated in accordance with the foregoing provision up to the date on which the tax as provisionally assessed is paid, and~~

~~(ii) thereafter interest shall be calculated at the rate aforesaid on the amount by which the tax as so assessed (in so far as it relates to income subject to advance tax) falls short of the said seventy-five per cent.~~

(3) Where as a result of an order under section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 264, the amount on which interest was payable under this section has been reduced, the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded.

(4) In such cases and under such circumstances as may be prescribed, the Income-tax Officer may reduce or waive the interest payable by the assessee under this section.

Interest payable by assessee in case of under-estimate, etc.

216. Where, on making the regular assessment, the Income-tax Officer finds that any assessee has—

(a) under sub-section (1) or sub-section (2) or sub-section (3) of section 212 under-estimated the advance tax payable by him and thereby reduced the amount payable in any of the first three instalments; or

(b) under section 213 wrongly deferred the payment of advance tax on a part of his income;

he may direct that the assessee shall pay simple interest at four per cent per annum—

(i) in the case referred to in clause (a), for the period during which the payment was deficient, on the difference between the amount paid in each such instalment and the amount which should have been paid, having regard to the aggregate advance tax actually paid during the year; and

(ii) in the case referred to in clause (b), for the period during which the payment of advance tax was so deferred.

*Explanation.*—For the purposes of this section, any instalment due before the expiry of six months from the commencement of the previous year in respect of which it is to be paid shall be deemed

↓ Inl. by Act 13 of 1963, s. 13 (wef. 1.4.1963)

to have become due fifteen days after the expiry of the said six months.

217. (1) Where, on making the regular assessment, the Income-tax Officer finds that any such person as is referred to in sub-section (3) of section 212 has not sent the estimate referred to therein, simple interest at the rate of four per cent. per annum from the first day of April next following the financial year in which the advance tax was payable in accordance with the said provisions up to the date of the regular assessment shall be payable by the assessee upon the amount equal to the seventy-five per cent. referred to in sub-section (1) of section 215.

Interest payable by assessee when no estimate made.

(2) The provisions of sub-sections (2), (3) and (4) of section 215 shall apply to interest payable under this section as they apply to interest payable under that section.

218. (1) If any assessee does not pay on the specified date any instalment of advance tax that he is required to pay under section 210 and does not, before the date on which any such instalment as is not paid becomes due, send under sub-section (1) or sub-section (2) of section 212 an estimate or a revised estimate of the advance tax payable by him, he shall be deemed to be an assessee in default in respect of such instalment or instalments.

When assessee deemed to be in default.

(2) If any assessee has sent under sub-section (1) or sub-section (2) or sub-section (3) of section 212 an estimate or a revised estimate of the advance tax payable by him, but does not pay any instalment in accordance therewith on the date or dates specified in section 211, he shall be deemed to be an assessee in default in respect of such instalment or instalments:

Provided that the assessee shall not, under sub-section (1) or this sub-section, be deemed to be in default in respect of any amount of which the payment is deferred under section 213 until after the date communicated by him to the Income-tax Officer under that section.

219. Any sum, other than a penalty or interest, paid by or recovered from an assessee as advance tax in pursuance of this Chapter shall be treated as a payment of tax in respect of the income of the period which would be the previous year for an assessment for the assessment year next following the financial year in which it was payable, and credit therefor shall be given to the assessee in the regular assessment.

Credit for advance tax.

## D.—Collection and recovery

When tax payable and when assessee deemed in default.

220. (1) Any amount, otherwise than by way of advance tax, specified as payable in a notice of demand under section 156 shall be paid within thirty-five days of the service of the notice at the place and to the person mentioned in the notice:

Provided that, where the Income-tax Officer has any reason to believe that it will be detrimental to revenue if the full period of thirty-five days aforesaid is allowed, he may, with the previous approval of the Inspecting Assistant Commissioner, direct that the sum specified in the notice of demand shall be paid within such period being a period less than the period of thirty-five days aforesaid, as may be specified by him in the notice of demand.

(2) If the amount specified in any notice of demand under section 156 is not paid within the period limited under sub-section (1), the assessee shall be liable to pay simple interest at four per cent. per annum from the day commencing after the end of the period mentioned in sub-section (1).

(3) Without prejudice to the provisions contained in sub-section (2), on an application made by the assessee before the expiry of the due date under sub-section (1), the Income-tax Officer may extend the time for payment or allow payment by instalments, subject to such conditions as he may think fit to impose in the circumstances of the case.

(4) If the amount is not paid within the time limited under sub-section (1) or extended under sub-section (3), as the case may be, at the place and to the person mentioned in the said notice the assessee shall be deemed to be in default.

(5) If, in a case where payment by instalments is allowed under sub-section (3), the assessee commits default in paying any one of the instalments within the time fixed under that sub-section, the assessee shall be deemed to be in default as to the whole of the amount then outstanding, and the other instalment or instalments shall be deemed to have been due on the same date as the instalment actually in default.

(6) Where an assessee has presented an appeal under section 246 the Income-tax Officer may, in his discretion, and subject to such conditions as he may think fit to impose in the circumstances of the case, treat the assessee as not being in default in respect of the amount in dispute in the appeal, even though the time for payment has expired, as long as such appeal remains undisposed of.

(7) Where an assessee has been assessed in respect of income arising outside India in a country the laws of which prohibit or res-

strict the remittance of money to India, the Income-tax Officer shall not treat the assessee as in default in respect of that part of the tax which is due in respect of that amount of his income which, by reason of such prohibition or restriction, cannot be brought into India, and shall continue to treat the assessee as not in default in respect of such part of the tax until the prohibition or restriction is removed.

*Explanation.*—For the purposes of this section, income shall be deemed to have been brought into India if it has been utilised or could have been utilised for the purposes of any expenditure actually incurred by the assessee outside India or if the income, whether capitalised or not, has been brought into India in any form.

221. (1) When an assessee is in default or is deemed to be in default in making a payment of tax, he shall, in addition to the amount of the arrears and the amount of interest payable under sub-section (2) of section 220, be liable to pay by way of penalty, an amount which, in the case of a continuing default, may be increased from time to time, so, however, that the total amount of penalty does not exceed the amount of tax in arrears:

Penalty payable when tax in default.

Provided that before levying any such penalty the assessee shall be given a reasonable opportunity of being heard.

(2) Where as a result of any final order the amount of tax, with respect to the default in the payment of which the penalty was levied, has been wholly reduced, the penalty levied shall be cancelled and the amount of penalty paid shall be refunded.

222. (1) When an assessee is in default or is deemed to be in default in making a payment of tax, the Income-tax Officer may forward to the Tax Recovery Officer a certificate under his signature specifying the amount of arrears due from the assessee, and the Tax Recovery Officer on receipt of such certificate, shall proceed to recover from such assessee the amount specified therein by one or more of the modes mentioned below, in accordance with the rules laid down in the Second Schedule—

Certificate to Tax Recovery Officer.

- (a) attachment and sale of the assessee's movable property;
- (b) attachment and sale of the assessee's immovable property;
- (c) arrest of the assessee and his detention in prison;
- (d) appointing a receiver for the management of the assessee's movable and immovable properties.

(2) The Income-tax Officer may issue a certificate under sub-section (1), notwithstanding that proceedings for recovery of the arrears by any other mode have been taken.

Tax Recovery Officer to whom certificate is to be issued.

223. (1) The Income-tax Officer may forward the certificate referred to in section 222 to—

(a) the Tax Recovery Officer within whose jurisdiction the assessee carries on his business or profession or within whose jurisdiction the principal place of his business or profession is situate; or

(b) the Tax Recovery Officer within whose jurisdiction the assessee resides or any movable or immovable property of the assessee is situate.

None

(2) If the Tax Recovery Officer to whom a certificate is sent by an Income-tax Officer is not able to recover the entire amount by the sale of the property, movable and immovable, but has information that the assessee has property ~~in a district~~ within the jurisdiction of another Tax Recovery Officer, he may send the certificate to such other Tax Recovery Officer or to a Tax Recovery Officer within whose jurisdiction the assessee resides, and thereupon that Tax Recovery Officer shall proceed to recover the amount under this Chapter as if the certificate was sent to him by the Income-tax Officer.

Validity of certificate, and amendment thereof.

224. (1) When the Income-tax Officer sends a certificate to a Tax Recovery Officer under section 222, it shall not be open to the assessee to dispute before the Tax Recovery Officer the correctness of the assessment, and no objection to the certificate on any ground shall be entertained by the Tax Recovery Officer.

(2) Notwithstanding the issue of a certificate to a Tax Recovery Officer, the Income-tax Officer shall have power to withdraw or correct any clerical or arithmetical mistake in the certificate by sending an intimation to the Tax Recovery Officer.

(3) The Income-tax Officer shall intimate to the Tax Recovery Officer any orders withdrawing or cancelling a certificate or any correction made by him under sub-section (2) of this section or any amendment made under sub-section (4) of section 225.

Stay of proceedings under certificate and amendment or withdrawal thereof.

225. (1) Notwithstanding that a certificate has been issued to the Tax Recovery Officer for the recovery of any tax, the Income-tax Officer may grant time for the payment of the tax, and thereupon the Tax Recovery Officer shall stay the proceedings until the expiry of the time so granted.

(2) Where a certificate for the recovery of tax has been issued, the Income-tax Officer shall keep the Tax Recovery Officer inform-

*↳ Omitted by Act 13 of 1963, s. 15 (Retrospectively)*

ed of any tax paid or time granted for payment, subsequent to the issue of such certificate.

(3) Where the order giving rise to a demand of tax for which a certificate for recovery has been issued has been modified in appeal or other proceeding under this Act, and, as a consequence thereof, the demand is reduced but the order is the subject-matter of further proceeding under this Act, the Income-tax 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 tax 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 Income-tax 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.

226. (1) Notwithstanding the issue of a certificate to the Tax Recovery Officer under section 222, the Income-tax Officer may recover the tax by any one or more of the modes provided in this section. Other modes  
of recovery.

(2) If any assessee is in receipt of any income chargeable under the head "Salaries", the Income-tax Officer may require any person paying the same to deduct from any payment subsequent to the date of such requisition any arrears of tax due from such assessee, and such person shall comply with any such requisition and shall pay the sum so deducted to the credit of the Central Government or as the Board directs:

5 of 1908.

Provided that any part of the salary exempt from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908, shall be exempt from any requisition made under this sub-section.

(3) (i) The Income-tax Officer 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 assessee or any person who holds or may subsequently hold money for or on account of the assessee, to pay to the Income-tax Officer 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 by the assessee 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 assessee 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 assessee at his last address known to the Income-tax Officer, and in the case of a joint account to all the joint-holders at their last addresses known to the Income-tax Officer.

(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, banking company 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 assessee or that he does not hold any money for or on account of the assessee, 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 Income-tax Officer to the extent of his own liability to the assessee on the date of the notice, or to the extent of the assessee's liability for any sum due under this Act, whichever is less.

(vii) The Income-tax Officer may, at any time or from time to time, amend or revoke any notice issued under this sub-section or extend the time for making any payment in pursuance of such notice.

(viii) The Income-tax Officer 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 assessee to the extent of the amount so paid.

(ix) Any person discharging any liability to the assessee after receipt of a notice under this sub-section shall be personally liable to the Income-tax Officer to the extent of his own liability to the assessee so discharged or to the extent of the assessee'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 Income-tax Officer, he shall be deemed to be an assessee 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 of tax due from him, in the manner provided in sections 222 to 225 and the notice shall have the same effect as an attachment of a debt by the Tax Recovery Officer in exercise of his powers under section 222.

(4) The Income-tax Officer may apply to the court in whose custody there is money belonging to the assessee for payment to him or the entire amount of such money, or, if it is more than the tax due, an amount sufficient to discharge the tax.

(5) The Income-tax Officer may, if so authorised by the Commissioner, proceed to recover the tax by distraint and sale of the movable property of the assessee in the manner laid down in the Third Schedule.

227. If the recovery of tax in any area has been entrusted to a State Government under clause (1) of article 258 of the Constitution, the State Government may direct, with respect to that area or any part thereof, that tax shall be recovered therein with, and as an addition to, any municipal tax or local rate, by the same person and in the same manner as the municipal tax or local rate is recovered.

Recovery through State Government.

228. (1) The Income-tax Officer may forward a certificate under section 222 to a Collector in Pakistan through the Central Board of Revenue of Pakistan, if the assessee has property in the district of that Collector, and for the purposes of that section, the expression "Tax Recovery Officer" shall include a Collector in Pakistan.

Recovery of Indian tax in Pakistan and Pakistan tax in India.

(2) Where a Collector in India receives through the Board a certificate under the signature of an Income-tax Officer in Pakistan, the Collector shall proceed to recover the amount specified therein in the manner in which he would proceed to recover the amount specified in a certificate received from an Income-tax Officer in India, and shall remit any sum so recovered by him to the Income-tax Officer in Pakistan, after deducting his expenses in connection with the recovery proceedings.

(3) The provisions of this section shall remain in force only so long as there are in force similar provisions in the law of Pakistan for the recovery of tax by a Collector in Pakistan on receipt of a certificate from an Income-tax Officer in India.

Recovery of penalties, fine, interest and other sums.

229. Any sum imposed by way of interest, fine, penalty, or any other sum payable under the provisions of this Act, shall be recoverable in the manner provided in this Chapter for the recovery of arrears of tax.

Tax Clearance Certificates.

230. (1) Subject to such exceptions as the Central Government may, by notification in the Official Gazette, specify in this behalf, no person who is not domiciled in India, or who, even if domiciled in India at the time of his departure, has, in the opinion of an Income-tax authority, no intention of returning to India, shall leave the territory of India by land, sea or air unless he first obtains from such authority as may be appointed by the Central Government in this behalf (hereinafter in this section referred to as the "competent authority") a certificate stating that he has no liabilities under this Act, the Excess Profits Tax Act, 1940, the Business Profits Tax Act, 1947, the Indian Income-tax Act, 1922, the Wealth Tax Act, 1957, the Expenditure Tax Act, 1957 or the Gift Tax Act, 1958, or that satisfactory arrangements have been made for the payment of all or any of such taxes which are or may become payable by that person:

15 of 1940.  
21 of 1947.  
11 of 1922.  
27 of 1957.  
29 of 1957.  
18 of 1958.

Provided that in the case of a person not domiciled in India the competent authority may, if it is satisfied that such person intends to return to India, issue an exemption certificate either in respect of a single journey or in respect of all journeys to be undertaken by that person within such period as may be specified in the certificate.

(2) If the owner or charterer of any ship or aircraft carrying persons from any place in the territory of India to any place outside India allows any person to whom sub-section (1) applies to travel by such ship or aircraft without first satisfying himself that such person is in possession of a certificate as required by that sub-section, he shall be personally liable to pay the whole or any part of the amount of tax, if any, payable by such person as the Income-tax Officer may, having regard to the circumstances of the case, determine.

(3) In respect of any sum payable by the owner or charterer of any ship or aircraft under sub-section (2), the owner or charterer, as the case may be, shall be deemed to be an assessee in default for such sum, and such sum shall be recoverable from him in the manner provided in this Chapter as if it were an arrear of tax.

(4) The Board may make rules for regulating any matter necessary for, or incidental to, the purpose of carrying out the provisions of this section.

*Explanation.*—For the purposes of this section, the expressions “owner” and “charterer” include any representative, agent or employee empowered by the owner or charterer to allow persons to travel by the ship or aircraft.

231. Save in accordance with the provisions of section 173 or sub-section (7) of section 220, no proceedings for the recovery of any sum payable under this Act shall be commenced after the expiration of one year from the last day of the financial year in which the demand is made, or, in the case of a person who is deemed to be an assessee in default under any provision of this Act, after the expiration of one year from the last day of the financial year in which the assessee is deemed to be in default.

Period for commencing recovery proceedings.

*Explanation 1.*—The period of one year referred to above shall be reckoned—

(i) where an assessee has been treated as not being in default under sub-section (6) of section 220, as long as his appeal is undisposed of, from the last day of the financial year in which the appeal is disposed of;

(ii) where recovery proceedings in any case have been stayed by any order of a court, from the last day of the financial year in which the order is withdrawn;

(iii) where the date of payment of tax has been extended by an Income-tax authority to another date, from the last day of the financial year in which such other date falls;

(iv) where the sum payable is allowed to be paid by instalments, from the last day of the financial year in which the last of such instalments is due.

*Explanation 2.*—A proceeding for the recovery of any sum shall be deemed to have commenced within the meaning of this section, if some action is taken to recover the whole or any part of the sum within the period hereinbefore referred to.

232. The several modes of recovery specified in this Chapter shall not affect in any way—

(a) any other law for the time being in force relating to the recovery of debts due to Government; or

(b) the right of the Government to institute a suit for the recovery of the arrears due from the assessee;

Recovery by suit or under other law not affected.

and it shall be lawful for the Income-tax Officer or the Government, as the case may be, to have recourse to any such law or suit, notwithstanding that the tax due is being recovered from the assessee by any mode specified in this Chapter.

## E.—Tax payable under provisional assessment

Recovery of tax payable under provisional assessment.

233. For the removal of doubts, it is hereby declared that the provisions of section 220, except sub-section (6) thereof, and sections 221 to 229 apply in relation to any tax payable in pursuance of a provisional assessment made under section 141 as if it were a regular [assessment made under section 143 or ~~144~~. Section 144]!

Tax paid by deduction or advance payment.

234. Tax paid or deemed to have been paid under the provisions of Chapter XVII-B or Chapter XVII-C in respect of any income provisionally assessed under section 141 shall be deemed to have been paid towards the provisional assessment.

## CHAPTER XVIII

## RELIEF RESPECTING TAX ON DIVIDENDS IN CERTAIN CASES

Relief to shareholders in respect of agricultural income-tax attributable to dividends.

235. Where a company pays to a shareholder any dividend out of its profits and gains which is assessed to agricultural income-tax by any State Government, the shareholder shall be entitled to a reduction from the tax payable by him under this Act, of a sum equal to—

(a) that proportion of the agricultural income-tax (including super-tax, if any) paid by the company as the amount of the dividend attributable to the profits of the company assessed to agricultural income-tax bears to its total profits assessed to agricultural income-tax, reduced by the amount of refund, if any, allowed to him by the State Government; or

(b) where the shareholder—

(i) is not a company, the amount of income-tax (but not super-tax) payable by him under this Act, and

(ii) is a company, twenty per cent.,

on that portion of the dividend which is attributable to the profits of the company assessed to agricultural income-tax;

whichever is less.

Relief to company in respect of dividend paid out of past taxed profits.

236. (1) Where in respect of any previous year relevant to the assessment year commencing after the 31st day of March, 1960, an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends within India, pays any dividend wholly or partly out of its profits and gains actually charged to income-tax for any assessment year ending before the 1st day of April, 1960, and deducts tax therefrom in accordance with the provisions of Chapter XVII-B, credit shall be given to the company against the income-tax, if any, payable by it on the profits and gains of the previous year during which the dividend is paid, of a sum calculated in accordance with the provisions

↳ Sulu. by Act 13 of 1963. 8-16 (wef 28.4.1963)

of sub-section (2), and, where the amount of credit so calculated exceeds the income-tax payable by the company as aforesaid, the excess shall be refunded.

(2) The amount of income-tax to be given as credit under sub-section (1) shall be a sum equal to ten per cent. of so much of the dividends referred to in sub-section (1) as are paid out of the profits and gains actually charged to income-tax for any assessment year ending before the 1st day of April, 1960.

*Explanation 1.*—For the purposes of this section, the aggregate of the dividends declared by a company in respect of any previous year shall be deemed first to have come out of the distributable income of that previous year and the balance, if any, out of the undistributed part of the distributable income of one or more previous years immediately preceding that previous year as would be just sufficient to cover the amount of such balance and as has not likewise been taken into account for covering such balance of any other previous year.

*Explanation 2.*—The expression “distributable income of any previous year” shall mean the total income assessed for that year as reduced by—

(i) the amount of tax payable by the company in respect of the said total income;

(ii) the amount of any other tax levied under any law for the time being in force on the company by the Government or by a local authority in excess of the amount, if any, which has been allowed in computing the total income;

(iii) the amount paid to any charitable institution or fund to the extent to which it is exempt from tax under sections 88 and 100; and

(iv) in the case of a banking company, the amount actually transferred to a reserve fund under section 17 of the Banking Companies Act, 1949,

10 of 1949.

and as increased by—

(a) any profits and gains or receipts of the company, not included in its total income; and

(b) any amount attributable to any allowance made in computing the profits and gains of the company for purposes of assessment, which the company has not taken into account in its profit and loss account.

## CHAPTER XIX

## REFUNDS

## Refunds.

237. If any person satisfies the Income-tax Officer that the amount of tax paid by him or on his behalf or treated as paid by him or on his behalf for any assessment year exceeds the amount with which he is properly chargeable under this Act for that year, he shall be entitled to a refund of the excess.

Person entitled to claim refund in certain special cases.

238. (1) Where the income of one person is included under any provision of this Act in the total income of any other person, the latter alone shall be entitled to a refund under this Chapter in respect of such income.

(2) Where through death, incapacity, insolvency, liquidation or other cause, a person is unable to claim or receive any refund due to him, his legal representative or the trustee or guardian or receiver, as the case may be, shall be entitled to claim or receive such refund for the benefit of such person or his estate.

Form of claim for refund and limitation.

239. (1) Every claim for refund under this Chapter shall be made in the prescribed form and verified in the prescribed manner.

(2) No such claim shall be allowed, unless it is made within four years from the last day of the assessment year in which the income in respect of which the claim is made was assessable.

Refund on appeal, etc.

240. Where, as a result of any order passed in appeal or other proceeding under this Act, refund of any amount becomes due to the assessee, the Income-tax Officer shall, except as otherwise provided in this Act, refund the amount to the assessee without his having to make any claim in that behalf.

Power to withhold refund in certain cases.

241. Where an order giving rise to a refund is the subject-matter of an appeal or further proceeding or where any other proceeding under this Act is pending, and the Income-tax Officer is of the opinion that the grant of the refund is likely to adversely affect the revenue, the Income-tax Officer may, with the previous approval of the Commissioner, withhold the refund till such time as the Commissioner may determine.

Correctness of assessment not to be questioned.

242. In a claim under this Chapter, it shall not be open to the assessee to question the correctness of any assessment or other matter decided which has become final and conclusive or ask for a review of the same, and the assessee shall not be entitled to any relief on such claim except refund of tax wrongly paid or paid in excess.

Interest on delayed refunds.

243. (1) If the Income-tax Officer does not grant the refund,

(a) in any case where the total income of the assessee does not consist solely of income from interest on securities or dividend, within three months from the date on which the total income is determined under this Act, and

(b) in any other case, within six months from the date on which the claim for refund is made under this Chapter,

the Central Government shall pay the assessee simple interest at four per cent. per annum on the amount directed to be refunded from the date immediately following the expiry of the period of three months or six months aforesaid, as the case may be, to the date of the order granting the refund.

*Explanation.*—If the delay in granting the refund within the period of six months aforesaid is attributable to the assessee, whether wholly or in part, the period of the delay attributable to him shall be excluded from the period for which interest is payable.

(2) Where any question arises as to the period to be excluded for the purposes of calculation of interest under the provisions of this section, such question shall be determined by the Commissioner whose decision shall be final.

244. (1) Where a refund is due to the assessee in pursuance of an order referred to in section 240 and the Income-tax Officer does not grant the refund within a period of six months from the date of such order, the Central Government shall pay to the assessee simple interest at four per cent. per annum on the amount of refund due from the date immediately following the expiry of the period of six months aforesaid to the date on which the refund is granted.

Interest on  
refund  
where no  
claim is  
needed.

(2) Where a refund is withheld under the provisions of section 241, the Central Government shall pay interest at the aforesaid rate on the amount of refund ultimately determined to be due as a result of the appeal or further proceeding for the period commencing after the expiry of six months from the date of the order referred to in section 241 to the date the refund is granted.

245. Where under any of the provisions of this Act, a refund is found to be due to any person, the Income-tax Officer, Appellate Assistant Commissioner or Commissioner as the case may be, may, in lieu of payment of the refund, set off the amount to be refunded or any part of that amount, against the sum, if any, remaining payable under this Act by the person to whom the refund is due, after giving an intimation in writing to such person of the action proposed to be taken under this section.

Set off of  
refunds  
against tax  
remaining  
payable.

## CHAPTER XX

## APPEALS AND REVISION

## A.—Appeals to the Appellate Assistant Commissioner

Appealable  
orders.

216. Any assessee aggrieved by any of the following orders of an Income-tax Officer may appeal to the Appellate Assistant Commissioner against such order—

(a) an order against the assessee, being a company, under section 104;

(b) an order imposing a fine under sub-section (2) of section 131;

(c) an order against the assessee, where the assessee denies his liability to be assessed under this Act or any order of assessment under sub-section (3) of section 143 or section 144, where the assessee objects to the amount of income assessed, or to the amount of tax determined, or to the amount of loss computed, or to the status under which he is assessed;

(d) an order under section 146 refusing to reopen an assessment made under section 144;

(e) an order of assessment, re-assessment or re-computation under section 147 or section 150;

(f) an order under section 154 or section 155 having the effect of enhancing the assessment or reducing a refund or an order refusing to allow the claim made by the assessee under either of the said sections;

(g) an order made under section 163 treating the assessee as the agent of a non-resident;

(h) an order under sub-section (2) or sub-section (3) of section 170;

(i) an order under section 171;

(j) an order refusing to register a firm under clause (b) of sub-section (1) or under sub-section (5) of section 185;

(k) an order cancelling the registration of a firm under sub-section (1) or under sub-section (2) of section 186;

(l) an order under section 201;

(m) an order under section 216;

(n) an order under section 237;

(o) an order imposing a penalty under—

(i) section 221, or

(ii) section 270, or

(iii) section 271, or

(iv) section 272, or

(v) section 273:

*Explanation.*—“Status” means the category under which the assessee is assessed as “individual”, “Hindu undivided family” and so on.

247. Where the partners of a firm are individually assessable on their shares in the total income of the firm, any such partner may appeal to the Appellate Assistant Commissioner against any order of an Income-tax Officer determining the amount of the total income or the loss of the firm or the apportionment thereof between the several partners, but he cannot agitate such matters in any appeal preferred against an order of assessment determining his own total income or loss. Appeal by partner.

248. Any person having in accordance with the provisions of sections 195 and 200 deducted and paid tax in respect of any sum chargeable under this Act, other than interest, who denies his liability to make such deduction, may appeal to the Appellate Assistant Commissioner to be declared not liable to make such deduction. Appeal by person denying liability to deduct tax.

249. (1) Every appeal under this Chapter shall be in the prescribed form and shall be verified in the prescribed manner. Form of appeal and limitation.

(2) The appeal shall be presented within thirty days of the following date, that is to say,—

(a) where the appeal relates to any tax deducted under sub-section (1) of section 195, the date of payment of the tax, or

(b) where the appeal relates to any assessment or penalty, the date of service of the notice of demand relating to the assessment or penalty, or

(c) in any other case, the date on which intimation of the order sought to be appealed against is served.

(3) The Appellate Assistant Commissioner may admit an appeal after the expiration of the said period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

250. (1) The Appellate Assistant Commissioner shall fix a day and place for the hearing of the appeal, and shall give notice of the Procedure in appeal.

same to the appellant and to the Income-tax Officer against whose order the appeal is preferred.

(2) The following shall have the right to be heard at the hearing of the appeal—

(a) the appellant, either in person or by an authorised representative;

(b) the Income-tax Officer, either in person or by a representative.

(3) The Appellate Assistant Commissioner shall have the power to adjourn the hearing of the appeal from time to time.

(4) The Appellate Assistant Commissioner may, before disposing of any appeal, make such further inquiry as he thinks fit, or may direct the Income-tax Officer to make further inquiry and report the result of the same to the Appellate Assistant Commissioner.

(5) The Appellate Assistant Commissioner may, at the hearing of an appeal, allow the appellant to go into any ground of appeal not specified in the grounds of appeal, if the Appellate Assistant Commissioner is satisfied that the omission of that ground from the form of appeal was not wilful or unreasonable.

(6) The order of the Appellate Assistant Commissioner disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision.

(7) On the disposal of the appeal, the Appellate Assistant Commissioner shall communicate the order passed by him to the assessee and to the Commissioner.

**Powers of  
the Appel-  
late Assis-  
tant Com-  
missioner.**

251. (1) In disposing of an appeal, the Appellate Assistant Commissioner shall have the following powers—

(a) in an appeal against an order of assessment, he may confirm, reduce, enhance or annul the assessment; or he may set aside the assessment and refer the case back to the Income-tax Officer for making a fresh assessment in accordance with the directions given by the Appellate Assistant Commissioner and after making such further inquiry as may be necessary, and the Income-tax Officer shall thereupon proceed to make such fresh assessment and determine, where necessary, the amount of tax payable on the basis of such fresh assessment;

(b) in an appeal against an order imposing a penalty, he may confirm or cancel such order or vary it so as either to enhance or to reduce the penalty;

(c) in any other case, he may pass such orders in the appeal as he thinks fit.

(2) The Appellate Assistant Commissioner shall not enhance an assessment or a penalty or reduce the amount of refund unless the appellant has had a reasonable opportunity of showing cause against such enhancement or reduction.

*Explanation.*—In disposing of an appeal, the Appellate Assistant Commissioner may consider and decide any matter arising out of the proceedings in which the order appealed against was passed, notwithstanding that such matter was not raised before the Appellate Assistant Commissioner by the appellant.

*B.—Appeals to the Appellate Tribunal*

252. (1) The Central Government shall constitute an Appellate Tribunal consisting of as many judicial and accountant members as it thinks fit to exercise the powers and discharge the functions conferred on the Appellate Tribunal by this Act. Appellate Tribunal.

(2) A judicial member shall be a person who has for at least ten years held a civil judicial post or who has been a member of the Central Legal Service (not below Grade III) for at least three years or who has been in practice as an advocate for at least ten years; and an accountant member shall be a person who has for at least ten years been in the practice of accountancy as a chartered accountant under the Chartered Accountants Act, 1949, or as a registered accountant under any law formerly in force or partly as a registered accountant and partly as a chartered accountant, or who has served as an Assistant Commissioner of Income-tax for at least three years.

38 of 1949.

(3) The Central Government shall ordinarily appoint a judicial member of the Appellate Tribunal to be the President thereof.

253. (1) Any assessee aggrieved by any of the following orders may appeal to the Appellate Tribunal against such order— Appeals to the Appellate Tribunal.

(a) an order passed by an Appellate Assistant Commissioner under sub-section (2) of section 131, section 250 or section 271; or

(b) an order passed by an Inspecting Assistant Commissioner under sub-section (2) of section 274; or

(c) an order passed by a Commissioner under section 263.

(2) The Commissioner may, if he objects to any order passed by an Appellate Assistant Commissioner under section 250, direct the Income-tax Officer to appeal to the Appellate Tribunal against the order.

(3) Every appeal under sub-section (1) or sub-section (2) shall be filed within sixty days of the date on which the order sought to be appealed against is communicated to the assessee or to the Commissioner, as the case may be.

(4) The Income-tax Officer or the assessee, as the case may be, on receipt of notice that an appeal against the order of the Appellate Assistant Commissioner has been preferred under sub-section (1) or sub-section (2) by the other party, may, notwithstanding that he may not have appealed against such order or any part thereof, within thirty days of the receipt of the notice, file a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the Appellate Assistant Commissioner, and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (3).

(5) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (3) or sub-section (4), if it is satisfied that there was sufficient cause for not presenting it within that period.

(6) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and, shall, except in the case of an appeal referred to in sub-section (2) or a memorandum of cross-objections referred to in sub-section (4), be accompanied by a fee of rupees one hundred.

**Orders of  
Appellate  
Tribunal.**

254. (1) The Appellate Tribunal may, after giving both the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit.

(2) The Appellate Tribunal may, at any time within four years from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (1), and shall make such amendment if the mistake is brought to its notice by the assessee or the Income-tax Officer:

Provided that an amendment which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall not be made under this sub-section unless the Appellate Tribunal has given notice to the assessee of its intention to do so and has allowed the assessee a reasonable opportunity of being heard.

(3) The Appellate Tribunal shall send a copy of any orders passed under this section to the assessee and to the Commissioner.

(4) Save as provided in section 256, orders passed by the Appellate Tribunal on appeal shall be final.

255. (1) The powers and functions of the Appellate Tribunal may be exercised and discharged by Benches constituted by the President of the Appellate Tribunal from among the members thereof.

Procedure  
of Appellate  
Tribunal.

(2) Subject to the provisions contained in sub-section (3), a Bench shall consist of one judicial member and one accountant member.

(3) The President or any other member of the Appellate Tribunal authorised in this behalf by the Central Government may, sitting singly, dispose of any case which has been allotted to the Bench of which he is a member and which pertains to an assessee whose total income as computed by the Income-tax Officer in the case does not exceed twenty-five thousand rupees, and the President may, for the disposal of any particular case, constitute a special Bench consisting of three or more members, one of whom shall necessarily be a judicial member and one an accountant member.

(4) If the members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the President of the Appellate Tribunal for hearing on such point or points by one or more of the other members of the Appellate Tribunal, and such point or points shall be decided according to the opinion of the majority of the members of the Appellate Tribunal who have heard the case, including those who first heard it.

(5) Subject to the provisions of this Act, the Appellate Tribunal shall have power to regulate its own procedure and the procedure of Benches thereof in all matters arising out of the exercise of its powers or of the discharge of its functions, including the places at which the Benches shall hold their sittings.

(6) The Appellate Tribunal shall, for the purpose of discharging its functions, have all the powers which are vested in the Income-tax authorities referred to in section 131, and any proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code and the Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898.

43 of 1860.

5 of 1898.

#### C.—Reference to High Court

256. (1) The assessee or the Commissioner may, within sixty days of the date upon which he is served with notice of an order

Statement  
of Case to  
the High  
Court.

under section 254, by application in the prescribed form, accompanied where the application is made by the assessee by a fee of rupees one hundred, require the Appellate Tribunal to refer to the High Court any question of law arising out of such order and, subject to the other provisions contained in this section, the Appellate Tribunal shall, within one hundred and twenty days of the receipt of such application, draw up a statement of the case and refer it to the High Court:

Provided that the Appellate Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the period hereinbefore specified, allow it to be presented within a further period not exceeding thirty days.

(2) If, on an application made under sub-section (1), the Appellate Tribunal refuses to state the case on the ground that no question of law arises, the assessee or the Commissioner, as the case may be, may, within six months from the date on which he is served with notice of such refusal, apply to the High Court, and the High Court may, if it is not satisfied with the correctness of the decision of the Appellate Tribunal, require the Appellate Tribunal to state the case and to refer it, and on receipt of any such requisition, the Appellate Tribunal shall state the case and refer it accordingly.

(3) Where in the exercise of its powers under sub-section (2), the Appellate Tribunal refuses to state a case which it has been required by the assessee to state, the assessee may, within thirty days from the date on which he receives notice of such refusal, withdraw his application, and, if he does so, the fee paid shall be refunded.

Statement  
of cases to  
Supreme  
Court in  
certain  
cases.

257. If, on an application made under section 256 the Appellate Tribunal is of the opinion that, on account of a conflict in the decisions of High Courts in respect of any particular question of law, it is expedient that a reference should be made direct to the Supreme Court, the Appellate Tribunal may draw up a statement of the case and refer it through its President direct to the Supreme Court.

Power of  
High Court  
or Supreme  
Court to  
require  
statement  
to be  
amended.

258. If the High Court or the Supreme Court is not satisfied that the statements in a case referred to it are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Appellate Tribunal for the purpose of making such additions thereto or alterations therein as it may direct in that behalf.

259. (1) When any case has been referred to the High Court under section 256, it shall be heard by a Bench of not less than two judges of the High Court, and shall be decided in accordance with the opinion of such judges or of the majority, if any, of such judges.

Case before High Court to be heard by not less than two judges.

(2) Where there is no such majority, the judges shall state the point of law upon which they differ, and the case shall then be heard upon that point only by one or more of the other judges of the High Court, and such point shall be decided according to the opinion of the majority of the judges who have heard the case including those who first heard it.

260. (1) The High Court or the Supreme Court upon hearing any such case shall decide the questions of law raised therein, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and a copy of the judgment shall be sent under the seal of the Court and the signature of the Registrar to the Appellate Tribunal which shall pass such orders as are necessary to dispose of the case conformably to such judgment.

Decision of High Court or Supreme Court on the case stated.

(2) The costs of any reference to the High Court or the Supreme Court which shall not include the fee for making the reference shall be in the discretion of the Court.

#### D.—Appeals to the Supreme Court

261. An appeal shall lie to the Supreme Court from any judgment of the High Court delivered on a reference made under section 256 in any case which the High Court certifies to be a fit one for appeal to the Supreme Court.

Appeal to Supreme Court.

of 1908.

262. (1) The provisions of the Code of Civil Procedure, 1908, relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under section 261 as they apply in the case of appeals from decrees of a High Court:

Hearing before Supreme Court.

Provided that nothing in this section shall be deemed to affect the provisions of sub-section (1) of section 260 or section 265.

(2) The costs of the appeal shall be in the discretion of the Supreme Court.

(3) Where the judgment of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in section 260 in the case of a Judgment of the High Court.

## E.—Revision by the Commissioner

Revision of  
orders pre-  
judicial to  
revenue.

263. (1) The Commissioner may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by the Income-tax Officer is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment.

(2) No order shall be made under sub-section (1)—

(a) to revise an order of reassessment made under section 147, or

(b) after the expiry of two years from the date of the order sought to be revised.

(3) Notwithstanding anything contained in sub-section (2), an order in revision under this section may be passed at any time in the case of an order which has been passed in consequence of, or to give effect to, any finding or direction contained in an order of the Appellate Tribunal, the High Court or the Supreme Court.

*Explanation.*—In computing the period of limitation for the purposes of sub-section (2), the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 129 and any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.

Revision  
of other  
orders.

264. (1) In the case of any order other than an order to which section 263 applies passed by an authority subordinate to him, the Commissioner may, either of his own motion or on an application by the assessee for revision, call for the record of any proceeding under this Act in which any such order has been passed and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit.

(2) The Commissioner shall not of his own motion revise any order under this section if the order has been made more than one year previously.

(3) In the case of an application for revision under this section by the assessee, the application must be made within one year from the date on which the order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier:

Provided that the Commissioner may, if he is satisfied that the assessee was prevented by sufficient cause from making the application within that period, admit an application made after the expiry of that period.

(4) The Commissioner shall not revise any order under this section in the following cases—

(a) where an appeal against the order lies to the Appellate Assistant Commissioner or to the Appellate Tribunal but has not been made and the time within which such appeal may be made has not expired, or, in the case of an appeal to the Appellate Tribunal, the assessee has not waived his right of appeal; or

(b) where the order is pending on an appeal before the Appellate Assistant Commissioner; or

(c) where the order has been made the subject of an appeal to the Appellate Tribunal.

(5) Every application by an assessee for revision under this section shall be accompanied by a fee of twenty-five rupees.

*Explanation 1.*—An order by the Commissioner declining to interfere shall, for the purposes of this section, be deemed not to be an order prejudicial to the assessee.

*Explanation 2.*—For the purposes of this section, the Appellate Assistant Commissioner shall be deemed to be an authority subordinate to the Commissioner.

#### F.—General

265. Notwithstanding that a reference has been made to the High Court or the Supreme Court or an appeal has been preferred to the Supreme Court, tax shall be payable in accordance with the assessment made in the case.

Tax to be paid notwithstanding reference, etc.

266. The High Court may, on petition made for the execution of the order of the Supreme Court in respect of any costs awarded thereby, transmit the order for execution to any court subordinate to the High Court.

Execution for costs awarded by Supreme Court.

267. Where as the result of an appeal under section 245 or section 253, any change is made in the assessment of a firm or body of individuals or an association of persons or a new assessment of a firm or a body of individuals or an association of persons is ordered to be made, the Appellate Assistant Commissioner or the Appellate

Amendment of assessment on appeal.

Tribunal, as the case may be, shall pass an order authorising the Income-tax Officer either to amend the assessment made on any partner of the firm or any member of the body or association or make a fresh assessment on any partner of the firm or on any member of the body or association.

Exclusion  
of time  
taken for  
copy.

268. In computing the period of limitation prescribed for an appeal or an application under this Act, the day on which the order complained of was served and, if the assessee was not furnished with a copy of the order when the notice of the order was served upon him, the time requisite for obtaining a copy of such order, shall be excluded.

Definition  
of "High  
Court".

269. In this Chapter,—

"High Court" means,—

- (i) in relation to any State, the High Court for that State;
- (ii) in relation to the Union territories of Delhi and Himachal Pradesh, the High Court of Punjab;
- (iii) in relation to the Union territories of Manipur and Tripura, the High Court of Assam;
- (iv) in relation to the Union territory of the Andaman and Nicobar islands, the High Court at Calcutta; and
- (v) in relation to the Union territory of the Laccadive Minicoy and Amindivi islands, the High Court of Kerala.

## CHAPTER XXI

### PENALTIES IMPOSABLE

Failure to  
furnish  
information  
regarding  
securities,  
etc.

270. If any person without reasonable excuse fails to comply with a notice issued under sub-section (6) of section 94, the Income-tax Officer may direct that such person shall pay by way of penalty a sum not exceeding five hundred rupees and by way of further penalty a like amount for every day after the infliction of such penalty during which the failure continues.

Failure to  
furnish re-  
turns,  
comply with  
notices,  
concealment  
of income,  
etc.

271. (1) If the Income-tax Officer or the Appellate Assistant Commissioner in the course of any proceedings under this Act, is satisfied that any person—

- (a) has without reasonable cause failed to furnish the return of his total income which he was required to furnish under
- omitted by Act 13 of 1963, s. 17 (w.e.f. 28.4.1963)*

sub-section (1) of section 139 or by notice given under sub-section (2) of section 139 or section 148 or has without reasonable cause failed to furnish it within the time allowed and in the manner required by sub-section (1) of section 139 or by such notice, as the case may be, or

(b) has without reasonable cause failed to comply with a notice under sub-section (1) of section 142 or sub-section (2) of section 143, or

(c) has concealed the particulars of his income or deliberately furnished inaccurate particulars of such income,

he may direct that such person shall pay by way of penalty,—

(i) in the cases referred to in clause (a), in addition to the amount of the tax, if any, payable by him, a sum equal to two per cent. of the tax for every month during which the default continued, but not exceeding in the aggregate fifty per cent. of the tax;

(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 ten per cent. but which shall not exceed fifty per cent. of the amount of the tax, if any, which would have been avoided if the income returned by such person had been accepted as the correct income;

(iii) in the cases referred to in clause (c), in addition to any tax payable by him, a sum which shall not be less than twenty per cent. but which shall not exceed one and a half times the amount of the tax, if any, which would have been avoided if the income as returned by such person had been accepted as the correct income.

(2) When the person liable to penalty is a registered firm or an unregistered firm which has been assessed under clause (b) of section 183, then, notwithstanding anything contained in the other provisions of this Act, the penalty imposable under sub-section (1) shall be the same amount as would be imposable on that firm if that firm were an unregistered firm.

(3) Notwithstanding anything contained in this section,—

(a) no penalty for failure to furnish the return of his total income under sub-section (1) of section 139 shall be imposed under sub-section (1) on an assessee whose total income does not exceed the maximum amount not chargeable to tax in his case by one thousand five hundred rupees;

(b) where a person has failed to comply with a notice under sub-section (2) of section 139 or section 148 and proves that he has no income liable to tax, the penalty imposable under sub-section (1) shall not exceed twenty-five rupees;

(c) no penalty shall be imposed under sub-section (1) upon any person assessable under clause (i) of sub-section (1) of section 160, read with section 161, as the agent of a non-resident for failure to furnish the return under sub-section (1) of section 139.

(4) If the Income-tax Officer or the Appellate Assistant Commissioner in the course of any proceedings under this Act, is satisfied that the profits of a registered firm have been distributed otherwise than in accordance with the shares of the partners as shown in the instrument of partnership on the basis of which the firm has been registered under this Act, and that any partner has thereby returned his income below its real amount, he may direct that such partner shall, in addition to the tax, if any, payable by him, pay by way of penalty a sum not exceeding one and a half times the amount of tax which has been avoided, or would have been avoided if the income returned by such partner had been accepted as his correct income; and no refund or other adjustment shall be claimable by any other partner by reason of such direction.

Failure to give notice of discontinuance.

272. Where any person fails to give the notice of discontinuance of his business or profession as required by sub-section (3) of section 176, the Income-tax Officer may direct that a sum shall be recovered from him by way of penalty which shall not be less than ten per cent. of the tax but which shall not exceed the amount of tax subsequently assessed on him in respect of any income of the business or profession up to the date of its discontinuance.

False estimate of or failure to pay advance tax.

273. If the Income-tax Officer, in the course of any proceedings in connection with the regular assessment, is satisfied that any assessee—

(a) has furnished under section 212 an estimate of the advance tax payable by him which he knew or had reason to believe to be untrue, or

(b) has without reasonable cause failed to furnish an estimate of the advance tax payable by him in accordance with the provisions of sub-section (3) of section 212,

he may direct that such person shall, in addition to the amount of tax if any, payable by him, pay by way of penalty a sum—

(i) which, in the case referred to in clause (a), shall not be less than ten per cent. but shall not exceed one and a half times the amount by which the tax actually paid during the financial year immediately preceding the assessment year under the provisions of Chapter XVII-C falls short of—

(1) seventy-five per cent. of the tax determined on regular assessment, as modified under the provisions of section 215, or

(2) where a notice under section 210 was issued to the assessee, the amount payable thereunder,

whichever is less; and

(ii) which, in the case referred to in clause (b), shall not be less than ten per cent. but shall not exceed one and a half times the amount on which interest is payable under section 217.

274. (1) No order imposing a penalty under this Chapter shall be made unless the assessee has been heard, or has been given a reasonable opportunity of being heard. Procedure.

(2) Notwithstanding anything contained in clause (iii) of sub-section (1) of section 271, if in a case falling under clause (c) of that sub-section, the minimum penalty imposable exceeds a sum of rupees one thousand, the Income-tax Officer shall refer the case to the Inspecting Assistant Commissioner who shall, for the purpose, have all the powers conferred under this Chapter for the imposition of penalty.

(3) An Appellate Assistant Commissioner on making an order under this Chapter imposing a penalty, shall forthwith send a copy of the same to the Income-tax Officer.

275. No order imposing a penalty under this Chapter shall be passed after the expiration of two years from the date of the completion of the proceedings in the course of which the proceedings for the imposition of penalty have been commenced. Bar of limitation for imposing penalties.

*Explanation.*—In computing the period of limitation for the purpose of this section, the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 129 and any period during which a proceeding under this Chapter for the levy of

penalty is stayed by an order or injunction of any court shall be excluded.

## CHAPTER XXII

### OFFENCES AND PROSECUTIONS

Failure to  
make pay-  
ments or  
deliver  
returns or  
statements  
or allow  
inspection.

276. If a person fails without reasonable cause or excuse—

(a) to grant inspection or allow copies to be taken in accordance with the provisions of section 134;

(b) to furnish in due time any of the returns or statements mentioned in section 133, sub-section (2) of section 139, section 206, section 285 or section 286;

(c) to produce, or cause to be produced, on or before the date mentioned in any notice under sub-section (1) of section 142, such accounts and documents as are referred to in the notice;

(d) to deduct and pay tax as required by the provisions of Chapter XVII-B or under sub-section (2) of section 226; or

(e) to furnish a certificate required by section 203,

he shall be punishable with fine which may extend to ten rupees for every day during which the default continues.

False state-  
ment or  
declaration.

277. If a person makes a statement in any verification under this Act or under any rule made thereunder, or delivers an account or statement which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with simple imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Abetment  
of false  
return, etc.

278. If a person abets or induces in any manner another person to make and deliver an account, statement or declaration relating to any income chargeable to tax which is false and which he either knows to be false or does not believe to be true, he shall be punishable with simple imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

Prosecution  
to be at  
instance of  
Commis-  
sioner.

279. (1) A person shall not be proceeded against for an offence under section 276 or section 277 or section 278 except at the instance of the Commissioner.

(2) The Commissioner may either before or after the institution of proceedings compound any such offence.

280. (1) If a public servant discloses any particulars, the disclosure of which is prohibited by section 137, he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine.

Disclosure of particulars by public servants.

(2) No prosecution shall be instituted under this section except with the previous sanction of the Central Government.

### CHAPTER XXIII

#### MISCELLANEOUS

281. Where, during the pendency of any proceeding under this Act, any assessee creates a charge on or parts with the possession by way of sale, mortgage, exchange or any other mode of transfer whatsoever, of any of his assets in favour of any other person with the intention to defraud the revenue, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the assessee as a result of the completion of the said proceeding:

Transfers to defraud revenue void.

Provided that such charge or transfer shall not be void if made for valuable consideration and without notice of the pendency of the proceeding under this Act.

282 (1) A notice or requisition under this Act may be served on the person therein named either by post or as if it were a summons issued by a court under the Code of Civil Procedure, 1908.

Service of notice generally.

5 of 1908.

(2) Any such notice or requisition may be addressed—

(a) in the case of a firm or a Hindu undivided family, to any member of the firm or to the manager or any adult member of the family;

(b) in the case of a local authority or company, to the principal officer thereof;

(c) in the case of any other association or body of individuals, to the principal officer or any member thereof;

(d) in the case of any other person (not being an individual), to the person who manages or controls his affairs.

283. (1) After a finding of total partition has been recorded by the Income-tax Officer under section 171 in respect of any Hindu family, notices under this Act in respect of the income of the Hindu family shall be served on the person who was the last manager of the Hindu family, or, if such person is dead, then on all adults who were members of the Hindu family immediately before the partition.

Service of notice when family is disrupted or firm, etc., is dissolved.

(2) Where a firm or other association of persons is dissolved, notices under this Act in respect of the income of the firm or association may be served on any person who was a partner (not being a minor) or member of the association, as the case may be, immediately before its dissolution.

Service of notice in the case of discontinued business.

284. Where an assessment is to be made under section 176, the Income-tax Officer may serve on the person whose income is to be assessed, or, in the case of a firm or an association of persons, on any person who was a member of such firm or association at the time of its discontinuance or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 139, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that section.

Information by persons responsible for paying interest.

285. The person responsible for paying any interest, not being "Interest on securities", shall, on or before the fifteenth day of June in each year, furnish to the Income-tax Officer having jurisdiction to assess him, a return in the prescribed form and verified in the prescribed manner of the names and addresses of all persons to whom during the previous financial year he has paid interest or aggregate interest exceeding such amount, not being less than four hundred rupees, as may be prescribed in this behalf, together with the amount paid to each such person.

Information by companies respecting shareholders to whom dividends have been paid.

286. The principal officer of every company which is an Indian company or a company which has made such arrangements as may be prescribed for the declaration and payment of dividends in India shall, on or before the fifteenth day of June in each year, furnish to the prescribed officer a return in the prescribed form and verified in the prescribed manner of the names and of the addresses, as entered in the register of shareholders maintained by the company, of the shareholders to whom a dividend or aggregate dividends exceeding such amount as may be prescribed in this behalf has or have been distributed during the preceding year and of the amount so distributed to each shareholder.

Publication of information respecting penalties in certain cases.

287. (1) The Central Government shall cause to be published, by notification in the Official Gazette, the names and such other particulars as may be relevant, of—

(a) persons on each of whom a penalty amounting to not less than five thousand rupees or such lesser amount as may be fixed by the Central Government, by notification in the Official Gazette, has been imposed under clause (c) of sub-section (1) of section 271, and

45 of 1860.

(b) persons who have been convicted as a result of any proceedings under section 277 or under any provision of the Indian Penal Code for any offence connected with any proceedings under this Act.

(2) If in the interests of revenue the Central Government considers it necessary so to do, it may also cause to be published, by notification in the Official Gazette, the names and such other particulars as may be relevant of—

(a) persons on each of whom a penalty has been imposed under clause (a) or clause (b) of sub-section (1) of section 271; or

(b) persons on each of whom a penalty of an amount not exceeding the amount referred to in clause (a) of sub-section (1) has been imposed under clause (c) of sub-section (1) of section 271; or

(c) persons who have been convicted as a result of any proceedings under any provision of this Act other than section 277.

(3) No publication under this section shall be made—

(i) in the case of an assessee mentioned in clause (a) of sub-section (1) or in clause (a) or clause (b) of sub-section (2) who has presented an appeal under section 246 or under clause (b) of sub-section (1) of section 253 against the order imposing the penalty, until the appeal is disposed of by the Appellate Assistant Commissioner, or, in the case of an appeal filed under clause (b) of sub-section (1) of section 253, by the Appellate Tribunal;

(ii) in the case of an assessee mentioned in clause (b) of sub-section (1) or clause (c) of sub-section (2), until the time for appealing has expired without an appeal having been presented, or the appeal, if presented, has been disposed of.

(4) Notwithstanding anything contained in this section, the Central Government may refrain from publishing the name of any person if it is satisfied that in the interests of revenue it is necessary so to do, and where the Central Government refrains from publishing the name of any person, the reason for not publishing the name shall be recorded in writing.

(5) Every notification issued under this section shall be laid before Parliament as soon as may be after it is made.

(6) The provisions of this section shall have effect notwithstanding anything to the contrary contained in sections 137 and 280.

318 M of Law—56.

(7) The provisions of this section shall have effect in relation to penalties imposed after the 1st day of April, 1960, under the Indian Income-tax Act, 1922, or to proceedings for any offence initiated after the said date under that Act as they have effect in relation to penalties imposed or proceedings initiated under this Act with the modification that references in this section to any provision of this Act shall be construed as references to the corresponding provision of that Act. 11 of 1921

*Explanation.*—In the case of a firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasurers, or managers of the company, or the members of the association, as the case may be, may also be published if, in the opinion of the Central Government, the circumstances of the case justify it.

Appearance  
by autho-  
rised repre-  
sentatives.

288. (1) Any assessee who is entitled or required to attend before any Income-tax authority or the Appellate Tribunal in connection with any proceeding under this Act otherwise than when required under section 131 to attend personally for examination on oath or affirmation, may, subject to the other provisions of this section, attend by an authorised representative.

(2) For the purposes of this section, "authorised representative" means a person authorised by the assessee in writing to appear on his behalf, being—

(i) a person related to the assessee in any manner or a person regularly employed by the assessee; or

(ii) any officer of a Scheduled Bank with which the assessee maintains a current account or has other regular dealings; or

(iii) any legal practitioner who is entitled to practise in any civil court in India; or

(iv) an accountant; or

(v) any person who has passed any accountancy examination recognised in this behalf by the Board; or

(vi) any person who has acquired such educational qualifications as the Board may prescribe for this purpose; or

(vii) any other person who, immediately before the commencement of this Act, was an Income-tax practitioner within the meaning of clause (iv) of sub-section (2) of section 61 of the Indian Income-tax Act, 1922, and was actually practising as such. 11 of 192

*Explanation.*—In this section, "accountant" means a chartered accountant within the meaning of the Chartered Accountants Act, 1949, and includes, in relation to any State, any person who by virtue of the provisions of sub-section (2) of section 226 of the 38 of 194

1 of 1956. Companies Act, 1956, is entitled to be appointed to act as an auditor of companies registered in that State.

11 of 1922. (3) Notwithstanding anything contained in this section, if the authorised representative is a person formerly employed as an Income-tax authority, not below the rank of Income-tax Officer, and has retired or resigned from such employment after having served for not less than three years in any capacity under this Act or under the Indian Income-tax Act, 1922, from the date of his first employment as such, he shall not be entitled to represent any assessee for a period of two years from the date of his retirement or resignation, as the case may be.

(4) No person—

(a) who has been dismissed or removed from Government service after the 1st day of April, 1938; or

(b) who has been convicted of an offence connected with any income-tax proceeding or on whom a penalty has been imposed under this Act other than a penalty imposed on him under clauses (i) and (ii) of sub-section (1) of section 271; or

(c) who has become an insolvent.

shall be qualified to represent an assessee under sub-section (1), for all times in the case of a person referred to in sub-clause (a), for such time as the Commissioner may by order determine in the case of a person referred to in sub-clause (b), and for the period during which the insolvency continues in the case of a person referred to in sub-clause (c).

(5) If any person—

(a) who is a legal practitioner or an accountant is found guilty of misconduct in his professional capacity by any authority entitled to institute disciplinary proceedings against him, an order passed by that authority shall have effect in relation to his right to attend before an income-tax authority as it has in relation to his right to practise as a legal practitioner or accountant, as the case may be;

(b) who is not a legal practitioner or an accountant, is found guilty of misconduct in connection with any income-tax proceedings by the prescribed authority, the prescribed authority may direct that he shall thenceforth be disqualified to represent an assessee under sub-section (1).

(6) Any order or direction under clause (b) of sub-section (4) or clause (b) of sub-section (5) shall be subject to the following conditions, namely,—

(a) no such order or direction shall be made in respect of any person unless he has been given a reasonable opportunity of being heard;

(b) any person against whom any such order or direction is made may, within one month of the making of the order or direction, appeal to the Board to have the order or direction cancelled; and

(c) no such order or direction shall take effect until the expiration of one month from the making thereof, or, where an appeal has been preferred, until the disposal of the appeal.

(7) A person disqualified to represent an assessee by virtue of the provisions of sub-section (3) of section 61 of the Indian Income-tax Act, 1922 shall be disqualified to represent an assessee under sub-section (1). 11 of 1922.

Receipt to  
be given.

289. A receipt shall be given for any money paid or recovered under this Act.

Indemnity.

290. Every person deducting, retaining, or paying any tax in pursuance of this Act in respect of income belonging to another person is hereby indemnified for the deduction, retention, or payment thereof.

Power to  
tender im-  
munity from  
prosecution.

291. (1) The Central Government may, if it is of opinion (the reasons for such opinion being recorded in writing) that with a view to obtaining the evidence of any person appearing to have been directly or indirectly concerned in or privy to the concealment of income or to the evasion of payment of tax on income, tender to such person immunity from prosecution for any offence under this Act or under the Indian Penal Code or under any other Central Act for the time being in force and also from the imposition of any penalty under this Act on condition of his making a full and true disclosure of the whole circumstances relating to the concealment of income or evasion of payment of tax on income. 45 of 1860.

(2) A tender of immunity made to, and accepted by, the person concerned, shall, to the extent to which the immunity extends, render him immune from prosecution for any offence in respect of which the tender was made or from the imposition of any penalty under this Act.

(3) If it appears to the Central Government that any person to whom immunity has been tendered under this section has not complied with the condition on which the tender was made or is wilfully concealing anything or is giving false evidence, the Central Government may record a finding to that effect, and thereupon the immunity shall be deemed to have been withdrawn, and any such

4. Ins. by Act 13 of 1963, s. 18 (wef 28.4.1963)

[It is nec-  
essary or  
expedient  
so to do]

person may be tried for the offence in respect of which the tender of immunity was made or for any other offence of which he appears to have been guilty in connection with the same matter and shall also become liable to the imposition of any penalty under this Act to which he would otherwise have been liable.

292. No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence under this Act. Cognisance of offences.

293. No suit shall be brought in any civil court to set aside or modify any assessment order made under this Act, and no prosecution, suit or other proceeding shall lie against any officer of the Government for anything in good faith done or intended to be done under this Act. Bar of suits in civil courts.

294. If on the 1st day of April in any assessment year provision has not yet been made by a Central Act for the charging of income-tax or super-tax for that assessment year, this Act shall nevertheless have effect until such provision is so made as if the provision in force in the preceding assessment year or the provision proposed in the Bill then before Parliament, whichever is more favourable to the assessee, were actually in force. Act to have effect pending legislative provision for charge of tax.

295. (1) The Board may, subject to the control of the Central Government, by notification in the Gazette of India, make rules for the whole or any part of India for carrying out the purposes of this Act. Power to make rules.

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

(a) the ascertainment and determination of any class of income;

(b) the manner in which and the procedure by which the income shall be arrived at in the case of—

(i) income derived in part from agriculture and in part from business;

(ii) persons residing outside India;

(c) the determination of the value of any perquisite chargeable to tax under this Act in such manner and on such basis as appears to the Board to be proper and reasonable;

(d) the percentage on the written down value which may be allowed as depreciation in respect of buildings, machinery, plant or furniture;

(e) the percentage or the amount to be prescribed under clause (i) of sub-section (3) of section 87;

(f) the manner in which and the period to which any such income as is referred to in section 180 may be allocated;

(g) the authority to be prescribed for any of the purposes of this Act;

(h) the procedure for giving effect to the terms of any agreement for the granting of relief in respect of double taxation or for the avoidance of double taxation which may be entered into by the Central Government under this Act;

(i) the form and manner in which any application, claim, return or information may be made or furnished and the fees that may be levied in respect of any application or claim;

(j) the manner in which any document required to be filed under this Act may be verified;

(k) the procedure to be followed on applications for refunds;

(l) the regulation of any matter for which provision is made in section 230;

(m) the form and manner in which any appeal or cross objection may be filed under this Act, the fee payable in respect thereof and the manner in which intimation of any such order as is referred to in clause (c) of sub-section (2) of section 249 may be served;

(n) the maintenance of a register of persons other than legal practitioners or accountants as defined in sub-section (2) of section 288 practising before income-tax authorities and for the constitution of and the procedure to be followed by the authority referred to in sub-section (5) of that section;

(o) the issue of certificate verifying the payment of tax by assesseees;

(p) any other matter which by this Act is to be, or may be, prescribed.

(3) In cases coming under clause (b) of sub-section (2), where the income liable to tax cannot be definitely ascertained, or can be ascertained only with an amount of trouble and expense to the assessee which in the opinion of the Board is unreasonable, the rules made under this section may—

(a) prescribe methods by which an estimate of such income may be made; and

(b) in cases coming under sub-clause (i) of clause (b) of sub-section (2) specify the proportion of the income which shall be deemed to be income liable to tax;

and an assessment based on such estimate or proportion shall be deemed to be duly made in accordance with the provisions of this Act.

**296.** The Central Government shall cause every rule made under this Act to be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days, which may be comprised in one session or in two successive sessions, and, if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, that 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 placed before Parliament.

11 of 1922.

**297.** (1) The Indian Income-tax Act, 1922, is hereby repealed.

Repeals and savings.

(2) Notwithstanding the repeal of the Indian Income-tax Act, 1922 (hereinafter referred to as the repealed Act),—

11 of 1922.

(a) where a return of income has been filed before the commencement of this Act by any person for any assessment year, proceedings for the assessment of that person for that year may be taken and continued as if this Act had not been passed;

(b) where a return of income is filed after the commencement of this Act otherwise than in pursuance of a notice under section 34 of the repealed Act by any person for the assessment year ending on the 31st day of March, 1962, or any earlier year, the assessment of that person for that year shall be made in accordance with the procedure specified in this Act;

(c) any proceeding pending on the commencement of this Act before any income-tax authority, the appellate tribunal or any court, by way of appeal, reference or revision, shall be continued and disposed of as if this Act had not been passed;

(d) where in respect of any assessment year after the year ending on the 31st day of March, 1940,—

(i) a notice under section 34 of the repealed Act had been issued before the commencement of this Act, the proceedings in pursuance of such notice may be continued and disposed of as if this Act had not been passed;

(ii) any income chargeable to tax had escaped assessment within the meaning of that expression in section 147 and no proceedings under section 34 of the repealed Act in respect of any such income are pending at the commencement of this Act, a notice under section 148 may, subject to the provisions contained in section 149 or section 150, be issued with respect to that assessment year and all the provisions of this Act shall apply accordingly;

*[Subject to the provisions of clause (g) and clause (j) of this sub-section]*

(e) section 23A of the repealed Act shall continue to have effect in relation to the assessment of any company or its shareholders for the assessment year ending on the 31st day of March, 1962, or any earlier year, and the provisions of the repealed Act shall apply to all matters arising out of such assessment as fully and effectually as if this Act had not been passed;

(f) any proceeding for the imposition of a penalty in respect of any assessment completed before the 1st day of April, 1962, may be initiated and any such penalty may be imposed as if this Act had not been passed;

(g) any proceeding for the imposition of a penalty in respect of any assessment for the year ending on the 31st day of March, 1962, or any earlier year, which is completed on or after the 1st day of April, 1962, may be initiated and any such penalty may be imposed under this Act;

(h) any election or declaration made or option exercised by an assessee under any provision of the repealed Act and in force immediately before the commencement of this Act shall be deemed to have been an election or declaration made or option exercised under the corresponding provision of this Act;

*↳ In. Tax Act 13 of 1963, s. 17 (Retrospectively).*

(i) where, in respect of any assessment completed before the commencement of this Act, a refund falls due after such commencement or default is made after such commencement in the payment of any sum due under such completed assessment, the provisions of this Act relating to interest payable by the Central Government on refunds and interest payable by the assessee for default shall apply;

(j) any sum payable by way of income-tax, super-tax, interest, penalty or otherwise under the repealed Act may be recovered under this Act, but without prejudice to any action already taken for the recovery of such sum under the repealed Act;

(k) any agreement entered into, appointment made, approval given, recognition granted, direction, instruction, notification, order or rule issued under any provision of the repealed Act shall, so far as it is not inconsistent with the corresponding provision of this Act, be deemed to have been entered into, made, granted, given or issued under the corresponding provision aforesaid and shall continue in force accordingly;

(l) any notification issued under sub-section (1) of section 60 of the repealed Act and in force immediately before the commencement of this Act shall, to the extent to which provision has not been made under this Act, continue in force until rescinded by the Central Government;

(m) where the period prescribed for any application, appeal, reference or revision under the repealed Act had expired on or before the commencement of this Act, nothing in this Act shall be construed as enabling any such application, appeal, reference or revision to be made under this Act by reason only of the fact that a longer period therefor is prescribed or provision is made for extension of time in suitable cases by the appropriate authority.

298. (1) If any difficulty arises in giving effect to the provisions of this Act the Central Government may, by general or special order, do anything not inconsistent with such provisions which appears to it to be necessary or expedient for the purpose of removing the difficulty.

Power to  
remove diffi-  
culties.

(2) In particular, and without prejudice to the generality of the foregoing power, any such order may provide for the adaptations or modifications subject to which the repealed Act shall apply in relation to the assessments for the assessment year ending on the 31st day of March, 1962, or any earlier year.

## THE FIRST SCHEDULE

## INSURANCE BUSINESS

(See section 44)

## A.—Life insurance business

Profits of life insurance business to be computed separately.

1. In the case of a person who carries on or at any time in the previous year carried on life insurance business, the profits and gains of such person from that business shall be computed separately from his profits and gains from any other business.

Computation of profits of life insurance business.

2. (1) The profits and gains of life insurance business shall be taken to be the greater of the following—

(a) the gross external incomings of the previous year from that business, less the management expenses of that year;

(b) the annual average of the surplus arrived at by adjusting the surplus or deficit disclosed by the actuarial valuation made in accordance with the Insurance Act, 1938, in respect of the last inter-valuation period ending before the commencement of the assessment year, so as to exclude from it any surplus or deficit included therein which was made in any earlier inter-valuation period and any expenditure or allowance which is not deductible under the provisions of sections 30 to 43 in computing income chargeable under the head "Profits and gains of business or profession".

(2) The amount to be allowed as management expenses under sub-rule (1) shall not exceed the aggregate of the following:—

(a)  $7\frac{1}{2}$  per cent. of the premiums received during the previous year in respect of single premium life insurance policies;

(b) in respect of the first year's premiums received in respect of other life insurance policies for which the number of annual premiums payable is less than twelve, or for which the number of years during which premiums are payable is less than twelve, for each such premium or each such year  $7\frac{1}{2}$  per cent. of such first year's premiums received during the previous year;

(c) 90 per cent. of the first year's premiums received during the previous year in respect of all other life insurance policies;

4 of 1938.

(d) in respect of all renewal premiums received during the previous year, an amount calculated at such percentage thereof as is permissible under sub-section (2) of section 40B of the Insurance Act, 1938, as reduced by any expenditure or allowance which is not deductible under sections 30 to 43 in computing income chargeable under the head "Profits and gains of business or profession".

3. In computing the surplus for the purpose of rule 2,—

Deductions.

(a) four-fifths of the amounts paid to or reserved for or expended on behalf of policy-holders shall be allowed as a deduction:

11 of 1922.

Provided that if any amount so reserved for policy-holders ceases to be so reserved, and is not paid to or expended on behalf of policy-holders, that proportion of such amount (one-half or four-fifths, as the case may be) if it has been previously allowed as a deduction under this Act or under the Indian Income-tax Act, 1922, shall be treated as part of the surplus for the period in which the said amount ceased to be so reserved;

(b) any amount either written off or reserved in the accounts or through the actuarial valuation balance sheet to meet depreciation of or loss on the realisation of investments shall be allowed as a deduction, and any sums taken credit for in the accounts or actuarial valuation balance sheet on account of appreciation of or gains on the realisation of investments shall be included in the surplus:

Provided that if upon investigation it appears to the Income-tax Officer after consultation with the Controller of Insurance that having due regard to the necessity for making reasonable provision for bonuses to participating policy-holders and for contingencies, the rate of interest or other factor employed in determining the liability in respect of outstanding policies is materially inconsistent with the valuation of investments so as artificially to reduce the surplus, such adjustment shall be made to the allowance for depreciation or to the amount to be included in the surplus in respect of appreciation of such investments as shall increase the surplus for the purposes of these provisions to a figure which is fair and just;

(c) interest received during the inter-valuation period in respect of any securities of the Central Government which have been issued or declared to be income-tax free, shall not be excluded, but no income-tax shall be payable on the annual average of the amount of such interest.

Adjustment  
of tax paid  
by deduction  
at source.

4. Where for any year an assessment of the profits of life insurance business is made in accordance with the annual average of a surplus disclosed by a valuation for an inter-valuation period exceeding twelve months, then, in computing the income-tax payable for that year, credit shall not be given in accordance with section 199 for the income-tax paid in the previous year, but credit shall be given for the annual average of the income-tax paid by deduction at source from interest on securities or otherwise during such period.

*B.—Other insurance business*

Computation  
of profits and  
gains of other  
insurance  
business.

5. The profits and gains of any business of insurance other than life insurance shall be taken to be the balance of the profits disclosed by the annual accounts, copies of which are required under the Insurance Act, 1938, to be furnished to the Controller of Insurance, subject to the following adjustments:—

4 of 1933

(a) subject to the other provisions of this rule, any expenditure or allowance which is not admissible under the provisions of sections 30 to 43 in computing the profits and gains of a business shall be added back;

(b) any amount either written off or reserved in the accounts to meet depreciation of or loss on the realisation of investments shall be allowed as a deduction, and any sums taken credit for in the accounts on account of appreciation of or gains on the realisation of investments shall be treated as part of the profits and gains:

Provided that the Income-tax Officer is satisfied about the reasonableness of the amount written off or reserved in the accounts, as the case may be, to meet depreciation of or loss on the realisation of investments.

(c) such amount carried over to a reserve for unexpired risks as may be prescribed in this behalf shall be allowed as a deduction.

*C.—Other provisions*

Profits and  
gains of  
non-resident  
person.

6. (1) The profits and gains of the branches in India of a person not resident in India and carrying on any business of insurance, may, in the absence of more reliable data, be deemed to be that proportion of the world income of such person which corresponds to the proportion which his premium income derived from India bears to his total premium income.

(2) For the purposes of this rule, the world income in relation to life insurance business of a person not resident in India shall be

computed in the manner laid down in this Act for the computation of the profits and gains of life insurance business carried on in India.

7. (1) For the purposes of these rules—

Interpreta-  
tion.

(i) "gross external incomings" means the full amount of incomings from interest, dividends, fines and fees and all other incomings from whatever source derived (except premiums received from policy-holders and interest and dividends on any annuity fund), and includes also profits from reversions and on the sale or the granting of annuities, but excludes profits on the realisation of investments:

Provided that incomings, including the annual value of the property occupied by the assessee, which but for the provisions of section 44 would have been assessable under the head "Income from house property", shall be computed in the manner applicable to income chargeable under that head, and that there shall be allowed from such gross incomings such deductions as are permissible in respect of income chargeable under that head;

(ii) "investments" includes securities, stocks and shares;

(iii) "management expenses" means the full amount of expenses (including commissions) incurred exclusively in the management of the business of life insurance, and in the case of a company carrying on other classes of business as well as the business of life insurance, in addition thereto a fair proportion of the expenses incurred in the general management of the whole business. Bonuses or other sums paid to or reserved on behalf of policy-holders, depreciation of, and losses on the realisation of investments, and any expenditure or allowance other than expenditure or allowance which may under the provisions of sections 30 to 43 be allowed for in computing the profits and gains of a business, are not management expenses for the purposes of these rules;

(iv) "life insurance business" means life insurance business as defined in clause (11) of section 2 of the Insurance Act, 1938;

(v) "rule" means a rule contained in this Schedule.

4 of 19 .

4 of 1938.

31 of 1956.

(2) References in these rules to the Insurance Act, 1938, or any provision thereof, shall, in relation to the Life Insurance Corporation of India, be construed as references to that Act or provision as read with section 43 of the Life Insurance Corporation Act, 1956.

## THE SECOND SCHEDULE

## PROCEDURE FOR RECOVERY OF TAX

[See section 222]

## PART I

*General provisions*

**Definitions.** 1. In this Schedule, unless the context otherwise requires,—

(a) "certificate" means a certificate received by the Tax Recovery Officer from the Income-tax Officer for the recovery of arrears under this Schedule;

(b) "defaulter" means the assessee mentioned in the certificate;

(c) "execution", in relation to a certificate, means recovery of arrears in pursuance of the certificate;

(d) "movable property" includes growing crops;

(e) "officer" means a person authorised to make an attachment or sale under this Schedule;

(f) "rule" means a rule contained in this Schedule; and

(g) "share in a Corporation" includes stock, debenture-stock, debentures or bonds.

Issue of  
notice.

2. When a certificate has been received by the Tax Recovery Officer from the Income-tax Officer for the recovery of arrears under this Schedule, the Tax Recovery Officer shall cause to be served upon the defaulter a notice requiring the defaulter to pay the amount specified in the certificate within fifteen days from the date of service of the notice and intimating that in default steps would be taken to realise the amount under this Schedule.

When certi-  
ficate may be  
executed.

3. No step in execution of a certificate shall be taken until the period of fifteen days has elapsed since the date of the service of the notice required by the preceding rule:

Provided that, if the Tax Recovery Officer is satisfied that the defaulter is likely to conceal, remove or dispose of the whole or any part of such of his movable property as would be liable to attachment in execution of a decree of a civil court and that the realisation of the amount of the certificate would in consequence be delayed or obstructed, he may at any time direct, for reasons to be recorded in writing, an attachment of the whole or any part of such property:

Provided further that if the defaulter whose property has been so attached furnishes security to the satisfaction of the Tax Recovery Officer, such attachment shall be cancelled from the date on which such security is accepted by the Tax Recovery Officer.

4. If the amount mentioned in the notice is not paid within the time specified therein or within such further time as the Tax Recovery Officer may grant in his discretion, the Tax Recovery Officer shall proceed to realise the amount by one or more of the following modes:—

Mode of recovery.

(a) by attachment and sale of the defaulter's movable property;

(b) by attachment and sale of the defaulter's immovable property;

(c) by arrest of the defaulter and his detention in prison;

(d) by appointing a receiver for the management of the defaulter's movable and immovable properties.

5. There shall be recoverable, in the proceedings in execution of every certificate,—

Interest, costs and charges recoverable.

(a) such interest upon the amount of tax or penalty or other sum to which the certificate relates as is payable in accordance with sub-section (2) of section 220, and

(b) all charges incurred in respect of—

(i) the service of notice upon the defaulter to pay the arrears, and of warrants and other processes, and

(ii) all other proceedings taken for realising the arrears.

6. (1) Where property is sold in execution of a certificate, there shall vest in the purchaser merely the right, title and interest of the defaulter at the time of the sale, even though the property itself be specified.

Purchaser's title.

(2) Where immovable property is sold in execution of a certificate, and such sale has become absolute, the purchaser's right, title and interest shall be deemed to have vested in him from the time when the property is sold, and not from the time when the sale becomes absolute.

Suit against purchaser not maintainable on ground of purchase being made on behalf of plaintiff.

7. (1) No suit shall be maintained against any person claiming title under a purchase certified by the Tax Recovery Officer in the manner laid down in this Schedule, on the ground that the purchase was made on behalf of the plaintiff or on behalf of some one through whom the plaintiff claims.

(2) Nothing in this section shall bar a suit to obtain a declaration that the name of any purchaser certified as aforesaid was inserted in the certificate fraudulently or without the consent of the real purchaser, or interfere with the right of a third person to proceed against that property, though ostensibly sold to the certified purchaser, on the ground that it is liable to satisfy a claim of such third person against the real owner.

Disposal of proceeds of execution.

8. (1) Whenever assets are realised, by sale or otherwise in execution of a certificate, they shall be disposed of in the following manner:—

(a) there shall first be paid to the Income-tax Officer the costs incurred by him;

(b) there shall, in the next place, be paid to the Income-tax Officer the amount due under the certificate in execution of which the assets were realized;

(c) if there remains a balance after these sums have been paid, there shall be paid to the Income-tax Officer therefrom any other amount recoverable under the procedure provided by this Act which may be due upon the date upon which the assets were realised; and

(d) the balance (if any) remaining after the payment of the amount (if any) referred to in clause (c) shall be paid to the defaulter.

(2) If the defaulter disputes any claim made by the Income-tax Officer to receive any amount referred to in clause (c), the Tax Recovery Officer shall determine the dispute.

General bar to jurisdiction of civil courts, save where fraud alleged.

9. Except as otherwise expressly provided in this Act, every question arising between the Income-tax Officer and the defaulter or their representatives, relating to the execution, discharge or satisfaction of a certificate duly filed under this Act, or relating to the confirmation or setting aside by an order under this Act of a sale held in execution of such certificate, shall be determined, not by suit, but by order of the Tax Recovery Officer before whom such question arises:

Provided that a suit may be brought in a civil court in respect of any such question upon the ground of fraud.

5 of 1908. 10. (1) All such property as is by the Code of Civil Procedure 1908, exempted from attachment and sale in execution of a decree of a civil court shall be exempt from attachment and sale under this Schedule. Property exempt from attachment.

(2) The Tax Recovery Officer's decision as to what property is so entitled to exemption shall be conclusive.

11. (1) Where any claim is preferred to, or any objection is made to the attachment or sale of, any property in execution of a certificate, on the ground that such property is not liable to such attachment or sale, the Tax Recovery Officer shall proceed to investigate the claim or objection: Investigation by Tax Recovery Officer.

Provided that no such investigation shall be made where the Tax Recovery Officer considers that the claim or objection was designedly or unnecessarily delayed.

(2) Where the property to which the claim or objection applies has been advertised for sale, the Tax Recovery Officer ordering the sale may postpone it pending the investigation of the claim or objection, upon such terms as to security or otherwise as the Tax Recovery Officer shall deem fit.

(3) The claimant or objector must adduce evidence to show that—

(a) (in the case of immovable property) at the date of the service of the notice issued under this Schedule to pay the arrears, or

(b) (in the case of movable property) at the date of the attachment,

he had some interest in, or was possessed of, the property in question.

(4) Where, upon the said investigation, the Tax Recovery Officer is satisfied that, for the reason stated in the claim or objection, such property was not, at the said date, in the possession of the defaulter or of some person in trust for him or in the occupancy of a tenant or other person paying rent to him, or that, being in the possession of the defaulter at the said date, it was so in his possession, not on his own account or as his own property, but on account of or in trust for some other person, or partly on his own account and partly on account of some other person, the Tax Recovery Officer shall make an order releasing the property, wholly or to such extent as he thinks fit, from attachment or sale.

(5) Where the Tax Recovery Officer is satisfied that the property was, at the said date, in the possession of the defaulter as his own property and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of a tenant or other person paying rent to him, the Tax Recovery Officer shall disallow the claim.

(6) Where a claim or an objection is preferred, the party against whom an order is made may institute a suit in a civil court to establish the right which he claims to the property in dispute; but, subject to the result of such suit (if any), the order of the Tax Recovery Officer shall be conclusive.

Removal of attachment on satisfaction or cancellation of certificate.

12. Where--

(a) the amount due, with costs and all charges and expenses resulting from the attachment of any property or incurred in order to hold a sale, are paid to the Tax Recovery Officer, or

(b) the certificate is cancelled,

the attachment shall be deemed to be withdrawn and, in the case of immovable property, the withdrawal shall, if the defaulter so desires, be proclaimed at his expense, and a copy of the proclamation shall be affixed in the manner provided by this Schedule for a proclamation of sale of immovable property.

Officer entitled to attach and sell.

13. The attachment and sale of movable property and the attachment and sale of immovable property may be made by such persons as the Tax Recovery Officer may from time to time direct.

Defaulting purchaser answerable for loss on resale.

14. Any deficiency of price which may happen on a resale by reason of the purchaser's default, and all expenses attending such resale, shall be certified to the Tax Recovery Officer by the officer holding the sale, and shall, at the instance of either the Income-tax Officer or the defaulter, be recoverable from the defaulting purchaser under the procedure provided by this Schedule:

Provided that no such application shall be entertained unless filed within fifteen days from the date of resale.

Adjournment or stoppage of sale.

15. (1) The Tax Recovery Officer may, in his discretion, adjourn any sale hereunder to a specified day and hour; and the officer conducting any such sale may, in his discretion, adjourn the sale, recording his reasons for such adjournment:

Provided that, where the sale is made in, or within the precincts of, the office of the Tax Recovery Officer, no such adjournment shall be made without the leave of the Tax Recovery Officer.

(2) Where a sale of immovable property is adjourned under sub-rule (1) for a longer period than one calendar month, a fresh proclamation of sale under this Schedule shall be made unless the defaulter consents to waive it.

(3) Every sale shall be stopped if, before the lot is knocked down, the arrears and costs (including the costs of the sale) are tendered to the officer conducting the sale, or proof is given to his satisfaction that the amount of such arrears and costs has been paid to the Tax Recovery Officer who ordered the sale.

16. (1) Where a notice has been served on a defaulter under rule 2, the defaulter or his representative in interest shall not be competent to mortgage, charge, lease or otherwise deal with any property belonging to him except with the permission of the Tax Recovery Officer, nor shall any civil court issue any process against such property in execution of a decree for the payment of money. Private alienation to be void in certain cases.

(2) Where an attachment has been made under this Schedule, any private transfer or delivery of the property attached or of any interest therein and any payment to the defaulter of any debt, dividend or other monies contrary to such attachment, shall be void as against all claims enforceable under the attachment.

17. No officer or other person having any duty to perform in connection with any sale under this Schedule shall, either directly or indirectly, bid for, acquire or attempt to acquire any interest in the property sold. Prohibition against bidding or purchase by Officer.

18. No sale under this Schedule shall take place on a Sunday or other general holiday recognised by the State Government or on any day which has been notified by the State Government to be a local holiday for the area in which the sale is to take place. Prohibition against sale on holidays.

19. Any officer authorised to attach or sell any property or to arrest the defaulter or charged with any duty to be performed under this Schedule, may apply to the officer-in-charge of the nearest police station for such assistance as may be necessary in the discharge of his duties, and the authority to whom such application is made shall depute a sufficient number of police officers for furnishing such assistance. Assistance by police.

PART II

Attachment and sale of movable property

Attachment

20. Except as otherwise provided in this Schedule, when any movable property is to be attached, the officer shall be furnished by the Tax Recovery Officer (or other officer empowered by him in that behalf) a warrant in writing and signed with his name specifying the name of the defaulter and the amount to be realised. Warrant.

*Sp. Inv. by Act 13 of 1963, s. 20 (Retrospective)*

Service of  
copy of  
warrant.

21. The officer shall cause a copy of the warrant to be served on the defaulter.

Attachment.

22. If, after service of the copy of the warrant, the amount is not paid forthwith, the officer shall proceed to attach the movable property of the defaulter.

Property in  
defaulter's  
Possession.

23. Where the property to be attached is movable property (other than agricultural produce) in the possession of the defaulter, the attachment shall be made by actual seizure, and the officer shall keep the property in his own custody or the custody of one of his subordinates and shall be responsible for due custody thereof:

Provided that when the property seized is subject to speedy and natural decay or when the expense of keeping it in custody is likely to exceed its value, the officer may sell it at once.

Agricultural  
produce.

24. Where the property to be attached is agricultural produce, the attachment shall be made by affixing a copy of the warrant of attachment—

(a) where such produce is growing crop,—on the land on which such crop has grown, or

(b) where such produce has been cut or gathered,—on the threshing floor or place for treading out grain or the like, or fodder-stack, on or in which it is deposited,

and another copy on the outer door or on some other conspicuous part of the house in which the defaulter ordinarily resides, or with the leave of the Tax Recovery Officer, on the outer door or on some other conspicuous part of the house in which he carries on business or personally works for gain, or in which he is known to have last resided or carried on business or personally worked for gain. The produce shall, thereupon, be deemed to have passed into the possession of the Tax Recovery Officer.

Provisions as  
to agricultu-  
ral produce  
under at-  
tachment.

25. (1) Where agricultural produce is attached, the Tax Recovery Officer shall make such arrangements for the custody, watching, tending, cutting and gathering thereof as he may deem sufficient; and the Income-tax Officer shall bear such sum as the Tax Recovery Officer shall require in order to defray the cost of such arrangements.

(2) Subject to such conditions as may be imposed by the Tax Recovery Officer in this behalf, either in the order of attachment or in any subsequent order, the defaulter may tend, cut, gather and store the produce and do any other act necessary for maturing or preserving it; and, if the defaulter fails to do all or any of such acts, any person appointed by the Tax Recovery Officer in this behalf may, subject to the like conditions, do all or any of such acts, and

the costs incurred by such person shall be recoverable from the defaulter as if they were included in the certificate.

(3) Agricultural produce attached as a growing crop shall not be deemed to have ceased to be under attachment or to require re-attachment merely because it has been severed from the soil.

(4) Where an order for the attachment of a growing crop has been made at a considerable time before the crop is likely to be fit to be cut or gathered, the Tax Recovery Officer may suspend the execution of the order for such time as he thinks fit, and may, in his discretion, make a further order prohibiting the removal of the crop pending the execution of the order of attachment.

(5) A growing crop which from its nature does not admit of being stored shall not be attached under this rule at any time less than twenty days before the time at which it is likely to be fit to be cut or gathered.

26. (1) In the case of—

- (a) a debt not secured by a negotiable instrument,
- (b) a share in a corporation, or
- (c) other movable property not in the possession of the defaulter except property deposited in, or, in the custody of, any court,

Debts and  
shares, etc.

the attachment shall be made by a written order prohibiting,—

(i) in the case of the debt—the creditor from recovering the debt and the debtor from making payment thereof until the further order of the Tax Recovery Officer;

(ii) in the case of the share—the person in whose name the share may be standing from transferring the same or receiving any dividend thereon;

(iii) in the case of the other movable property (except as aforesaid)—the person in possession of the same from giving it over to the defaulter.

(2) A copy of such order shall be affixed on some conspicuous part of the office of the Tax Recovery Officer, and another copy shall be sent, in the case of the debt, to the debtor, in the case of the share, to the proper officer of the corporation, and in the case of the other movable property (except as aforesaid), to the person in possession of the same.

(3) A debtor prohibited under clause (i) of sub-rule (1) may pay the amount of his debt to the Tax Recovery Officer, and such

payment shall discharge him as effectually as payment to the party entitled to receive the same.

Attachment  
of decree.

27. (1) The attachment of a decree of a civil court for the payment of money or for sale in enforcement of a mortgage or charge shall be made by the issue to the civil court of a notice requesting the civil court to stay the execution of the decree unless and until—

(i) the Tax Recovery Officer cancels the notice, or

(ii) the Income-tax Officer or the defaulter applies to the court receiving such notice to execute the decree.

(2) Where a civil court receives an application under clause (ii) of sub-rule (1), it shall, on the application of the Income-tax Officer or the defaulter and subject to the provisions of the Code of Civil Procedure, 1908, proceed to execute the attached decree and apply 5 of 1908. the net proceeds in satisfaction of the certificate.

(3) The Income-tax Officer shall be deemed to be the representative of the holder of the attached decree, and to be entitled to execute such attached decree in any manner lawful for the holder thereof.

Share in  
movable  
property.

28. Where the property to be attached consists of the share or interest of the defaulter in movable property belonging to him and another as co-owners, the attachment shall be made by a notice to the defaulter prohibiting him from transferring the share or interest or charging it in any way.

Salary of  
Government  
servants.

29. Attachment of the salary or allowances of servants of the Government or a local authority may be made in the manner provided by rule 48 of Order 21 of the First Schedule to the Code of Civil Procedure, 1908 and the provisions of the said rule shall, for 5 of 1908 the purposes of this rule, apply subject to such modifications as may be necessary.

Attachment  
of negotiable  
instrument.

30. Where the property is a negotiable instrument not deposited in a court nor in the custody of a public officer, the attachment shall be made by actual seizure, and the instrument shall be brought before the Tax Recovery Officer and held subject to his orders.

Attachment  
of property  
in custody of  
court or  
public officer.

31. Where the property to be attached is in the custody of any court or public officer, the attachment shall be made by a notice to such court or officer, requesting that such property, and any interest or dividend becoming payable thereon, may be held subject to the further orders of the Tax Recovery Officer by whom the notice is issued:

Provided that, where such property is in the custody of a court, any question of title or priority arising between the Income-tax

Officer and any other person, not being the defaulter, claiming to be interested in such property by virtue of any assignment, attachment or otherwise, shall be determined by such court.

32. (1) Where the property to be attached consists of an interest of the defaulter, being a partner, in the partnership property, the Tax Recovery Officer may make an order charging the share of such partner in the partnership property and profits with payment of the amount due under the certificate, and may, by the same or subsequent order, appoint a receiver of the share of such partner in the profits, whether already declared or accruing and of any other money which may become due to him in respect of the partnership, and direct accounts and enquiries and make an order for the sale of such interest or such other order as the circumstances of the case may require.

Attachment of partnership property.

(2) The other persons shall be at liberty at any time to redeem the interest charged or, in the case of a sale being directed, to purchase the same.

33. In the case of attachment of movable property by actual seizure, the officer shall, after attachment of the property, prepare an inventory of all the property attached, specifying in it the place where it is lodged or kept, and shall forward the same to the Tax Recovery Officer and a copy of the inventory shall be delivered by the officer to the defaulter.

Inventory.

34. The attachment by seizure shall not be excessive, that is to say, the property attached shall be as nearly as possible proportionate to the amount specified in the warrant.

Attachment not to be excessive.

35. Attachment by seizure shall be made after sun-rise and before sun-set and not otherwise.

Seizure between sun-rise and sun-set.

36. The officer may break open any inner or outer door or window of any building and enter any building in order to seize any movable property if the officer has reasonable grounds to believe that such building contains movable property liable to seizure under the warrant and the officer has notified his authority and intention of breaking open if admission is not given. He shall, however, give all reasonable opportunity to women to withdraw.

Power to break open doors, etc.

### Sale

37. The Tax Recovery Officer may direct that any movable property attached under this Schedule or such portion thereof as may seem necessary to satisfy the certificate shall be sold.

Sale.

- Issue of proclamation.** 38. When any sale of movable property is ordered by the Tax Recovery Officer, the Tax Recovery Officer shall issue a proclamation, in the language of the district, of the intended sale, specifying the time and place of sale and whether the sale is subject to confirmation or not.
- Proclamation how made.** 39. (1) Such proclamation shall be made by beat of drum or other customary mode,—
- (a) in the case of property attached by actual seizure—
    - (i) in the village in which the property was seized, or, if the property was seized in a town or city, then, in the locality in which it was seized; and
    - (ii) at such other places as the Tax Recovery Officer may direct;
  - (b) in the case of property attached otherwise than by actual seizure in such places, if any, as the Tax Recovery Officer may direct.
- (2) A copy of the proclamation shall also be affixed in a conspicuous part of the office of the Tax Recovery Officer.
- Sale after fifteen days.** 40. Except where the property is subject to speedy and natural decay or when the expense of keeping it in custody is likely to exceed its value, no sale of movable property under this Schedule shall, without the consent in writing of the defaulter, take place until after the expiry of at least fifteen days calculated from the date on which a copy of the sale-proclamation was affixed in the office of the Tax Recovery Officer.
- Sale of agricultural produce.** 41. (1) Where the property to be sold is agricultural produce, the sale shall be held,—
- (a) if such produce is a growing crop—on or near the land on which such crop has grown, or
  - (b) if such produce has been cut or gathered—at or near the threshing-floor or place for treading out grain or the like, or fodder-stack, on or in which it is deposited:
- Provided that the Tax Recovery Officer may direct the sale to be held at the nearest place of public resort, if he is of opinion that the produce is thereby likely to sell to greater advantage.
- (2) Where, on the produce being put up for sale,—
- (a) a fair price, in the estimation of the person holding the sale, is not offered for it, and

(b) the owner of the produce, or a person authorised to act on his behalf, applies to have the sale postponed till the next day or, if a market is held at the place of sale, the next market day,

the sale shall be postponed accordingly, and shall be then completed, whatever price may be offered for the produce.

42. (1) Where the property to be sold is a growing crop and the crop from its nature admits of being stored but has not yet been stored, the day of the sale shall be so fixed as to admit of the crop being made ready for storing before the arrival of such day, and the sale shall not be held until the crop has been cut or gathered and is ready for storing. Special provisions relating to growing crops.

(2) Where the crop from its nature does not admit of being stored or can be sold to a greater advantage in an unripe stage (e.g. as green wheat), it may be sold before it is cut and gathered, and the purchaser shall be entitled to enter on the land, and to do all that is necessary for the purpose of tending or cutting or gathering the crop.

43. The property shall be sold by public auction in one or more lots as the officer may consider advisable, and if the amount to be realised by sale is satisfied by the sale of a portion of the property, the sale shall be immediately stopped with respect to the remainder of the lots. Sale to be by auction.

44. (1) Where movable property is sold by public auction, the price of each lot shall be paid at the time of sale or as soon after as the officer holding the sale directs and in default of payment, the property shall forthwith be resold. Sale by public auction.

(2) On payment of the purchase-money, the officer holding the sale shall grant a certificate specifying the property purchased, the price paid and the name of the purchaser, and the sale shall become absolute.

(3) Where the movable property to be sold is a share in goods belonging to the defaulter and a co-owner, and two or more persons, of whom one is such co-owner, respectively bid the same sum for such property or for any lot, the bidding shall be deemed to be the bidding of the co-owner.

45. No irregularity in publishing or conducting the sale of movable property shall vitiate the sale, but any person sustaining substantial injury by reason of such irregularity at the hand of any other person may institute a suit in a civil court against him for Irregularity not to vitiate sale, but any person injured may sue. See

compensation, or (if such other person is the purchaser) for the recovery of the specific property and for compensation in default of such recovery.

Negotiable instruments and shares in a corporation.

46. Notwithstanding anything contained in this Schedule, where the property to be sold is a negotiable instrument or a share in a corporation, the Tax Recovery Officer may, instead of directing the sale to be made by public auction, authorise the sale of such instrument or share through a broker.

Order for payment of coin or currency notes to the Income-tax Officer.

47. Where the property attached is current coin or currency notes, the Tax Recovery Officer may, at any time during the continuance of the attachment, direct that such coin or notes, or a part thereof sufficient to satisfy the certificate, be paid over to the Income-tax Officer.

### PART III

#### *Attachment and sale of immovable property*

##### *Attachment*

Attachment.

48. Attachment of the immovable property of the defaulter shall be made by an order prohibiting the defaulter from transferring or charging the property in any way and prohibiting all persons from taking any benefit under such transfer or charge.

Service of notice of attachment.

49. A copy of the order of attachment shall be served on the defaulter.

Proclamation of attachment.

50. The order of attachment shall be proclaimed at some place on or adjacent to the property attached by beat of drum or other customary mode, and a copy of the order shall be affixed on a conspicuous part of the property and on the notice board of the office of the Tax Recovery Officer.

Attachment to relate back from the date of service of notice.

51. Where any immovable property is attached under this Schedule, the attachment shall relate back to, and take effect from, the date on which the notice to pay the arrears, issued under this Schedule, was served upon the defaulter.

##### *Sale*

Sale and proclamation of sale.

52. (1) The Tax Recovery Officer may direct that any immovable property which has been attached, or such portion thereof as may seem necessary to satisfy the certificate, shall be sold.

(2) Where any immovable property is ordered to be sold, the Tax Recovery Officer shall cause a proclamation of the intended sale to be made in the language of the district.

53. A proclamation of sale of immovable property shall be drawn up after notice to the defaulter, and shall state the time and place of sale, and shall specify, as fairly and accurately as possible,—

Contents of proclamation. 7

(a) the property to be sold;

(b) the revenue, if any, assessed upon the property or any part thereof;

(c) the amount for the recovery of which the sale is ordered; and

(d) any other thing which the Tax Recovery Officer considers it material for a purchaser to know, in order to judge the nature and value of the property.

54. (1) Every proclamation for the sale of immovable property shall be made at some place on or near such property by beat of drum or other customary mode, and a copy of the proclamation shall be affixed on a conspicuous part of the property and also upon a conspicuous part of the office of the Tax Recovery Officer.

Mode of making proclamation.

(2) Where the Tax Recovery Officer so directs, such proclamation shall also be published in the Official Gazette or in a local newspaper, or in both; and the cost of such publication shall be deemed to be costs of the sale.

(3) Where the property is divided into lots for the purpose of being sold separately, it shall not be necessary to make a separate proclamation for each lot, unless proper notice of the sale cannot, in the opinion of the Tax Recovery Officer, otherwise be given.

55. No sale of immovable property under this Schedule shall, without the consent in writing of the defaulter, take place until after the expiration of at least thirty days calculated from the date on which a copy of the proclamation of sale has been affixed on the property or in the office of the Tax Recovery Officer, whichever is later.

Time of sale.

56. The sale shall be by public auction to the highest bidder and shall be subject to confirmation by the Tax Recovery Officer.

Sale to be by auction.

57. (1) On every sale of immovable property, the person declared to be the purchaser shall pay, immediately after such declaration, a deposit of twenty-five per cent. on the amount of his purchase money, to the officer conducting the sale; and, in default of such deposit, the property shall forthwith be re-sold.

Deposit by purchaser and resale in default.

(2) The full amount of purchase money payable shall be paid by the purchaser to the Tax Recovery Officer on or before the fifteenth day from the date of the sale of the property.

Procedure in  
default of  
payment.

58. In default of payment within the period mentioned in the preceding rule, the deposit may, if the Tax Recovery Officer thinks fit, after defraying the expenses of the sale, be forfeited to the Government, and the property shall be re-sold, and the defaulting purchaser shall forfeit all claims to the property or to any part of the sum for which it may subsequently be sold.

Authority  
to bid.

59. All persons bidding at the sale shall be required to declare if they are bidding on their own behalf or on behalf of their principals. In the latter case, they shall be required to deposit their authority, and in default their bids shall be rejected.

Application  
to set aside  
sale of im-  
movable pro-  
perty on  
deposit.

60. (1) Where immovable property has been sold in execution of a certificate, the defaulter, or any person whose interests are affected by the sale, may, at any time within thirty days from the date of the sale, apply to the Tax Recovery Officer to set aside the sale, on his depositing—

(a) for payment to the Income-tax Officer, the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, with interest thereon at the rate of six per cent. per annum, calculated from the date of the proclamation of sale to the date when the deposit is made; and

(b) for payment to the purchaser, as penalty, a sum equal to five per cent. of the purchase-money, but not less than one rupee.

(2) Where a person makes an application under rule 61 for setting aside the sale of his immovable property, he shall not, unless he withdraws that application, be entitled to make or prosecute an application under this rule.

Application  
to set aside  
sale of  
immovable  
property on  
ground of  
non-service  
of notice or  
irregularity.

61. Where immovable property has been sold in execution of a certificate, the Income-tax Officer, the defaulter, or any person whose interests are affected by the sale, may, at any time within thirty days from the date of the sale, apply to the Tax Recovery Officer to set aside the sale of the immovable property on the ground that notice was not served on the defaulter to pay the arrears as required by this Schedule or on the ground of a material irregularity in publishing or conducting the sale:

Provided that—

(a) no sale shall be set aside on any such ground unless the Tax Recovery Officer is satisfied that the applicant has sustained

substantial injury by reason of the non-service or irregularity; and

(b) an application made by a defaulter under this rule shall be disallowed unless the applicant deposits the amount recoverable from him in execution of the certificate.

62. At any time within thirty days of the sale, the purchaser may apply to the Tax Recovery Officer to set aside the sale on the ground that the defaulter had no saleable interest in the property sold.

Setting aside sale where defaulter has no saleable interest.

63. (1) Where no application is made for setting aside the sale under the foregoing rules or where such an application is made and disallowed by the Tax Recovery Officer, the Tax Recovery Officer shall (if the full amount of the purchase-money has been paid) make an order confirming the sale, and, thereupon, the sale shall become absolute.

Confirmation of sale.

(2) Where such application is made and allowed, and where, in the case of an application made to set aside the sale on deposit of the amount and penalty and charges, the deposit is made within thirty days from the date of the sale, the Tax Recovery Officer shall make an order setting aside the sale:

Provided that no order shall be made unless notice of the application has been given to the persons affected thereby.

64. Where a sale of immovable property is set aside, any money paid or deposited by the purchaser on account of the purchase, together with the penalty, if any, deposited for payment to the purchaser, and such interest as the Tax Recovery Officer may allow, shall be paid to the purchaser.

Return of purchase money in certain cases.

65. (1) Where a sale of immovable property has become absolute, the Tax Recovery Officer shall grant a certificate specifying the property sold, and the name of the person who at the time of sale is declared to be the purchaser.

Sale certificate.

(2) Such certificate shall state the date on which the sale became absolute.

66. (1) Where an order for the sale of immovable property has been made, if the defaulter can satisfy the Tax Recovery Officer that there is reason to believe that the amount of the certificate may be raised by the mortgage or lease or private sale of such property, or some part thereof, or of any other immovable property of the defaulter, the Tax Recovery Officer may, on his application, postpone the sale of the property comprised in the order for sale, on such terms and for such period as he thinks proper, to enable him to raise the amount.

Postponement of sale to enable defaulter to raise amount due under certificate.

(2) In such case, the Tax Recovery Officer shall grant a certificate to the defaulter, authorising him, within a period to be mentioned therein, and notwithstanding anything contained in this Schedule, to make the proposed mortgage, lease or sale:

Provided that all moneys payable under such mortgage, lease or sale shall be paid, not to the defaulter, but to the Tax Recovery Officer:

Provided also that no mortgage, lease or sale under this rule shall become absolute until it has been confirmed by the Tax Recovery Officer.

Fresh proclamation before re-sale.

67. Every re-sale of immovable property, in default of payment of the purchase-money within the period allowed for such payment, shall be made after the issue of a fresh proclamation in the manner and for the period hereinbefore provided for the sale.

Bid of co-sharer to have preference.

68. Where the property sold is a share of undivided immovable property, and two or more persons, of whom one is a co-sharer, respectively bid the same sum for such property or for any lot, the bid shall be deemed to be the bid of the co-sharer.

#### PART IV

##### *Appointment of receiver*

Appointment of receiver for business

69. (1) Where the property of a defaulter consists of a business, the Tax Recovery Officer may attach the business and appoint a person as receiver to manage the business.

(2) Attachment of a business under this rule shall be made by an order prohibiting the defaulter from transferring or charging the business in any way and prohibiting all persons from taking any benefit under such transfer or charge, and intimating that the business has been attached under this rule. A copy of the order of attachment shall be served on the defaulter, and another copy shall be affixed on a conspicuous part of the premises in which the business is carried on and on the notice board of the office of the Tax Recovery Officer.

Appointment of receiver for immovable property.

70. Where immovable property is attached, the Tax Recovery Officer may, instead of directing a sale of the property, appoint a person as receiver to manage such property.

Powers of receiver.

71. (1) Where any business or other property is attached and taken under management under the foregoing rules, the receiver shall, subject to the control of the Tax Recovery Officer, have such powers as may be necessary for the proper management of the property and the realisation of the profits, or rents and profits, thereof.

(2) The profits, or rents and profits, of such business or other property, shall, after defraying the expenses of management, be adjusted towards discharge of the arrears, and the balance, if any, shall be paid to the defaulter

72. The attachment and management under the foregoing rules may be withdrawn at any time at the discretion of the Tax Recovery Officer, or if the arrears are discharged by receipt of such profits and rents or are otherwise paid.

Withdrawal  
of manage-  
ment.

#### PART V

##### *Arrest and detention of the defaulter*

73. (1) No order for the arrest and detention in civil prison of a defaulter shall be made unless the Tax Recovery Officer has issued and served a notice upon the defaulter calling upon him to appear before him on the date specified in the notice and to show cause why he should not be committed to the civil prison, and unless the Tax Recovery Officer for reasons recorded in writing, is satisfied—

Notice to  
show cause.

(a) that the defaulter, with the object or effect of obstructing the execution of the certificate, has, after the receipt of the certificate in the office of the Tax Recovery Officer, dishonestly transferred, concealed, or removed any part of his property, or

(b) that the defaulter has, or has had since the receipt of the certificate in the office of the Tax Recovery Officer, the means to pay the arrears or some substantial part thereof and refuses or neglects or has refused or neglected to pay the same.

(2) Notwithstanding anything contained in sub-rule (1), a warrant for the arrest of the defaulter may be issued by the Tax Recovery Officer if the Tax Recovery Officer is satisfied, by affidavit or otherwise, that with the object or effect of delaying the execution of the certificate, the defaulter is likely to abscond or leave the local limits of the jurisdiction of the Tax Recovery Officer.

(3) Where appearance is not made in obedience to a notice issued and served under sub-rule (1), the Tax Recovery Officer may issue a warrant for the arrest of the defaulter.

(4) Every person arrested in pursuance of a warrant of arrest under sub-rule (2) or sub-rule (3) shall be brought before the Tax Recovery Officer as soon as practicable and in any event within twenty-four hours of his arrest (exclusive of the time required for the journey):

Provided that, if the defaulter pays the amount entered in the warrant of arrest as due and the costs of the arrest to the officer arresting him, such officer shall at once release him.

Hearing.

74. When a defaulter appears before the Tax Recovery Officer in obedience to a notice to show cause or is brought before the Tax Recovery Officer under rule 73, the Tax Recovery Officer shall proceed to hear the Income-tax Officer and take all such evidence as may be produced by him in support of execution by arrest, and shall then give the defaulter an opportunity of showing cause why he should not be committed to the civil prison.

Custody pending hearing.

75. Pending the conclusion of the inquiry, the Tax Recovery Officer may, in his discretion, order the defaulter to be detained in the custody of such officer as the Tax Recovery Officer may think fit or release him on his furnishing security to the satisfaction of the Tax Recovery Officer for his appearance when required.

Order of detention.

76. (1) Upon the conclusion of the inquiry, the Tax Recovery Officer may make an order for the detention of the defaulter in the civil prison and shall in that event cause him to be arrested if he is not already under arrest:

Provided that in order to give the defaulter an opportunity of satisfying the arrears, the Tax Recovery Officer may, before making the order of detention, leave the defaulter in the custody of the officer arresting him or of any other officer for a specified period not exceeding 15 days, or release him on his furnishing security to the satisfaction of the Tax Recovery Officer for his appearance at the expiration of the specified period if the arrears are not so satisfied.

(2) When the Tax Recovery Officer does not make an order of detention under sub-rule (1) he shall, if the defaulter is under arrest, direct his release.

Detention in and release from prison.

77. (1) Every person detained in the civil prison in execution of a certificate may be so detained,—

(a) where the certificate is for a demand of an amount exceeding two hundred and fifty rupees—for a period of six months, and

(b) in any other case—for a period of six weeks:

Provided that he shall be released from such detention—

(i) on the amount mentioned in the warrant for his detention being paid to the officer-in-charge of the civil prison, or

(ii) on the request of the Income-tax Officer who has issued the certificate or of the Tax Recovery Officer on any ground other than the grounds mentioned in rules 78 and 79:

Provided that where he is to be released on the request of the Income-tax Officer, he shall not so be released without the order of the Tax Recovery Officer.

(2) A defaulter released from detention under this rule shall not, merely by reason of his release, be discharged from his liability for the arrears; but he shall not be liable to be re-arrested under the certificate in execution of which he was detained in the civil prison.

78. (1) The Tax Recovery Officer may order the release of a defaulter who has been arrested in execution of a certificate upon being satisfied that he has disclosed the whole of his property and has placed it at the disposal of the Tax Recovery Officer and that he has not committed any act of bad faith. Release.

(2) If the Tax Recovery Officer has ground for believing the disclosure made by a defaulter under sub-rule (1) to have been untrue, he may order the re-arrest of the defaulter in execution of the certificate, but the period of his detention in the civil prison shall not in the aggregate exceed that authorised by rule 77.

79. (1) At any time after a warrant for the arrest of a defaulter has been issued, the Tax Recovery Officer may cancel it on the ground of his serious illness. Release on ground of illness.

(2) Where a defaulter has been arrested, the Tax Recovery Officer may release him if, in the opinion of the Tax Recovery Officer, he is not in a fit state of health to be detained in the civil prison.

(3) Where a defaulter has been committed to the civil prison, he may be released therefrom by the Tax Recovery Officer on the ground of the existence of any infectious or contagious disease, or on the ground of his suffering from any serious illness.

(4) A defaulter released under this rule may be re-arrested, but the period of his detention in the civil prison shall not in the aggregate exceed that authorised by rule 77.

80. For the purpose of making an arrest under this Schedule— Entry into dwelling house.

(a) no dwelling house shall be entered after sun-set and before sun-rise;

(b) no outer door of a dwelling house shall be broken open unless such dwelling house or a portion thereof is in the occupancy of the defaulter and he or other occupant of the house refuses or in any way prevents access thereto; but, when the person executing any such warrant has duly gained access

to any dwelling house, he may break open the door of any room or apartment if he has reason to believe that the defaulter is likely to be found there;

(c) no room, which is in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, shall be entered into unless the officer authorised to make the arrest has given notice to her that she is at liberty to withdraw and has given her reasonable time and facility for withdrawing.

Prohibition  
against arrest  
of women or  
minors, etc.

81. The Tax Recovery Officer shall not order the arrest and detention in the civil prison of—

(a) a woman, or

(b) any person who, in his opinion, is a minor or of unsound mind.

#### PART VI.

#### Miscellaneous

Officers  
deemed to  
be acting  
judicially.

82. Every Tax Recovery Officer or other officer acting under this Schedule shall, in the discharge of his functions under this Schedule, be deemed to be acting judicially within the meaning of the Judicial Officer's Protection Act, 1850.

18 of 1850

Power to  
take  
evidence.

83. Every Tax Recovery Officer or other officer acting under the provisions of this Schedule shall have the powers of a civil court while trying a suit for the purpose of receiving evidence, administering oaths, enforcing the attendance of witnesses and compelling the production of documents.

Continuance  
of certificate.

84. No certificate shall cease to be in force by reason of the death of the defaulter.

Procedure  
on death of  
defaulter.

85. If at any time after the issue of the certificate by the Income-tax Officer to the Tax Recovery Officer the defaulter dies, the proceedings under this Schedule (except arrest and detention) may be continued against the legal representative of the defaulter, and the provisions of this Schedule shall apply as if the legal representative were the defaulter.

Appeals.

86. ~~(1) An appeal from any original order passed by the Tax Recovery Officer under this Schedule, not being an order which is conclusive, shall lie to the revenue authority to which appeals ordinarily lie against the orders of a Collector under the law relating to land revenue of the State concerned.~~

↓ Subs. by Act 13 of 1963, s. 20 (Revised Schedule)

(2) Every appeal under this rule must be presented within thirty days from the date of the order appealed against.

(3) Pending the decision of any appeal, execution of the certificate may be stayed if the appellate authority so directs, but not otherwise.

87. Any order passed under this Schedule may, after notice to all persons interested, be reviewed by the officer who made the order, or by his successor in office, on account of any mistake apparent from the record. <sup>to Review.</sup>

88. Where any person has under this Schedule become surety for the amount due by the defaulter, he may be proceeded against under this Schedule as if he were the defaulter. <sup>Recovery from surety.</sup>

89. Whoever fraudulently removes, conceals, transfers or delivers to any person any property or any interest therein, intending thereby to prevent that property or interest therein, from being taken in execution of a certificate, shall be deemed to have committed an offence punishable under section 206 of the Indian Penal Code. <sup>Penalties.</sup>

45 of 1860.

90. (1) When a defaulter is arrested or detained in the civil prison, the sum payable for the subsistence of the defaulter from the time of arrest until he is released shall be borne by the Income-tax Officer. <sup>Subsistence allowance.</sup>

(2) Such sum shall be calculated on the scale fixed by the State Government for the subsistence of judgment-debtors arrested in execution of a decree of a civil court.

(3) Sums payable under this rule shall be deemed to be costs in the proceeding:

Provided that the defaulter shall not be detained in the civil prison or arrested on account of any sum so payable.

91. The Board may prescribe the form to be used for any order, notice, warrant, or certificate to be issued under this Schedule. <sup>Forms.</sup>

92. (1) The Board may make rules, consistent with the provisions of this Act, regulating the procedure to be followed by Tax Recovery Officers and other officers acting under this Schedule. <sup>Power to make rules.</sup>

(2) In particular, and without prejudice to the generality of the power conferred by sub-rule (1), such rules may provide for all or any of the following matters, namely:—

(a) the area within which Tax Recovery Officers may exercise jurisdiction;

(b) the manner in which any property sold under this Schedule may be delivered;

(c) the execution of a document or the endorsement of a negotiable instrument or a share in a corporation, by or on behalf of the Tax Recovery Officer, where such execution or endorsement is required to transfer such negotiable instrument or share to a person who has purchased it under a sale under this Schedule;

(d) the procedure for dealing with resistance or obstruction offered by any person to a purchaser of any immovable property sold under this Schedule, in obtaining possession of the property;

(e) the fees to be charged for any process issued under this Schedule;

(f) the scale of charges to be recovered in respect of any other proceeding taken under this Schedule;

(g) recovery of poundage fee;

(h) the maintenance and custody, while under attachment, of livestock or other movable property, the fees to be charged for such maintenance and custody, the sale of such livestock or property, and the disposal of proceeds of such sale;

(i) the mode of attachment of business.

Saving re-  
garding  
charge.

93. Nothing in this Schedule shall affect any provision of this Act whereunder the tax is a first charge upon any asset.

### THE THIRD SCHEDULE

#### PROCEDURE FOR DISTRAINT BY INCOME-TAX OFFICER

[See section 226 (5)]

Distrain  
and sale.

Where any distraint and sale of movable property are to be effected by any Income-tax Officer authorised for the purpose, such distraint and sale shall be made, as far as may be, in the same manner as attachment and sale of any movable property attachable by actual seizure, and the provisions of the Second Schedule relating to attachment and sale shall, so far as may be, apply in respect of such distraint and sale.

## THE FOURTH SCHEDULE

## PART A

*Recognised provident funds*

[See sections 2(38), 10(12), 10(25), 36 (1) (iv), 87(1) (d), 111, 192 (4)]

1. This Part shall not apply to any provident fund to which the <sup>Application</sup> ~~of Part.~~  
19 of 1925. Provident Funds Act, 1925, applies.

2. In this Part, unless the context otherwise requires,— <sup>Definitions.</sup>

(a) "employer" means any person who maintains a provident fund for the benefit of his or its employees, being—

(i) a Hindu undivided family, company, firm or other association of persons, or

(ii) an individual engaged in a business or profession the profits and gains whereof are assessable to income-tax under the head "Profits and gains of business or profession";

(b) "employee" means an employee participating in a provident fund, but does not include a personal or domestic servant;

(c) "contribution" means any sum credited by or on behalf of any employee out of his salary, or by an employer out of his own monies, to the individual account of an employee, but does not include any sum credited as interest;

(d) "balance to the credit of an employee" means the total amount to the credit of his individual account in a provident fund at any time;

(e) "annual accretion" in relation to the balance to the credit of an employee, means the increase to such balance in any year, arising from contributions and interest;

(f) "accumulated balance due to an employee" means the balance to his credit, or such portion thereof as may be claimable by him under the regulations of the fund, on the day he ceases to be an employee of the employer maintaining the fund;

(g) "regulations of a fund" means the special body of regulations governing the constitution and administration of a particular provident fund; and

(h) "salary" includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites.

According  
and with-  
drawal of re-  
cognition.

3. (1) The Commissioner may accord recognition to any provident fund which, in his opinion, satisfies the conditions prescribed in rule 4 and the rules made by the Board in this behalf, and may, at any time, withdraw such recognition if, in his opinion, the provident fund contravenes any of those conditions.

(2) An order according recognition shall take effect on such date as the Commissioner may fix in accordance with any rules the Board may make in this behalf, such date not being later than the last day of the financial year in which the order is made.

(3) An order withdrawing recognition shall take effect from the date on which it is made.

(4) An order according recognition to a provident fund shall not, unless the Commissioner otherwise directs, be affected by the fact that the fund is subsequently amalgamated with another provident fund on the occurrence of an amalgamation of the undertakings in connection with which the two funds are maintained, or that it subsequently absorbs the whole or a part of another provident fund belonging to an undertaking which is wholly or in part transferred to or merged in the undertaking of the employer maintaining the first-mentioned fund.

Conditions  
to be satis-  
fied by re-  
cognised  
provident  
funds.

4. In order that a provident fund may receive and retain recognition, it shall, subject to the provisions of rule 5, satisfy the conditions set out below and any other conditions which the Board may, by rules, specify—

(a) all employees shall be employed in India, or shall be employed by an employer whose principal place of business is in India;

(b) the contributions of an employee in any year shall be a definite proportion of his salary for that year, and shall be deducted by the employer from the employee's salary in that proportion, at each periodical payment of such salary in that year, and credited to the employee's individual account in the fund;

(c) the contributions of an employer to the individual account of an employee in any year shall not exceed the amount of the contributions of the employee in that year, and shall be credited to the employee's individual account at intervals not exceeding one year;

(d) the fund shall be vested in two or more trustees or in the Official Trustee under a trust which shall not be revocable, save with the consent of all the beneficiaries;

(e) the fund shall consist of contributions as above specified, received by the trustees, of accumulations thereof, and of interest credited in respect of such contributions and accumulations, and of securities purchased therewith and of any capital gains arising from the transfer of capital assets of the fund, and of no other sums;

(f) the employer shall not be entitled to recover any sum whatsoever from the fund, save in cases where the employee is dismissed for misconduct or voluntarily leaves his employment otherwise than on account of ill-health or other unavoidable cause before the expiration of the term of service specified in this behalf in the regulations of the fund:

Provided that in such cases the recoveries made by the employer shall be limited to the contributions made by him to the individual account of the employee, and to interest credited in respect of such contributions in accordance with the regulations of the fund and the accumulations thereof;

(g) the accumulated balance due to an employee shall be payable on the day he ceases to be an employee of the employer maintaining the fund;

(h) save as provided in clause (g) or in accordance with such conditions and restrictions as the Board may, by rules, specify, no portion of the balance to the credit of an employee shall be payable to him.

5. (1) Notwithstanding anything contained in clause (a) of rule 4 the Commissioner may, if he thinks fit, and subject to such conditions, if any, as he thinks proper to attach to the recognition, accord recognition to a fund maintained by an employer whose principal place of business is not in India, provided the proportion of employees employed outside India does not exceed ten per cent. Relaxation of conditions.

(2) Notwithstanding anything contained in clause (b) of rule 4, an employee who retains his employment while serving in the armed forces of the Union or when taken into or employed in the national service under any law for the time being in force, may, whether he receives from the employer any salary or not, contribute to the fund during his service in the armed forces of the Union or while so taken into or employed in the national service a sum not exceeding the amount he would have contributed had he continued to serve the employer.

(3) Notwithstanding anything contained in clause (e) or clause (g) of rule 4,—

(a) at the request made in writing by the employee who ceases to be an employee of the employer maintaining the fund, the trustees of the fund may consent to retain the whole or any part of the accumulated balance due to the employee to be drawn by him at any time on demand;

(b) where the accumulated balance due to an employee who has ceased to be an employee is retained in the fund in accordance with the preceding clause, the fund may consist also of interest in respect of such accumulated balance.

(4) Subject to any rules which the Board may make in this behalf, the Commissioner may, in respect of any particular fund, relax the provisions of clause (c) of rule 4,—

(a) so as to permit the payment of larger contributions by an employer to the individual accounts of employees whose salaries do not in each case exceed five hundred rupees per mensem: and

(b) so as to permit the crediting by employers to the individual accounts of employees of periodical bonuses or other contributions of a contingent nature, where the calculation and payment of such bonuses or other contributions is provided for on definite principles by the regulations of the fund.

(5) Notwithstanding anything contained in clause (h) of rule 4, in order to enable an employee to pay the amount of tax assessed on his total income as determined under sub-rule (4) of rule 11, he shall be entitled to withdraw from the balance to his credit in the recognised provident fund a sum not exceeding the difference between such amount and the amount to which he would have been assessed if the transferred balance referred to in sub-rule (2) of rule 11 had not been included in his total income.

Employer's  
annual con-  
tributions,  
when  
deemed to  
be income  
received by  
employee.

6. That portion of the annual accretion in any previous year to the balance at the credit of an employee participating in a recognised provident fund as consists of—

(a) contributions made by the employer in excess of ten per cent. of the salary of the employee, and

(b) interest credited on the balance to the credit of the employee in so far as it exceeds one-third of the salary of the employee or is allowed at a rate exceeding such rate as may be fixed by the Central Government in this behalf by notification in the Official Gazette,

shall be deemed to have been received by the employee in that previous year and shall be included in his total income for that previous year, and shall be liable to income-tax and super-tax.

7. An employee participating in a recognised provident fund shall be entitled to a deduction from the amount of income-tax on his total income with which he is chargeable for any assessment year, of an amount equal to the income-tax calculated at the average rate of income-tax on his own contributions to his individual account in the fund in the previous year, in so far as the aggregate of such contributions does not exceed one-fifth of his salary in that previous year or eight thousand rupees, whichever is less.

Exemption  
for employ-  
ee's con-  
tributions.

8. The accumulated balance due and becoming payable to an employee participating in a recognised provident fund shall be excluded from the computation of his total income—

Exclusion  
from total  
income  
of accumu-  
lated  
balance.

(i) if he has rendered continuous service with his employer for a period of five years or more, or

(ii) if, though he has not rendered such continuous service, the service has been terminated by reason of the employee's ill-health, or by the contraction or discontinuance of the employer's business or other cause beyond the control of the employee.

9. (1) Where the accumulated balance due to an employee participating in a recognised provident fund is included in his total income owing to the provisions of rule 8 not being applicable, the Income-tax Officer shall calculate the total of the various sums of income-tax and super-tax which would have been payable by the employee in respect of his total income for each of the years concerned if the fund had not been a recognised provident fund, and the amount by which such total exceeds the total of all sums paid by or on behalf of such employee by way of tax for such years shall be payable by the employee in addition to any other income-tax and super-tax for which he may be liable for the previous year in which the accumulated balance due to him becomes payable.

Tax on  
accumulated  
balance.

(2) Where the accumulated balance due to an employee participating in a recognised provident fund which is not included in his total income under the provisions of rule 8 becomes payable, an amount equal to the aggregate of the amounts of super-tax on annual accretions that would have been payable under section 58E of the Indian Income-tax Act, 1922, for any assessment year up to and including the assessment year 1932-1933, if the Indian Income-tax (Second Amendment) Act, 1933, had come into force on the 15th day of March, 1930, shall be payable by the employee in addition to any other tax payable by him for the previous year in which such balance becomes payable.

11 of 1922.

18 of 1933.

Deduction at source of tax payable on accumulated balance.

10. The trustees of a recognised provident fund, or any person authorised by the regulations of the fund to make payment of accumulated balances due to employees, shall, in cases where sub-rule (1) of rule 9 applies, at the time an accumulated balance due to an employee is paid, deduct therefrom the amount payable under that rule and all the provisions of Chapter XVII-B shall apply as if the accumulated balance were income chargeable under the head "Salaries".

Treatment of balance in newly recognised provident fund.

11. (1) Where recognition is accorded to a provident fund with existing balances, an account shall be made of the fund up to the day immediately preceding the day on which the recognition takes effect, showing the balance to the credit of each employee on such day, and containing such further particulars as the Board may prescribe.

(2) The account shall also show in respect of the balance to the credit of each employee the amount thereof which is to be transferred to that employee's account in the recognised provident fund, and such amount (hereinafter called his transferred balance) shall be shown as the balance to his credit in the recognised provident fund on the date on which the recognition of the fund takes effect, and sub-rule (4) of this rule and sub-rule (5) of rule 5 shall apply thereto.

(3) Any portion of the balance to the credit of an employee in the existing fund which is not transferred to the recognised fund shall be excluded from the accounts of the recognised fund and shall be liable to income-tax and super-tax in accordance with the provisions of this Act, other than this Part.

(4) Subject to such rules as the Board may make in this behalf, the Income-tax Officer shall make a calculation of the aggregate of all sums comprised in a transferred balance which would have been liable to income-tax if this Part had been in force from the date of the institution of the fund, without regard to any tax which may have been paid on any sum, and such aggregate (if any) shall be deemed to be income received by the employee in the previous year in which the recognition of the fund takes effect and shall be included in the employee's total income for that previous year, and, for the purposes of assessment, the remainder of the transferred balance shall be disregarded, but no other exemption or relief, by way of refund or otherwise, shall be granted in respect of any sum comprised in such transferred balance.

Provided that, in cases of serious accounting difficulty, the Commissioner may, subject to the said rules, make a summary calculation of such aggregate.

(5) Nothing in this rule shall affect the rights of the persons administering an unrecognised provident fund or dealing with it,

or with the balance to the credit of any individual employee before recognition is accorded, in any manner which may be lawful.

12. (1) The accounts of a recognised provident fund shall be maintained by the trustees of the fund and shall be in such form and for such periods, and shall contain such particulars, as the Board may prescribe. Accounts of recognised provident funds.

(2) The accounts shall be open to inspection at all reasonable times by Income-tax authorities, and the trustees shall furnish to the Income-tax Officer such abstracts thereof as the Board may prescribe.

13. (1) An employer objecting to an order of the Commissioner refusing to recognise or an order withdrawing recognition from a provident fund may appeal, within sixty days of such order, to the Board. Appeals.

(2) The appeal shall be in such form and shall be verified in such manner and shall be subject to the payment of such fee as the Board may prescribe.

14. (1) Where an employer, who maintains a provident fund (whether recognised or not) for the benefit of his employees and has not transferred the fund or any portion of it, transfers such fund or portion to trustees in trust for the employees participating in the fund, the amount so transferred shall be deemed to be of the nature of capital expenditure. Treatment of fund transferred by employer to trustee.

(2) When an employee participating in such fund is paid the accumulated balance due to him therefrom, any portion of such balance as represents his share in the amount so transferred to the trustees (without addition of interest, and exclusive of the employee's contributions and interest thereon) shall, if the employer has made effective arrangements to secure that tax shall be deducted at source from the amount of such share when paid to the employee, be deemed to be an expenditure by the employer within the meaning of section 37, incurred in the previous year in which the accumulated balance due to the employee is paid.

15. (1) In addition to any power conferred by this Part, the Board may make rules— Provisions relating to rules.

(a) prescribing the statements and other information to be submitted along with an application for recognition;

(b) limiting the contributions to a recognised provident fund by employees of a company who are shareholders in the company;

(c) providing for the assessment by way of penalty of any consideration received by an employee for an assignment of, or

creation of a charge upon, his beneficial interest in a recognised provident fund;

(d) determining the extent to and the manner in which exemption from payment of income-tax and super-tax may be granted in respect of contributions and interest credited to the individual accounts of employees in a provident fund from which recognition has been withdrawn; and

(e) generally, to carry out the purposes of this Part and to secure such further control over the recognition of provident funds and the administration of recognised provident funds as it may deem requisite.

(2) All rules made under this Part shall be subject to the provisions of section 296.

## PART B

### Approved superannuation funds

[See sections 2(6), 10(13), 10 (25) (iii), 36(1) (iv), 87 (1) (e), 192 (5),  
206 (2) ]

#### Definitions.

1. In this Part, unless the context otherwise requires, "employer", "employee", "contribution" and "salary" have, in relation to superannuation funds, the meanings assigned to those expressions in rule 2 of Part A in relation to provident funds.

#### Approval and withdrawal of approval.

2. (1) The Commissioner may accord approval to any superannuation fund or any part of a superannuation fund which, in his opinion, complies with the requirements of rule 3, and may at any time withdraw such approval, if in his opinion, the circumstances of the fund or part cease to warrant the continuance of the approval.

(2) The Commissioner shall communicate in writing to the trustees of the fund the grant of approval with the date on which the approval is to take effect, and, where the approval is granted subject to conditions, those conditions.

(3) The Commissioner shall communicate in writing to the trustees of the fund any withdrawal of approval with the reasons for such withdrawal and the date on which the withdrawal is to take effect.

(4) The Commissioner shall neither refuse nor withdraw approval to any superannuation fund or any part of a superannuation fund unless he has given the trustees of that fund a reasonable opportunity of being heard in the matter.

3. In order that a superannuation fund may receive and retain approval, it shall satisfy the conditions set out below and any other conditions which the Board may, by rules, prescribe—

Conditions  
for approval.

(a) the fund shall be a fund established under an irrevocable trust in connection with a trade or undertaking carried on in India, and not less than ninety per cent. of the employees shall be employed in India;

(b) the fund shall have for its sole purpose the provision of annuities for employees in the trade or undertaking on their retirement at or after a specified age or on their becoming incapacitated prior to such retirement, or for the widows, children or dependants of persons who are or have been such employees on the death of those persons;

(c) the employer in the trade or undertaking shall be a contributor to the fund; and

(d) all annuities, pensions and other benefits granted from the fund shall be payable only in India.

4. (1) An application for approval of a superannuation fund or part of a superannuation fund shall be made in writing by the trustees of the fund to the Income-tax Officer by whom the employer is assessable, and shall be accompanied by a copy of the instrument under which the fund is established and by two copies of the rules and of the accounts of the fund for the last year for which such accounts have been made up, but the Commissioner may require such further information to be supplied as he thinks proper.

Application  
for approval.

(2) If any alteration in the rules, constitution, objects or conditions of the fund is made at any time after the date of the application for approval, the trustees of the fund shall forthwith communicate such alteration to the Income-tax Officer mentioned in sub-rule (1), and in default of such communication any approval given shall, unless the Commissioner otherwise orders, be deemed to have been withdrawn from the date on which the alteration took effect.

5. Where any contributions by an employer (including the interest thereon, if any) are repaid to the employer, the amount so repaid shall be deemed for the purpose of income-tax and super-tax to be the income of the employer of the previous year in which it is so repaid.

Contribu-  
tions by  
employer,  
when deem-  
ed to be  
income of  
employer.

6. Where any contributions made by an employer, including interest on contributions, if any, are paid to an employee during his life-time, income-tax and super-tax on the amounts so paid shall be deducted at the average rate of income-tax and super-tax at which the employee was liable to income-tax and super-tax during the

Deduction  
of tax on  
contributions  
paid to an  
employee.

preceding three years or during the period, if less than three years, when he was a member of the fund, and shall be paid by the trustees to the credit of the Central Government within the prescribed time and in such manner as the Board may direct.

Deduction from pay of and contributions on behalf of employee to be included in return.

7. Where an employer deducts from the emoluments paid to an employee or pays on his behalf any contributions of that employee to an approved superannuation fund, he shall include all such deductions or payments in the return which he is required to furnish under subsection (1) of section 206.

Appeals.

8. (1) An employer objecting to an order of the Commissioner refusing to accord approval to a superannuation fund or an order withdrawing such approval may appeal, within sixty days of such order, to the Board.

(2) The appeal shall be in such form and shall be verified in such manner and shall be subject to the payment of such fee as may be prescribed.

Liability of trustees on cessation of approval.

9. If a fund or a part of a fund for any reason ceases to be an approved superannuation fund, the trustees of the fund shall nevertheless remain liable to tax on any sum paid on account of returned contributions (including interest on contributions, if any), in so far as the sum so paid is in respect of contributions made before the fund or part of the fund ceased to be an approved superannuation fund under the provisions of this Part.

Particulars to be furnished in respect of superannuation funds.

10. The trustees of an approved superannuation fund and any employer who contributes to an approved superannuation fund shall, when required by notice from the Income-tax Officer, within such period, not being less than twenty-one days from the date of the notice, as may be specified in the notice, furnish such return, statement, particulars or information, as the Income-tax Officer may require.

Provision relating to rules.

11. (1) In addition to any power conferred by this Part, the Board may make rules—

(a) prescribing the statements and other information to be submitted along with an application for approval;

(b) prescribing the returns, statements, particulars, or information which the Income-tax Officer may require from the trustees of an approved superannuation fund or from the employer,

(c) limiting the ordinary annual contribution and any other contributions to an approved superannuation fund by an employer;

(d) providing for the assessment by way of penalty of any consideration received by an employee for an assignment of, or creation of a charge upon, his beneficial interest in an approved superannuation fund;

(e) determining the extent to, and the manner in, which exemption from payment of income-tax and super-tax may be granted in respect of any payment made from a superannuation fund from which approval has been withdrawn;

(f) providing for the withdrawal of approval in the case of a fund which ceases to satisfy the requirements of this Part or of the rules made thereunder; and

(g) generally, to carry out the purposes of this Part and to secure such further control over the approval of superannuation funds and the administration of approved superannuation funds as it may deem requisite.

(2) All rules made under this part shall be subject to the provisions of section 296.

### PART C

#### Approved gratuity funds

[See sections 2(5), 17(1) (iii), 36(1) (v).]

1. In this Part, unless the context otherwise requires, "employer", "employee", "contribution" and "salary" have, in relation to gratuity funds, the meanings assigned to those expressions in rule 2 of Part A in relation to provident funds. Definitions.

2. (1) The Commissioner may accord approval to any gratuity fund which, in his opinion, complies with the requirements of rule 3 and may at any time withdraw such approval if, in his opinion, the circumstances of the fund cease to warrant the continuance of the approval. Approval and withdrawal of approval.

(2) The Commissioner shall communicate in writing to the trustees of the fund the grant of approval with the date on which the approval is to take effect, and where the approval is granted subject to conditions, those conditions.

(3) The Commissioner shall communicate in writing to the trustees of the fund any withdrawal of approval with the reasons for such withdrawal and the date on which the withdrawal is to take effect.

(4) The Commissioner shall neither refuse nor withdraw approval to any gratuity fund unless he has given the trustees of that fund a reasonable opportunity of being heard in the matter.

Conditions  
for approval.

3. In order that a gratuity fund may receive and retain approval, it shall satisfy the conditions set out below and any other conditions which the Board may, by rules, prescribe—

(a) the fund shall be a fund established under an irrevocable trust in connection with a trade or undertaking carried on in India, and not less than ninety per cent. of the employees shall be employed in India;

(b) the fund shall have for its sole purpose the provision of a gratuity to employees in the trade or undertaking on their retirement at or after a specified age or on their becoming incapacitated prior to such retirement or on termination of their employment after a minimum period of service specified in the rules of the fund or to the widows, children or dependents of such employees on their death;

(c) the employer in the trade or undertaking shall be a contributor to the fund; and

(d) all benefits granted by the fund shall be payable only in India.

Application  
for approval.

4. (1) An application for approval of a gratuity fund shall be made in writing by the trustees of the fund to the Income-tax Officer by whom the employer is assessable and shall be accompanied by a copy of the instrument under which the fund is established and by two copies of the rules and of the accounts of the fund for the last three years for which such accounts have been made up, but the Commissioner may require such further information to be supplied as he thinks proper.

(2) If any alteration in the rules, constitution, objects or conditions of the fund is made at any time after the date of the application for approval, the trustees of the fund shall forthwith communicate such alterations to the Income-tax Officer mentioned in sub-rule (1), and in default of such communication, any approval given shall, unless the Commissioner otherwise orders, be deemed to have been withdrawn from the date on which the alteration took effect.

Gratuity  
deemed to  
be salary.

5. Where any gratuity is paid to an employee during his life-time, the gratuity shall be treated as salary paid to the employee for the purposes of this Act.

6. If a gratuity fund for any reason ceases to be an approved gratuity fund, the trustees of the fund shall nevertheless remain liable to tax on any gratuity paid to any employee.

Liability of trustees on cessation of approval.

7. Where any contributions by an employer (including the interest thereon, if any) are repaid to the employer, the amount so repaid shall be deemed for the purposes of income-tax and super-tax to be the income of the employer of the previous year in which they are so repaid.

Contributions by employer, when deemed to be income of employer.

8. (1) An employer objecting to an order of the Commissioner refusing to accord approval to a gratuity fund or an order withdrawing such approval may appeal, within sixty days of such order, to the Board.

Appeals.

(2) The appeal shall be in such form and shall be verified in such manner and shall be subject to the payment of such fee as may be prescribed.

9. (1) In addition to any power conferred in this part, the Board may make rules—

Provisions relating to rules.

(a) prescribing the statements and other information to be submitted along with an application for approval;

(b) limiting the ordinary annual and other contributions of an employer to the fund;

(c) providing for the assessment by way of penalty of any consideration received by an employee for an assignment of, or the creation of a charge upon, his beneficial interest in an approved gratuity fund;

(d) providing for the withdrawal of the approval in the case of a fund which ceases to satisfy the requirements of this Part or the rules made thereunder; and

(e) generally, to carry out the purposes of this Part and to secure such further control over the approval of gratuity funds and the administration of gratuity funds as it may deem requisite.

(2) All rules made under this Part shall be subject to the provisions of section 296.

## THE FIFTH SCHEDULE

*Exemption from Super-tax in respect of certain dividends*

[See section 99 (1) (iv)]

1. Super-tax shall not be payable by a company in respect of any dividend which is assessable for the assessment year commencing on the 1st day of April, 1962, and for the subsequent assessment years, and which is declared—

(a) by an Indian company formed and registered after the 31st day of March, 1952, and before the 1st day of April, 1967, where—

(1) the Central Government is satisfied that the Indian company is wholly or mainly engaged in an industry for the manufacture or production of any one or more of the articles specified in any of the items in Part A of this Schedule; and

(2) the income of the Indian company would have been exempt under the provisions of section 84, if the provisions of that section had been applicable thereto; or

(b) by an Indian company formed and registered after the 31st day of March, 1961, and before the 1st day of April, 1967, where—

(1) the Central Government is satisfied that the Indian company is wholly or mainly engaged in an industry for the manufacture or production of any one or more of the articles specified in any of the items in Part B of this Schedule; and

(2) the income of the Indian company would have been exempt under the provisions of section 84, if the provisions of that section had been applicable thereto.

2. Super-tax shall not be payable by a company in respect of any dividend which is assessable for the assessment year commencing on the 1st day of April, 1962, and for the subsequent assessment years and which is payable to it in respect of any fresh capital raised by an Indian company by public subscription—

(a) after the 28th day of February, 1953, and before the 1st day of April, 1967, for the purpose of increasing the production of, or starting a separate unit for the manufacture or production of, any one or more of the articles specified in any of the items in Part A of this Schedule; and

(b) after the 31st day of March, 1961 and before the 1st day of April, 1967, for the purpose of increasing the production of, or starting a separate unit for the manufacture or production of, any one or more of the articles specified in any of the items in Part B of this Schedule.

3. Where by any Act any of the items in Part A or Part B of this Schedule is repealed, then, notwithstanding such repeal, any exemption conferred by rule 1 or rule 2 shall continue to be available for the dividends declared by any Indian company engaged in any industry referred to in the item so repealed—

(i) in the cases referred to in rule 1, so long as such dividends relate to the previous year in which the Indian company is incorporated and the nine previous years immediately succeeding;

(ii) in the cases referred to in rule 2, so long as such dividends relate to the previous year in which the fresh capital was raised and the nine previous years immediately succeeding; and

(iii) in the case of an Indian company which is wholly or mainly engaged in, or, as the case may be, which runs a separate unit for the manufacture or production of articles specified in any item so repealed and also in any item which continues to be in force, the exemption from super-tax referred to in rule 1 or rule 2 in respect of such part of the dividends declared by the Indian company in respect of any previous year later than the nine previous years referred to in clause (i) or clause (ii) as is attributable to the profits and gains derived from the manufacture or production of any article specified in the item so repealed shall lapse.

#### PART A

1. Coal including coke and other derivatives;
2. Iron and Steel (metal), ferro-alloys and special steels;
3. Motor and aviation fuel, kerosene, crude oils and synthetic oils (not being oil exploration);
4. Chemicals (other than fertilisers) of the following types;
  - (a) Inorganic heavy chemicals;
  - (b) Organic heavy chemicals;

- (c) Fine chemicals (including photographic chemicals);
- (d) Synthetic rubber;
- (e) Man-made fibres, other than viscose rayon;
- (f) Coke oven by-products;
- (g) Coal-tar distillation products like naphthalene, anthracene and the like;
- (h) Explosives, including gun-powder and safety fuses;

5. Inorganic, organic and mixed fertilisers;

6. Industrial machinery of the following types (including gear wheels and parts thereof, boilers and steam generating plants):—

*A. Major items of specialised equipment used in specific industries:*

- (i) Textile machinery (such as frames, carding machines, powerlooms and the like) including textile accessories;
- (ii) Jute machinery;
- (iii) Rayon machinery;
- (iv) Sugar machinery;
- (v) Tea machinery;
- (vi) Mining machinery;
- (vii) Metallurgical machinery;
- (viii) Cement machinery;
- (ix) Chemical machinery;
- (x) Pharmaceuticals machinery;
- (xi) Paper machinery;

*B. General items of machinery used in several industries, such as the equipment required for various 'unit processes':*

- (i) Size reduction equipment—crushers, ball mills and the like;
- (ii) Conveying equipment—bucket elevators, skip hoists, cranes, derricks and the like;
- (iii) Size separation units—screens, classifiers and the like;
- (iv) Mixers and reactors—kneading mills, turbo mixers and the like;
- (v) Filtration equipment—filter presses, rotary filters and the like;
- (vi) Centrifugal machines;
- (vii) Evaporators;

- (viii) Distillation equipment;
- (ix) Crystallisers;
- (x) Driers;
- (xi) Power driven pumps—reciprocating, centrifugal and the like;
- (xii) Air and gas compressors and vacuum pipes (excluding electrical furnaces);
- (xiii) Refrigeration plants for industrial use;
- (xiv) Fire fighting equipment and appliances including fire engines;

*C. Other items of industrial Machinery:*

- (i) Ball, roller and tapered bearings;
  - (ii) Speed reduction units;
  - (iii) Grinding wheels and abrasives.
7. Machinery and equipment for the generation, transmission and distribution of electric energy;
  8. Non-ferrous metals including alloys;
  9. Paper including newsprint and paper board;
  10. Internal combustion engines;
  11. Power-driven pumps;
  12. Automobiles;
  13. Tractors;
  14. Cement;
  15. Electric Motors;
  16. Locomotives;
  17. Rolling Stock;
  18. Machine Tools;
  19. Agriculture Implements;
  20. Ferro-manganese;
  21. Dye-stuffs;
  22. Refractories; and
  23. Steel pipes and spun iron pipes.

**PART B**

1. Steel castings;
2. Steel forgings provided the undertaking is equipped with forges of two-ton hammer and above;
3. Pulp machinery;

4. Pulp for paper and artificial fibres;
  5. Dies and jigs;
  6. Precision tools;
  7. *Industrial Instruments*:
    - (i) Water meters, steam meters and electricity meters;
    - (ii) Indicating, recording and regulating devices for pressure, temperature, rate of flow, weights and levels.
  8. Scientific Instruments;
  9. Sealed compressor units for the refrigeration industry;
  10. Earth-moving equipment;
  11. Boilers;
  12. Electrical Railway Signalling Equipment;
  13. Printing Machinery;
  14. Organic intermediates for dyestuffs, drugs and plastics; and
  15. Component parts of each of the articles mentioned in items numbers 6, 7, 10, 12 and 13 of Part A and items numbers 10 and 11 of Part B, that is to say, such parts as are essential for the working of the machinery referred to in the items aforesaid and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose and are in complete finished form and ready for fitment.
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*Rep. by Act 52 of 1964, S. 2 & Sch. I (w.e.f. 29.12.64)*

**THE INDIAN STANDARDS INSTITUTION (CERTIFICATION MARKS) AMENDMENT ACT, 1961**

NO. 44 OF 1961

[30th November, 1961]

An Act further to amend the Indian Standards Institution (Certification Marks) Act, 1952.

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

1. This Act may be called the Indian Standards Institution (Certification Marks) Amendment Act, 1961. Short title.

2. In section 1 of the Indian Standards Institution (Certification Marks) Act, 1952 (hereinafter referred to as the principal Act), in sub-section (2), the words "except the State of Jammu and Kashmir" shall be omitted. Amendment of section 1.

3. In section 2 of the principal Act, in clause (c), the following words, brackets, letters and figure shall be inserted at the end, namely:— Amendment of section 2.

"and includes any standard recognised by the Institution under clause (aa) of section 3."

4. In section 3 of the principal Act, after clause (a), the following clause shall be inserted, namely:— Amendment of section 3.

"(aa) recognise as an Indian Standard, in such manner as may be prescribed, any standard established by any other Institution in India or elsewhere, in relation to any article or process;"

5. In section 8 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:— Amendment of section 8.

45 of 1860. "(4) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code."

6. In section 20 of the principal Act,— Amendment of section 20.  
(a) in sub-section (2), after clause (a), the following clause shall be inserted, namely:—

"(aa) the procedure and manner in which any standard established by any institution other than the Indian Standards

*Rep. by Act 52 of 1964.*

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Indian Standards Institution [ACT 44 OF 1961]  
(Certification Marks) Amendment

Institution in India or elsewhere, in relation to any article or process, may be recognised;"

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

"(4) Every rule made under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, 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."

**Amendment of section 21.** 7. In section 21 of the principal Act, in sub-section (2), for the word, brackets and letter "clauses (a)" the word, brackets and letters "clauses (a), (aa)" shall be substituted.

Not Corrected: See India Code, vol. I A, Pt VII P. 33.

THE FOREIGN AWARDS (RECOGNITION AND ENFORCEMENT) ACT, 1961

No. 45 OF 1961

[30th November, 1961]

An Act to enable effect to be given to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York, on the tenth day of June, 1958, to which India is a party and for purposes connected therewith.

Enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

1. (1) This Act may be called the Foreign Awards (Recognition and Enforcement) Act, 1961. Short title and extent.

(2) It extends to the whole of India.

2. In this Act, unless the context otherwise requires, "foreign award" means an award on differences between persons arising out of legal relationships, whether contractual or not, considered as commercial under the law in force in India, made on or after the 11th day of October, 1960— Definition.

(a) in pursuance of an agreement in writing for arbitration to which the Convention set forth in the Schedule applies, and

(b) in one of such territories as the Central Government, being satisfied that reciprocal provisions have been made, may, by notification in the Official Gazette, declare to be territories to which the said Convention applies.

10 of 1940.  
5 of 1908.

3. Notwithstanding anything contained in the Arbitration Act, 1940 or in the Code of Civil Procedure, 1908, if any party to a submission made in pursuance of an agreement to which the Convention set forth in the Schedule applies, or any person claiming through or under him commences any legal proceedings in any court against any other party to the submission or any person claiming through or under him in respect of any matter agreed to be referred, any party to such legal proceedings may, at any time after appearance and before filing a written statement or taking any other step in the proceedings, apply to the court to stay the proceedings and the court Stay of proceedings in respect of matters to be referred to arbitration.

unless satisfied that the agreement is null and void, inoperative or incapable of being performed or that there is not in fact any dispute between the parties with regard to the matter agreed to be referred, shall make an order staying the proceedings.

Effect of  
foreign  
awards.

4. (1) A foreign award shall, subject to the provisions of this Act, be enforceable in India as if it were an award made on a matter referred to arbitration in India.

(2) Any foreign award which would be enforceable under this Act shall be treated as binding for all purposes on the persons as between whom it was made, and may accordingly be relied on by any of those persons by way of defence, set off or otherwise in any legal proceedings in India and any references in this Act to enforcing a foreign award shall be construed as including references to relying on an award.

Filing of  
foreign  
award in  
court.

5. (1) Any person interested in a foreign award may apply to any court having jurisdiction over the subject-matter of the award that the award be filed in court.

(2) The application shall be in writing and shall be numbered and registered as a suit between the applicant as plaintiff and the other parties as defendants.

(3) The court shall direct notice to be given to the parties to the arbitration, other than the applicant, requiring them to show cause, within a time specified why the award should not be filed.

Enforcement  
of foreign  
award.

6. (1) Where the court is satisfied that the foreign award is enforceable under this Act, the court shall order the award to be filed and shall proceed to pronounce judgment according to the award.

(2) Upon the judgment so pronounced a decree shall follow, and no appeal shall lie from such decree except in so far as the decree is in excess of or not in accordance with the award.

Conditions  
for enforce-  
ment of  
foreign  
awards.

7. (1) A foreign award may not be enforced under this Act—

(a) if the party against whom it is sought to enforce the award proves to the court dealing with the case that—

(i) the parties to the agreement were, under the law applicable to them, under some incapacity, or the said agreement is not valid under the law to which the parties have

Not Corrected: See India Code

of 1961] Foreign Awards (Recognition and Enforcement)

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subjected it, or failing any indication thereon, under the law of the country where the award was made; or

(ii) that party was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings or was otherwise unable to present his case; or

(iii) the award deals with questions not referred or contains decisions on matters beyond the scope of the agreement:

Provided that if the decisions on matters submitted to arbitration can be separated from those not submitted, that part of the award which contains decisions on matters submitted to arbitration may be enforced; or

(iv) the composition of the arbitral authority or the arbitral procedure was not in accordance with the agreement of the parties or, failing such agreement, was not in accordance with the law of the country where the arbitration took place; or

(v) the award has not yet become binding on the parties or has been set aside or suspended by a competent authority of the country in which, or under the law of which, that award was made; or

(b) if the court dealing with the case is satisfied that—

(i) the subject-matter of the difference is not capable of settlement by arbitration under the law of India; or

(ii) the enforcement of the award will be contrary to public policy.

(2) If the court before which a foreign award is sought to be relied upon is satisfied that an application for the setting aside or suspension of the award has been made to a competent authority referred to in sub-clause (v) of clause (a) of sub-section (1), the court may, if it deems proper, adjourn the decision on the enforcement of the award and may also, on the application of the party claiming enforcement of the award, order the other party to furnish suitable security.

8. (1) The party applying for the enforcement of a foreign award shall, at the time of the application, produce—

(a) the original award or a copy thereof, duly authenticated in the manner required by the law of the country in which it was made;

(b) the original agreement for arbitration or a duly certified copy thereof; and

(c) such evidence as may be necessary to prove that the award is a foreign award.

(2) If the award or agreement requiring to be produced under sub-section (1) is in a foreign language, the party seeking to enforce the award shall produce a translation into English certified as correct by a diplomatic or consular agent of the country to which that party belongs or certified as correct in such other manner as may be sufficient according to the law in force in India.

**Saving.**

9. Nothing in this Act shall—

(a) prejudice any rights which any person would have had of enforcing in India of any award or of availing himself in India of any award if this Act had not been passed; or

(b) apply to any award made on an arbitration agreement governed by the law of India.

**Repeal.**

10. The Arbitration (Protocol and Convention) Act, 1937 shall cease to have effect in relation to foreign awards to which this Act applies.

**Rule making power of the High Court.**

11. The High Court may make rules consistent with this Act as to—

(a) the filing of foreign awards and all proceedings consequent thereon or incidental thereto;

(b) the evidence which must be furnished by a party seeking to enforce a foreign award under this Act; and

(c) generally, all proceedings in court under this Act.

#### THE SCHEDULE

[See sections 2 and 3]

#### CONVENTION ON THE RECOGNITION AND ENFORCEMENT OF FOREIGN ARBITRAL AWARDS

##### Article I

1. This Convention shall apply to the recognition and enforcement of arbitral awards made in the territory of a State other than the State where the recognition and enforcement of such awards are sought, and arising out of differences between persons, whether physical or legal. It shall also apply to arbitral awards not considered as domestic awards in the State where their recognition and enforcement are sought.

2. The term "arbitral awards" shall include not only awards made by arbitrators appointed for each case but also those made by permanent arbitral bodies to which the parties have submitted.

3. When signing, ratifying or acceding to this Convention, or notifying extension under article X hereof, any State may on the basis of reciprocity declare that it will apply the Convention to the recognition and enforcement of awards made only in the territory of another Contracting State. It may also declare that it will apply the Convention only to differences arising out of legal relationships, whether contractual or not, which are considered as commercial under the national law of the State making such declaration.

#### *Article II*

1. Each Contracting State shall recognise an agreement in writing under which the parties undertake to submit to arbitration all or any differences which have arisen or which may arise between them in respect of defined legal relationship, whether contractual or not, concerning a subject-matter capable of settlement by arbitration.

2. The term "agreement in writing" shall include an arbitral clause in a contract or an arbitration agreement, signed by the parties or contained in an exchange of letters or telegrams.

3. The court of a Contracting State, when seized of an action in a matter in respect of which the parties have made an agreement within the meaning of this article, shall, at the request of one of the parties, refer the parties to arbitration, unless it finds that the said agreement is null and void, inoperative or incapable of being performed.

#### *Article III*

Each Contracting State shall recognize arbitral awards as binding and enforce them in accordance with the rules of procedure of the territory where the award is relied upon, under the conditions laid down in the following articles. There shall not be imposed substantially more onerous conditions or higher fees or charges on the recognition or enforcement of arbitral awards to which this Convention applies than are imposed on the recognition or enforcement of domestic arbitral awards.

*Article IV*

1. To obtain the recognition and enforcement mentioned in the preceding article, the party applying for recognition and enforcement shall, at the time of the application, supply:

(a) the duly authenticated original award or a duly certified copy thereof;

(b) the original agreement referred to in article II or a duly certified copy thereof.

2. If the said award or agreement is not made in an official language of the country in which the award is relied upon, the party applying for recognition and enforcement of the award shall produce a translation of these documents into such language. The translation shall be certified by an official or sworn translator or by a diplomatic or consular agent.

*Article V*

1. Recognition and enforcement of the award may be refused, at the request of the party against whom it is invoked, only if that party furnishes to the competent authority where the recognition and enforcement is sought, proof that—

(a) the parties to the agreement referred to in article II were, under the law applicable to them, under some incapacity, or the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of the country where the award was made; or

(b) the party against whom the award is invoked was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings or was otherwise unable to present his case; or

(c) the award deals with a difference not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, that part of the award which contains decisions on matters submitted to arbitration may be recognized and enforced; or

(d) the composition of the arbitral authority or the arbitral procedure was not in accordance with the agreement of the parties, or, failing such agreement, was not in accordance with the law of the country where the arbitration took place; or

(e) the award has not yet become binding on the parties, or has been set aside or suspended by a competent authority of the country in which, or under the law of which, that award was made.

2. Recognition and enforcement of an arbitral award may also be refused if the competent authority in the country where recognition and enforcement is sought finds that—

(a) the subject-matter of the difference is not capable of settlement by arbitration under the law of that country; or

(b) the recognition or enforcement of the award would be contrary to the public policy of that country.

#### *Article VI*

If an application for the setting aside or suspension of the award has been made to a competent authority referred to in article V (1) (e), the authority before which the award is sought to be relied upon may, if it considers it proper, adjourn the decision on the enforcement of the award and may also, on the application of the party claiming enforcement of the award, order the other party to give suitable security.

#### *Article VII*

1. The provisions of the present Convention shall not affect the validity of multilateral or bilateral agreements concerning the recognition and enforcement of arbitral awards entered into by the Contracting States nor deprive any interested party of any right he may have to avail himself of an arbitral award in the manner and to the extent allowed by the law or the treaties of the country where such award is sought to be relied upon.

2. The Geneva Protocol on Arbitration Clauses of 1923 and the Geneva Convention on the Execution of Foreign Arbitral Awards of 1927 shall cease to have effect between Contracting States on their becoming bound and to the extent that they become bound by this Convention.

#### *Article VIII*

1. This Convention shall be open until 31st December 1958 for signature on behalf of any Member of the United Nations and also on behalf of any other State which is or hereafter becomes member of any specialized agency of the United Nations, or which is or hereafter becomes a party to the Statute of the International Court of Justice, or any other State to which an invitation has been addressed by the General Assembly of the United Nations.

2. This Convention shall be ratified and the instrument of ratification shall be deposited with the Secretary-General of the United Nations.

*Article IX*

1. This Convention shall be open for accession to all States referred to in article VIII.

2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

*Article X*

1. Any State may, at the time of signature, ratification or accession, declare that this Convention shall extend to all or any of the territories for the international relations of which it is responsible. Such a declaration shall take effect when the Convention enters into force for the State concerned.

2. At any time thereafter any such extension shall be made by notification addressed to the Secretary-General of the United Nations and shall take effect as from the ninetieth day after the day of receipt by the Secretary-General of the United Nations of this notification, or as from the date of entry into force of the Convention for the State concerned, whichever is the later.

3. With respect to those territories to which this Convention is not extended at the time of signature, ratification or accession, each State concerned shall consider the possibility of taking the necessary steps in order to extend the application of this Convention to such territories, subject, where necessary for constitutional reasons, to the consent of the Governments of such territories.

*Article XI*

In the case of a federal or non-unitary State, the following provisions shall apply:—

(a) With respect to those articles of this Convention that come within the legislative jurisdiction of the federal authority, the obligations of the federal Government shall to this extent be the same as those of Contracting States which are not federal States;

(b) With respect to those articles of this Convention that come within the legislative jurisdiction of constituent states or provinces which are not, under the constitutional system of the

federation, bound to take legislative action, the federal Government shall bring such articles with a favourable recommendation to the notice of the appropriate authorities of constituent states or provinces at the earliest possible moment;

(c) A federal State Party to this Convention shall, at the request of any other Contracting State transmitted through the Secretary-General of the United Nations, supply a statement of the law and practice of the federation and its constituent units in regard to any particular provision of this Convention, showing the extent to which effect has been given to that provision by legislative or other action.

#### *Article XII*

1. This Convention shall come into force on the ninetieth day following the date of deposit of the third instrument of ratification or accession.

2. For each State ratifying or acceding to this Convention after the deposit of the third instrument of ratification or accession, this Convention shall enter into force on the ninetieth day after deposit by such State of its instrument of ratification or accession.

#### *Article XIII*

1. Any contracting State may denounce this Convention by a written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

2. Any State which has made a declaration or notification under article X may, at any time thereafter, by notification to the Secretary-General of the United Nations, declare that this Convention shall cease to extend to the territory concerned one year after the date of the receipt of the notification by the Secretary-General.

3. This Convention shall continue to be applicable to arbitral awards in respect of which recognition or enforcement proceedings have been instituted before the denunciation takes effect.

#### *Article XIV*

A contracting State shall not be entitled to avail itself of the present Convention against other contracting States except to the extent that it is itself bound to apply the Convention.

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*Article XV*

The Secretary-General of the United Nations shall notify the States contemplated in article VIII of the following:—

- (a) Signatures and ratifications in accordance with article VIII;
- (b) Accessions in accordance with article IX;
- (c) Declarations and notifications under articles I, X and XI;
- (d) The date upon which this Convention enters into force in accordance with article XII;
- (e) Denunciations and notifications in accordance with article XIII.

*Article XVI*

1. This Convention, of which the Chinese, English, French, Russian and Spanish texts shall be equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit a certified copy of this Convention to the States contemplated in article XIII.

**THE VOLUNTARY SURRENDER OF SALARIES  
(EXEMPTION FROM TAXATION) ACT, 1961**

No. 46 OF 1961

[6th December, 1961]

**An Act to provide for exempting from taxes on income a portion of the salary or allowances payable to any person who has in the public interest volunteered to forego it.**

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

1. This Act may be called the Voluntary Surrender of Salaries Short title.  
(Exemption from Taxation) Act, 1961.

11 of 1922. 2. Notwithstanding anything contained in the Indian Income-tax Act, 1922, or in any other law for the time being in force relating to taxation on income, no income-tax or super-tax shall be payable by any person—

Exemption from taxes on income in respect of salaries surrendered in favour of Government.

(a) where his salary is paid out of the Consolidated Fund of India or of the Consolidated Fund of a State, in respect of that part of the salary due to him for any period after the 31st day of March, 1961 which he has, by a declaration in writing, volunteered to forego in the public interest;

(b) in any other case, in respect of that part of the salary which is due to him for any period after the 31st day of March, 1961 which has been, in the public interest, surrendered in favour of, and paid to, the Central Government in accordance with the rules made in this behalf by that Government;

and such part of the salary shall not be included in his total income for the purposes of any law relating to taxation on income.

3. The provisions of section 2 shall apply in relation to any allowances due to any such person as is referred to therein for any period after the 31st day of March, 1961 as they apply in relation to his salary. Provisions of section 2 to apply to allowances.

**Power to  
make rules.**

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

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

**Repeal.**

5. (1) The Voluntary Surrender of Salaries (Exemption from Taxation) Act, 1950, is hereby repealed.

61 of 1950

(2) Notwithstanding such repeal any declaration made under the said Act shall be deemed to be a declaration made for the purposes of this Act.

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Not Corrected: See India Code, Vol. VA P27 6.277

## THE DEPOSIT INSURANCE CORPORATION ACT, 1961

### ARRANGEMENT OF SECTIONS

#### CHAPTER I

##### PRELIMINARY

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

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##### ESTABLISHMENT AND MANAGEMENT OF THE DEPOSIT INSURANCE CORPORATION

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7. Meetings of Board.
8. Committees of Corporation.
9. Fees and allowances of directors.

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##### REGISTRATION OF BANKING COMPANIES AS INSURED BANKS AND LIABILITY OF CORPORATION TO DEPOSITORS

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11. Registration of new banking companies.
12. Registration of defunct banking companies.
13. Cancellation of registration.
14. Intimation of registration.
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16. Liability of Corporation in respect of insured deposits.

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19. Discharge of the liability of Corporation.
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## FUNDS, ACCOUNTS AND AUDIT

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25. Investment.
26. Advances by Reserve Bank.
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36. Inspection of insured banks by Reserve Bank.
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41. Defects in appointments not to invalidate acts, etc.
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Not Corrected: See India Code

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*Deposit Insurance Corporation*

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44. Liquidation of Corporation.
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46. Dispute as to amount of premium.
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48. Offences by companies.
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THE FIRST SCHEDULE.—DECLARATION OF FIDELITY AND SECRECY.

THE SECOND SCHEDULE.—AMENDMENT OF CERTAIN ENACTMENTS.

Not Corrected: See India Code, Vol. VA P2V, p. 277

## THE DEPOSIT INSURANCE CORPORATION ACT, 1961

No. 47 OF 1961

[7th December, 1961]

An Act to provide for the establishment of a corporation for the purpose of insurance of deposits and for other matters connected therewith or incidental thereto.

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

### CHAPTER I

#### PRELIMINARY

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Deposit Insurance Corporation Act, 1961.

(2) It extends to the whole of India.

(3) It shall come into force on such date<sup>1</sup> as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

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

(a) "banking" means the accepting, for the purpose of lending or investment, of deposits of money from the public, repayable on demand or otherwise, and withdrawable by cheque, draft, order or otherwise;

(b) "banking company" means any company which transacts the business of banking in India and includes the State Bank, a subsidiary bank and any other banking institution notified under section 51 of the Banking Companies Act, 1949, but does not include the Madras Industrial Investment Corporation Limited; 10 of 1949.

*Explanation.*—Any company which is engaged in the manufacture of goods or carries on any trade and which accepts deposits of money from the public merely for the purpose of

<sup>1</sup>1-1-62 vide Notification No. G.S.R.18, dated 28-12-1961, Gazette of India, Part II, Sec. 3(1), p. 7.

financing its business as such manufacturer or trader shall not be deemed to transact the business of banking within the meaning of this clause;

(c) "Board" means the Board of directors constituted under section 6;

1 of 1956.

(d) "company" means any company as defined in section 3 of the Companies Act, 1956, and includes a foreign company within the meaning of section 591 of that Act;

(e) "Corporation" means the Deposit Insurance Corporation established under section 3;

(f) "defunct banking company" means a banking company—

(i) which has been prohibited from receiving fresh deposits; or

(ii) which has been ordered to be wound up; or

(iii) which has transferred all its deposit liabilities in India to any other institution; or

10 of 1949.

(iv) which has ceased to be a banking company within the meaning of sub-section (2) of section 36A of the Banking Companies Act, 1949, or has converted itself into a non-banking company; or

(v) in respect of which a liquidator has been appointed in pursuance of a resolution for the voluntary winding up of its affairs; or

(vi) in respect of which any scheme of compromise or arrangement or of reconstruction has been sanctioned by any competent authority and the said scheme does not permit the acceptance of fresh deposits; or

(vii) which has been granted a moratorium which is in operation; or

(viii) in respect of which an application for the winding up of its affairs is pending in a competent court;

(g) "deposit" means the aggregate of the unpaid balances due to a depositor (other than a foreign Government, the Central Government, a State Government or a banking company) in respect of all his accounts, by whatever name called, with a banking company and includes credit balances in any cash credit account but does not include,—

(i) where a banking company at the commencement of this Act is working under a scheme of compromise or arrangement or of reconstruction sanctioned by any competent authority providing for the acceptance of fresh deposits, any amount due to the depositor in respect of his deposit before the date of the coming into force of the scheme to the extent it is not credited after the said date under the provisions of that scheme; or

(ii) any amount due on account of any deposit received outside India;

(h) "existing banking company" means a banking company carrying on the business of banking at the commencement of this Act which either holds a licence at such commencement under section 22 of the Banking Companies Act, 1949 or having applied for such licence has not been informed by notice in writing by the Reserve Bank that a licence cannot be granted to it and includes the State Bank and a subsidiary bank, but does not include a defunct banking company; 10 of 1949.

(i) "insured bank" means a banking company for the time being registered under the provisions of this Act and includes for the purposes of sections 16, 17, 18 and 21 a banking company referred to in clause (a) or clause (b) of section 13 the registration whereof has been cancelled under that section;

(j) "insured deposit" means the deposit or any portion thereof the repayment whereof is insured by the Corporation under the provisions of this Act;

(k) "new banking company" means a banking company which begins to transact the business of banking after the commencement of this Act under a licence granted to it under section 22 of the Banking Companies Act, 1949, and includes any banking institution notified under section 51 of the said Act after such commencement; 10 of 1949.

(l) "premium" means the sum payable by an insured bank under section 15 of this Act;

(m) "prescribed" means prescribed by regulations made under this Act;

(n) "Reserve Bank" means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934; 2 of 1934.

(o) "State Bank" means the State Bank of India constituted under the State Bank of India Act, 1955; 23 of 1955.

(p) "subsidiary bank" shall have the meaning assigned to it in section 2 of the State Bank of India (Subsidiary Banks) Act, 1959.

## CHAPTER II

### ESTABLISHMENT AND MANAGEMENT OF THE DEPOSIT INSURANCE CORPORATION

3. (1) The Central Government shall, by notification in the Official Gazette, establish a Corporation by the name of the Deposit Insurance Corporation which shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold or dispose of property and to contract, and may, by the said name, sue or be sued.

(2) The head office of the Corporation shall be at Bombay, but it may, with the previous sanction of the Reserve Bank, establish branches or agencies in any other place in India.

4. The authorised capital of the Corporation shall be one crore of rupees, which shall be fully paid-up and shall stand allotted to the Reserve Bank.

5. The general superintendence, direction and the management of the affairs and business of the Corporation 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 Corporation.

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

(a) the Governor for the time being of the Reserve Bank, who shall be the Chairman of the Board;

(b) a Deputy Governor of the Reserve Bank nominated by that bank;

(c) an officer of the Central Government nominated by that Government;

(d) two directors nominated by the Central Government in consultation with the Reserve Bank having special knowledge of commercial banking or of commerce, industry or finance, neither of whom shall be an officer of Government or of the Reserve Bank or an officer or other employee of the Corporation or a director, an officer or other employee of a banking company or otherwise actively connected with a banking company.

(2) A director nominated under clause (b) or clause (c) of sub-section (1) shall hold office during the pleasure of the authority nominating him and a director nominated under clause (d) of sub-section (1) shall hold office for such period not exceeding four years as may be specified by the Central Government.

(3) A person shall not be capable of being nominated as a director under clause (d) of sub-section (1) if—

(a) he has been removed or dismissed from the service of Government or of a local authority or of a corporation or company in which not less than fifty-one per cent. of the paid-up share capital is held by Government; or

(b) he is or at any time has been adjudicated as insolvent or has suspended payment of his debts or has compounded with his creditors; or

(c) he is of unsound mind and stands so declared by a competent court; or

(d) he has been convicted of any offence which, in the opinion of the Central Government, involves moral turpitude.

(4) If a director nominated under clause (d) of sub-section (1)—

(a) becomes subject to any of the disqualifications mentioned in clauses (a) to (d) of sub-section (3); or

(b) is absent without leave of the Board for more than three consecutive meetings thereof; or

(c) becomes a director or an officer or an employee of an insured bank or is, in the opinion of the Central Government, otherwise actively connected with such bank; or

(d) becomes an officer or other employee of Government or of the Reserve Bank or of the Corporation;

his seat shall thereupon become vacant.

**Meetings of Board.**

7. (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.

(2) The Chairman or, if for any reason he is unable to attend, the director nominated under clause (b) of sub-section (1) of section 6 shall preside at meetings of the Board and, in the event of equality of votes, shall have a second or casting vote.

8. (1) The Board may constitute an Executive Committee consisting of such number of directors as may be prescribed. Committees of Corporation.

(2) The Executive Committee shall discharge such functions as may be prescribed or may be delegated to it by the Board.

(3) The Board may constitute such other committees, whether consisting wholly of directors or wholly of other persons or partly of directors and partly of other persons as it thinks fit for the purpose of discharging such of its functions as may be prescribed or may be delegated to them by the Board.

(4) A committee constituted under this section shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

(5) The members of a committee (other than directors of the Board) shall be paid by the Corporation such fees and allowances for attending its meetings and for attending to any other work of the Corporation as may be prescribed.

9. The directors of the Board shall be paid by the Corporation such fees and allowances for attending the meetings of the Board or of any of its committees and for attending to any other work of the Corporation as may be prescribed: Fees and allowances of directors.

Provided that no fees shall be payable to the Chairman or to the director nominated under clause (b) or clause (c) of sub-section (1) of section 6.

### CHAPTER III

#### REGISTRATION OF BANKING COMPANIES AS INSURED BANKS AND LIABILITY OF CORPORATION TO DEPOSITORS

10. The Corporation shall register every existing banking company as an insured bank before the expiry of thirty days from the date of commencement of this Act. Registration of existing banking companies.

11. The Corporation shall register every new banking company as an insured bank as soon as may be after it is granted a licence under section 22 of the Banking Companies Act, 1949, or, as the case may be, after it is notified under section 51 of the said Act. Registration of new banking companies.

12. Every banking company, being a defunct banking company at the commencement of this Act, by reason of sub-clause (vii) or sub-clause (viii) of clause (f) of section 2 shall, unless it becomes a defunct banking company under any other sub-clause of that Registration of defunct banking companies.

clause, be registered by the Corporation as an insured bank as soon as may be after the termination of the order of moratorium or, as the case may be, the rejection of the application for its winding up.

Cancellation  
of registra-  
tion.

13. The registration of a banking company as an insured bank shall stand cancelled on the occurrence of any of the following events, namely:—

(a) if it has been prohibited from receiving fresh deposits;  
or

(b) if it has been informed by notice in writing by the Reserve Bank that its licence has been cancelled under section 22 of the Banking Companies Act, 1949, or that a licence under 10 of 194 that section cannot be granted to it; or

(c) if it has been ordered to be wound up; or

(d) if it has transferred all its deposit liabilities in India to any other institution; or

(e) if it has ceased to be a banking company within the meaning of sub-section (2) of section 36A of the Banking Companies Act, 1949, or has converted itself into a non-banking 10 of 194 company; or

(f) if a liquidator has been appointed in pursuance of a resolution for the voluntary winding up of its affairs; or

(g) if in respect of it any scheme of compromise or arrangement or of reconstruction has been sanctioned by any competent authority and the said scheme does not permit the acceptance of fresh deposits; or

(h) if it has been amalgamated with any other banking institution.

Intimation  
of registra-  
tion.

14. (1) Where the Corporation has registered any banking company as an insured bank, it shall, within thirty days of its registration, send an intimation in writing to the banking company that it has been registered as an insured bank.

(2) Every such intimation shall indicate the manner in which the premium payable by the bank under section 15 may be calculated.

**Not Corrected: See India Code**

of 1961]

Deposit Insurance Corporation

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15. (1) Every insured bank shall, so long as it continues to be registered, be liable to pay a premium to the Corporation on its deposits at such rate or rates as may, with the previous approval of the Central Government, be notified by the Corporation in the Official Gazette from time to time: Premium.

Provided that the premium payable by any insured bank for any period shall not exceed fifteen naye paise per annum for every hundred rupees of the total amount of the deposits in that bank at the end of that period or, where its registration has been cancelled during that period, on the date of its cancellation:

Provided further that where the registration of any insured bank is cancelled under section 13, such cancellation shall not affect the liability of that bank for payment of premium for the period before such cancellation and of any interest due under the provisions of this section.

(2) The premium shall be payable for such periods, at such times and in such manner as may be prescribed.

(3) If an insured bank makes any default in payment of any amount of premium, it shall, for the period of such default, be liable to pay to the Corporation interest on such amount at such rate not exceeding eight per cent. per annum as may be prescribed.

16. (1) Where an order for the winding up or liquidation of an insured bank is made, the Corporation shall, subject to the other provisions of this Act, be liable to pay to every depositor of that bank in accordance with the provisions of section 17 an amount equal to the amount due to him in respect of his deposit in that bank at the time when such order is made: Liability of Corporation in respect of insured deposits.

Provided that the liability of the Corporation in respect of an insured bank referred to in clause (a) or clause (b) of section 13 shall be limited to the deposits as on the date of the cancellation of the registration:

Provided further that the total amount payable by the Corporation to any one depositor in respect of his deposit in that bank in the same capacity and in the same right shall not exceed one thousand and five hundred rupees:

Provided further that the Corporation may, from time to time, having regard to its financial position and to the interests of the banking system of the country as a whole, raise, with the previous approval of the Central Government, the aforesaid limit of one thousand and five hundred rupees.

(2) Where in respect of an insured bank a scheme of compromise or arrangement or of reconstruction or amalgamation has been sanctioned by any competent authority and the said scheme provides for each depositor being paid or credited with, on the date on which the scheme comes into force, an amount which is less than the original amount and also the specified amount, the Corporation shall be liable to pay to every such depositor in accordance with the provisions of section 18 an amount equivalent to the difference between the amount so paid or credited and the original amount, or the difference between the amount so paid or credited and the specified amount, whichever is less:

Provided that where any such scheme also provides that any payment made to a depositor before the coming into force of the scheme shall be reckoned towards the payment due to him under that scheme, then the scheme shall be deemed to have provided for that payment being made on the date of its coming into force.

(3) For the purposes of this section, the amount of a deposit shall be determined after deducting therefrom any ascertained sum of money which the insured bank may be legally entitled to claim by way of set off against the depositor in the same capacity and in the same right.

(4) In this section,—

(a) "original amount" in relation to a depositor means the total amount due by the insured bank immediately before the date of coming into force of the scheme of compromise or arrangement or, as the case may be, of reconstruction or amalgamation to the depositor in respect of his deposit in the bank in the same capacity and in the same right:

Provided that where under the proviso to sub-section (2), the scheme is deemed to have provided for any payment being made on the date of its coming into force, the amount of such payment shall be included in calculating the original amount;

(b) "specified amount" means one thousand and five hundred rupees, or, as the case may be, the amount fixed by the Corporation under the third proviso to sub-section (1).

**Manner of  
payment by  
Corporation  
in case of  
winding up  
of insured  
banks.**

17. (1) Where an insured bank has been ordered to be wound up or to be taken into liquidation and a liquidator, by whatever name called, has been appointed in respect thereof, the liquidator shall, with the least possible delay and in any case not later than three months from the date of his assuming charge of office, furnish to the

Corporation a list in such form and manner as may be specified by the Corporation showing separately the deposits in respect of each depositor and the amounts of set off referred to in sub-section (3) of section 16.

(2) Before the expiry of two months from the receipt of such list from the liquidator, the Corporation shall pay to each depositor of the insured bank in respect of his deposit the amount payable under section 16 either directly or through the liquidator or through any other agency as the Corporation may determine.

18. (1) Where a scheme of amalgamation of any insured bank with any other banking institution (hereinafter referred to as the transferee bank) or a scheme of compromise or arrangement or of reconstruction in respect of such bank has been sanctioned and the Corporation has become liable to pay to depositors of the insured bank under sub-section (2) of section 16, the transferee bank where the scheme is of amalgamation and the insured bank in any other case shall, with the least possible delay and in any case not later than three months from the date on which such scheme takes effect, furnish to the Corporation a list in such form and manner as may be specified by the Corporation and certified to be correct by the chief executive officer of the transferee bank or, as the case may be, of the insured bank showing separately deposits in respect of each depositor and the amounts of set off referred to in sub-section (3) of section 16 and also the amounts paid or credited or deemed to have been paid under the scheme.

Manner of payment by Corporation in case of scheme of compromise or arrangement or of reconstruction or amalgamation in respect of an insured bank.

(2) Before the expiry of two months from the receipt of such list, the Corporation shall pay the amount payable under section 16 either directly to the depositor or to the transferee bank or the insured bank for being credited in his account.

19. Any amount paid by the Corporation under section 17 or section 18 in respect of a deposit shall, to the extent of the amount paid, discharge the Corporation from its liability in respect of that deposit.

Discharge of the liability of Corporation.

20. Where any depositor to whom any payment is to be made in accordance with the provisions of section 17 or section 18 cannot be found or is not readily traceable, adequate provision shall be made by the Corporation for such payment and the amount of such provision shall be accounted for separately in its books.

Provision for unpaid amounts.

21. (1) Where any amount has been paid under section 17 or section 18 or any provision therefor has been made under section 20, the Corporation shall furnish to the liquidator or to the insured bank

Repayment of the amount to Corporation.

or to the transferee bank, as the case may be, information as regards the amount so paid or provided for.

(2) On receipt of the information under sub-section (1), notwithstanding anything to the contrary contained in any other law for the time being in force,—

(a) the liquidator shall, within such time and in such manner as may be prescribed, repay to the Corporation out of the amount, if any, payable by him in respect of any deposit such sum or sums as make up the amount paid or provided for by the Corporation in respect of that deposit;

(b) the insured bank or, as the case may be, the transferee bank shall, within such time and in such manner as may be prescribed, repay to the Corporation out of the amount, if any, to be paid or credited in respect of any deposit after the date of the coming into force of the scheme referred to in section 18, such sum or sums as make up the amount paid or provided for by the Corporation in respect of that deposit.

#### CHAPTER IV

##### FUNDS, ACCOUNTS AND AUDIT

**Funds of Corporation.** 22. The Corporation shall maintain two funds to be called respectively the Deposit Insurance Fund and the General Fund.

**Deposit Insurance Fund.** 23. (1) To the Deposit Insurance Fund shall be credited,—

(a) all amounts received by the Corporation as premium;

(b) all amounts received by the Corporation under section 21;

(c) the amount advanced by the Reserve Bank under section 26;

(d) all amounts transferred to that Fund from the General Fund under section 27; and

(e) all income arising from the investments made out of that Fund.

(2) The said Fund shall be applied—

(a) to make payments in respect of insured deposits;

(b) to meet liability in respect of an advance taken under section 26; and

(c) to meet liability in respect of the amounts referred to in clause (d) of sub-section (1).

24. All receipts of the Corporation other than those referred to in sub-section (1) of section 23 shall be credited to the General Fund and all payments by the Corporation other than those referred to in sub-section (2) of that section shall be made out of that Fund.

25. All moneys belonging to the Deposit Insurance Fund or the General Fund which may not for the time being be required by the Corporation shall be invested in promissory notes, stock or securities of the Central Government and all other moneys shall be deposited with the Reserve Bank.

26. (1) The Reserve Bank shall, from time to time, advance to the Corporation on a request by it such sum or sums as may be required by the Corporation for the purposes of the Deposit Insurance Fund:

Provided that the total amount outstanding at any one time on account of such advances shall not exceed five crores of rupees.

(2) The terms and conditions of any advance under this section shall be such as may be determined by the Reserve Bank with the approval of the Central Government.

27. If at any time the amount available in the Deposit Insurance Fund is insufficient to meet the requirements of that Fund, the Corporation may transfer from the General Fund such amount as may be necessary to meet the requirements of the Deposit Insurance Fund on such terms and for such period as may be determined by the Board with the approval of the Reserve Bank.

28. (1) The balance-sheet and accounts of the Corporation shall be prepared and maintained in such form and manner as may be prescribed.

(2) The Board shall cause the books and accounts of the Corporation to be balanced and closed as on the 31st day of December, each year.

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29. (1) The affairs of the Corporation shall be audited by an auditor duly qualified to act as an auditor under sub-section (1) of section 226 of the Companies Act, 1956, who shall be appointed by the Board with the previous approval of the Reserve Bank and shall receive such remuneration from the Corporation as the Reserve Bank may fix.

(2) The auditor shall be supplied with a copy of the annual balance-sheet of the Corporation and it shall be his duty to examine it together with the accounts and vouchers relating thereto and he shall have a list delivered to him of all books kept by the Corporation and shall at all reasonable times have access to the books, accounts and other documents of the Corporation and may, in relation to such accounts, examine any director of the Board or any officer or employee of the Corporation.

(3) The auditor shall make a report to the Corporation upon the annual balance-sheet and accounts and in every such report he shall state whether in his 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 correct view of the state of affairs of the Corporation and in case he had called for any explanation or information from the Board, whether it has been given and whether it is satisfactory.

(4) Without prejudice to anything contained in the preceding sub-sections, the Central Government may at any time appoint the Comptroller and Auditor-General of India to examine and report upon the accounts of the Corporation, and any expenditure incurred by him in connection with such examination and report shall be payable by the Corporation to the Comptroller and Auditor-General of India.

Income-tax  
and super-  
tax.

30. Notwithstanding anything contained in the Indian Income-tax Act, 1922 or any other enactment for the time being in force relating to income-tax or super-tax, the Corporation shall not be liable to pay income-tax or super-tax on any of its income, profits or gains for the accounting year during which the Corporation is established and for four accounting years following that year. 11 of 1922.

Reserve  
fund.

31. After making provision for all its liabilities and for all other matters for which provision is necessary or expedient, including any contribution to the staff and superannuation funds, the Corporation shall transfer the balance, if any, of its income in its General Fund to one or more reserve funds to be utilised in such manner and for such purposes as the Corporation may deem fit.

Annual  
accounts and  
reports.

32. (1) The Corporation shall furnish to the Reserve Bank within three months from the date on which its accounts are balanced and closed the balance-sheet and accounts together with the auditor's report and a report of the working of the Corporation during the year and copies of the said balance-sheet and accounts and reports shall be furnished by the Corporation to the Central Government.

(2) The Central Government shall cause every auditor's report and report of the working of the Corporation to be laid for not less than thirty days before each House of Parliament as soon as may be after each such report is received by the Central Government.

## CHAPTER V

### MISCELLANEOUS

33. (1) The Corporation may appoint such number of officers and 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. Staff of Corporation

(2) Without prejudice to the provisions of sub-section (1), it shall be lawful for the Corporation to utilise, and for the Reserve Bank to make available, the services of such staff of the Reserve Bank on such terms and conditions as may be agreed upon between the Corporation and the Reserve Bank.

of 1949  
1961-1949

34. (1) Notwithstanding anything contained in the Banking Companies Act, 1949, or any other law for the time being in force the Corporation may at any time direct an insured bank to furnish to it, within such time as may be specified by the Corporation, such statements and information relating to the deposits in that bank as the Corporation may consider necessary or expedient to obtain for the purposes of this Act. Returns from insured banks.

(2) The Corporation may, if it considers it expedient and after consulting the Reserve Bank, publish any information obtained by it under this section in such consolidated form as it may think fit.

35. (1) The Corporation shall have free access to all such records of an insured bank perusal whereof may appear to the Corporation to be necessary for the discharge of its functions under this Act. Corporation to have access to records.

(2) The Corporation may require any insured bank to furnish to it copies of any of the records referred to in sub-section (1) and the bank shall be bound to comply with the requisition.

36. (1) The Corporation may for any of the purposes of this Act request the Reserve Bank to cause an inspection of the books and accounts or an investigation of the affairs of an insured bank to be made and on such request the Reserve Bank shall cause such inspection or investigation to be made by one or more of its officers. Inspection of insured banks by Reserve Bank.

(2) The provisions of sub-section (2) and sub-section (3) of section 35 of the Banking Companies Act, 1949 shall apply to an inspection or investigation under sub-section (1) as they apply to an inspection under that section. 10 of 194

(3) When an inspection or investigation has been made under this section, the Reserve Bank shall furnish a copy of its report to the Corporation and neither the bank inspected or investigated nor any other bank shall be entitled to be furnished with a copy of such report.

(4) Notwithstanding anything contained in any law for the time being in force, no court, tribunal or other authority shall compel the production or disclosure of a report under this section or of information or material gathered during the course of an inspection or investigation under this section.

Corporation  
to furnish  
information  
to Reserve  
Bank.

37. The Corporation shall, on a request in writing from the Reserve Bank, furnish to it within such time as may be specified by the Reserve Bank, such statements and information relating to the business or affairs of the Corporation or of an insured bank as the Reserve Bank may consider necessary or expedient.

Reserve  
Bank to  
furnish in-  
formation to  
Corporation.

38. The Reserve Bank shall, on a request in writing from the Corporation, furnish to it any report or information relating to an insured bank made or obtained by it under or in pursuance of the Reserve Bank of India Act, 1934 or the Banking Companies Act, 1949. 2 of 1934.  
10 of 194

Declaration  
of fidelity  
and secrecy.

39. Every director, auditor, officer or other employee of the Corporation or an employee of the Reserve Bank whose services are utilised by the Corporation under sub-section (2) of section 33 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.

Indemnity of  
directors.

40. (1) Every director of the Board shall be indemnified by the Corporation 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 of the Board shall not be responsible for any other director or for any other officer or other employee of the Corporation, or for any loss or expenses resulting to the Corporation from the insufficiency or deficiency of value of or title to any property or security acquired or taken on behalf of the Corporation or the insolvency or wrongful act of any debtor or any person under obligation to the Corporation or anything done in good faith in the execution of the duties of his office or in relation thereto.

41. (1) No act or proceeding of the Board or of any committee of the Corporation shall be questioned on the ground merely of the existence of any vacancy or defect in the constitution of the Board or committee.

Defects in appointments not to invalidate acts, etc.

(2) No act done by any person acting in good faith as a director of the Board 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.

42. No suit or other legal proceeding shall lie against the Corporation or the Reserve Bank or any director of the Board or any officer of the Corporation or the Reserve Bank or any other person authorised by the Corporation to discharge any functions under this Act for any 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.

Protection of action taken under this Act.

1 of 1956.  
4 of 1938.

43. Nothing in the Companies Act, 1956 or the Insurance Act, 1938, shall apply to the Corporation.

Companies Act, 1956 and Insurance Act, 1938 not to apply.

44. (1) The Corporation shall not be placed in liquidation save by order of the Central Government and in such manner as that Government may direct.

Liquidation of Corporation

(2) On the liquidation of the Corporation—

(a) the outstanding assets of the Corporation in so far as they relate to the Deposit Insurance Fund shall be distributed among the insured banks in such manner and in such proportion as may be determined by the Central Government having regard to the amounts of premium paid by them during any prescribed period or the deposits of the said banks as on the date of liquidation of the Corporation or other relevant circumstances;

(b) the remaining outstanding assets of the Corporation shall be transferred to the Reserve Bank.

45. In the discharge of its functions under this Act, the Corporation shall be guided by such directions in matters of policy involving public interest as the Central Government may after consulting the Reserve Bank give to it in writing, and if any question arises whether the direction relates to a matter of policy involving public interest, the decision of the Central Government thereon shall be final.

Power of Central Government to give directions.

Dispute as to  
amount of  
premium.

46. Any dispute as to the amount of premium due from any insured bank shall be decided by the Central Government and the decision of that Government shall be final.

Penalties.

47. (1) Whoever in any return, balance-sheet, or other document or in any information required or furnished by or under or for the purposes of any provision of this Act, wilfully makes a statement which is false in any material particular, knowing it to be false, or wilfully omits to make a material statement, shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

(2) If any person fails to produce any book, account or other document, or to furnish any statement or information which, under the provisions of this Act, it is his duty to produce or furnish, he shall be punishable with a fine which may extend to two thousand rupees in respect of each offence and in the case of a continuing failure, with an additional fine which may extend to one hundred rupees for every day during which the failure continues after conviction for the first such failure.

Offences by  
companies.

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

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

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

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

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

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

49. No court shall take cognizance of any offence punishable under this Act except upon a complaint in writing made by an officer of the Corporation generally or specially authorised in writing in this behalf by the Board and no court inferior to that of a presidency magistrate or a magistrate of the first class shall try any such offence. Cognizance of offences.

50. (1) The Board may, with the previous approval of the Reserve Bank, make regulations not inconsistent with 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. 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 or of any committee constituted under this Act and the procedure to be followed at such meetings including the quorum necessary for the transaction of business;

(b) the number of directors constituting an Executive Committee, and the functions that such committee shall discharge;

(c) the functions which any other committee may discharge under this Act;

(d) the fees and allowances that may be paid to the members of a committee other than directors of the Board;

(e) the fees and allowances that may be paid to the directors of the Board;

(f) the periods for which, the times at which and the manner in which premium may be paid by an insured bank;

(g) the interest which may be charged from an insured bank where it makes default in payment of premium;

(h) the manner in which and the time within which the amounts referred to in section 21 may be paid;

(i) the form and the manner in which the balance-sheet and the accounts of the Corporation shall be prepared or maintained; and

(j) any other matter which is to be, or may be prescribed.

(3) Any regulation which may be made by the Board under this Act may be made by the Reserve Bank within three months of the establishment of the Corporation; and any regulation so made may be altered or rescinded by the Board in the exercise of its powers under this Act.

Amendment  
of certain  
enactments.

51. The enactments specified in the Second Schedule to this Act shall be amended in the manner provided therein.

#### THE FIRST SCHEDULE

(See section 39)

##### *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, auditor, officer or other employee (as the case may be) of the Deposit Insurance Corporation and which properly relate to the office or position held by me in the said Corporation.

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 Deposit Insurance Corporation or to the affairs of any person having any dealing with the said Corporation; 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 Deposit Insurance Corporation and relating to the business of the said Corporation or the business of any person having any dealing with the said Corporation.

(Signature.)

Signed before me:

THE SECOND SCHEDULE

(See section 51)

*Amendment of certain enactments*

PART I

AMENDMENTS TO THE RESERVE BANK OF INDIA ACT, 1934

(2 OF 1934)

*Amendments*

1. In section 2, after clause (bb), insert the following clause, namely:—

‘(bbb) “Deposit Insurance Corporation” means the Deposit Insurance Corporation established under section 3 of the Deposit Insurance Corporation Act, 1961.’

2. In section 17,—

(a) after clause (4C), insert the following clause, namely:—

“(4D) the making to the Deposit Insurance Corporation of loans and advances; and generally assisting the Corporation in such manner and on such terms as may be determined by the Central Board.”;

(b) in clause (8A), after “the capital of”, insert “the Deposit Insurance Corporation”.

## PART II

## AMENDMENTS TO THE BANKING COMPANIES ACT, 1949

(10 OF 1949)

*Amendments*

1. In section 5, after clause (f), insert the following clause, namely:—

‘(ff) “Deposit Insurance Corporation” means the Deposit Insurance Corporation established under section 3 of the Deposit Insurance Corporation Act, 1961;’.

2. In section 43A,—

(i) in sub-section (6), for “the foregoing provisions”, substitute “the provisions of this section”;

(ii) after sub-section (8), insert the following sub-sections, namely:—

“(9) Nothing contained in sub-sections (2), (3), (4), (7) and (8) shall apply to a banking company in respect of the depositors of which the Deposit Insurance Corporation is liable under section 16 of the Deposit Insurance Corporation Act, 1961.

(10) After preferential payments referred to in sub-section (1) have been made or adequate provision has been made in respect thereof, the remaining assets of the banking company referred to in sub-section (9) available for payment to general creditors shall be utilised for payment on *pro rata* basis of the debts of the general creditors and of the sums due to the depositors:

Provided that where any amount in respect of any deposit is to be paid by the liquidator to the Deposit Insurance Corporation under section 21 of the Deposit Insurance Corporation Act, 1961, only the balance, if any, left after making the said payment shall be payable to the depositor.”.

Not Corrected: See India Code

~~4~~ OF 1961]

Deposit Insurance Corporation

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PART III

AMENDMENTS TO THE INDUSTRIAL DISPUTES ACT, 1947

(14 OF 1947)

In section 2, in sub-clause (i) of clause (a), after "to an industrial dispute concerning" insert "the Deposit Insurance Corporation established under section 3 of the Deposit Insurance Corporation Act, 1961, or".

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*Rep. by Act 52 of 1964, s. 2 + sch. I (a.c.f. 29.12.6)*

THE COFFEE (AMENDMENT) ACT, 1961

No. 48 OF 1961

[7th December, 1961]

An Act further to amend the Coffee Act, 1942.

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

Short title  
and com-  
mencement.

1. (1) This Act may be called the Coffee (Amendment) Act, 1961.

(2) It shall come into force on such date<sup>1</sup> as the Central Government may, by notification in the Official Gazette, appoint.

Amendment  
of section 3.

2. In section 3 of the Coffee Act, 1942 (hereinafter referred to as 7 of 1942; the principal Act),—

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

‘(i) “owner”, in relation to any land planted with coffee plants, includes,—

(1) any agent of the owner, and

(2) a mortgagee, lessee or other person in actual possession of the land;’; and

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

‘(n) “year” means the period of twelve months beginning with the first day of July and ending with the thirtieth day of June next following.’

Amendment  
of section 4.

3. In section 4 of the principal Act,—

(i) for sub-sections (2) and (2A), the following sub-sections

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19-4-1962; vide Notification No. G.S.R. 947, dated 19-4-1962, Gazette of India, Extraordinary, Part II, Sec. 3 (i), p. 267.

*Rep. by Act 52 of 1969.*

[ACT 48 OF 1961]

Coffee (Amendment)

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shall be substituted, namely:—

“(2) The Board shall consist of—

(a) a Chairman to be appointed by the Central Government by notification in the Official Gazette;

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

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

(i) Governments of the principal coffee-growing States;

(ii) coffee-growing industry;

(iii) coffee trade interests;

(iv) curing establishments;

(v) interests of labour;

(vi) interests of consumers; and

(vii) such other interests as, in the opinion of the Central Government, ought to be represented on the Board.

(2A) The number of persons to be appointed as members from each of the categories specified in clause (c) of sub-section (2), the term of office of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of the Board shall be such as may be prescribed.”;

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

4. In section 12 of the principal Act, the words, brackets and figures “, except coffee sold and delivered before the estate became subject to the provisions of sub-section (1) of section 14,” shall be omitted. Amendment of section 12.

5. In section 13 of the principal Act, in sub-section (1), the words “and of any fees” shall be omitted. Amendment of section 13.

6. In section 14 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be Amendment of section 14.

substituted, namely:—

“(1) Every owner of land planted with coffee plants, whether such land is comprised in one estate or in more than one estate and whether it is situated wholly or only partly in India, shall, before the expiration of one month from the date on which he first became owner of such estate or estates, apply to the registering officer appointed in this behalf by the State Government to be registered as an owner in respect of each estate owned by him; and any registration made before the commencement of the Coffee (Amendment) Act, 1961 shall be deemed to have been made under this sub-section.”;

(b) sub-sections (2) and (4) shall be omitted.

Amendment  
of section 17.

7. In section 17 of the principal Act,—

(a) for the words, brackets and figures “No registered owner shall, before the estate became subject to the provisions of sub-section (1) of section 14,” the words “No registered owner shall” shall be substituted; and

(b) the proviso shall be omitted.

Omission of  
section 19.

8. Section 19 of the principal Act shall be omitted.

Amendment  
of section 20.

9. In section 20 of the principal Act, in the first proviso, for clauses (ii), (iii) and (iv), the following clauses shall be substituted, namely:—

“(ii) carried as personal baggage of a passenger, not exceeding such quantities as the Central Government may, by notification in the Official Gazette, specify, or

(iii) exported for such purposes and in such quantities as the Central Government may specify in the like manner.”.

Amendment  
of section 31.

10. In section 31 of the principal Act, in sub-section (1),—

(a) in clause (b), for the word and figures “section 32.”, the words and figures “section 32; and” shall be substituted;

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

“(c) all fees levied and collected by the Board under this Act.”.

Amendment  
of section 36.

11. In section 36 of the principal Act, in sub-section (1), the words and figures “and any person who contravenes the provisions of section 19” shall be omitted.

12. Section 41 shall be omitted.

Omission of section 41.

13. In section 48 of the principal Act,—

Amendment of section 48.

(a) in sub-section (2), for clauses (i) and (ii), the following clauses shall be substituted, namely:—

“(i) the constitution of the Board, the number of persons to be appointed as members from each of the categories specified in clause (c) of sub-section (2) of section 4, the term of office and other conditions of service of, the procedure to be followed by, and the manner of filling vacancies among, the members of the Board;

(ii) the circumstances in which, and the authority by which, members may be removed;”;

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

“(3) Every rule made by the Central Government under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, 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.”.

14. On the commencement of this Act, the Board constituted under section 4 of the principal Act shall stand dissolved and shall be reconstituted in the manner provided in section 4 of that Act as amended by section 3 of this Act.

Reconstitution of Board on commencement of this Act.

THE ASSAM MUNICIPAL (MANIPUR AMENDMENT)  
ACT, 1961

No. 49 OF 1961

[7th December, 1961]

An Act further to amend the Assam Municipal Act, 1956 as in force in the Union territory of Manipur.

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

Short title and commencement: 1. (1) This Act may be called the Assam Municipal (Manipur Amendment) Act, 1961.

(2) It shall come into force on such date as the Chief Commissioner, Manipur may, by notification in the Official Gazette, appoint.

Substitution of new section for section 14. 2. In the Assam Municipal Act, 1956 as in force in the Union territory of Manipur (hereinafter referred to as the principal Act), for section 14, the following section shall be substituted, namely:—

Electors and electoral rolls.

14. (1) The persons entitled to vote at elections of Commissioners shall be the persons registered, by virtue of the provisions of the Constitution and the Representation of the People Act, 1950, as voters at elections to the House of the People.

Assam Act XV of 1956 43 of 1956

(2) So much of the electoral roll for any parliamentary constituency for the time being in force as relates to the areas comprised within a ward shall be deemed to be the electoral roll for that ward for the purposes of this Act.

*Explanation.*—In sub-section (2), the expression “parliamentary constituency” has the meaning assigned to it under the Representation of the People Act, 1950.

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Amendment of section 15. 3. In section 15 of the principal Act, for clause (i), the following clause shall be substituted, namely:—

“(i) is not registered as an elector in the electoral roll for a ward, or”.

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

Insertion of new section 15A.

“15A. (1) Every person whose name is, for the time being, entered in the electoral roll for a ward shall be entitled to vote at the election of a Commissioner from that ward.

Right to vote.

(2) In every ward an elector shall have as many votes as there are Commissioners to be elected from that ward but no elector shall at any election give more than one vote to any one candidate.”.

5. In section 16 of the principal Act,—

Amendment of section 16.

(1) for the words “by an unsuccessful candidate or person qualified to vote at the election to which such question refers, such person”, the words “by any candidate at such election or by any elector of the ward concerned, such candidate or such elector, as the case may be,” shall be substituted;

(2) in the second proviso, for the word “qualified” in both the places where it occurs, the word “entitled” shall be substituted.

6. After section 26 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 26A.

“26A. Notwithstanding anything in this Act or in any notification, rule or order issued or made thereunder,—

Transitional provisions for Commissioners of, and general election to, Imphal Municipal Board.

(a) the Commissioners of the Imphal Municipal Board holding office immediately before the commencement of the Assam Municipal (Manipur Amendment) Act, 1961 shall cease to hold office on and from such date as the Chief Commissioner may by notification in the Manipur Gazette specify;

(b) the general election of Commissioners of that Board to be held for the first time after such commencement shall be held and completed before such date as the Chief Commissioner may by a like notification specify.”.

7. In section 301 of the principal Act, in sub-section (2).—

Amendment of section 301.

(a) in clause (i), the words “the qualifications and disqualifications and registration of voters,” shall be omitted;

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

“(ia) provide for the manner of the splitting up of electoral rolls for parliamentary constituencies into parts for the purpose of constituting one or more of such parts into the electoral roll for a ward, and the appointment of the officer or authority by whom such splitting up is to be carried out;”.

*Rep. by Act 52 of 1961, S. 2 & Sec. I (w.e.f. 29.12.61)*

THE HIGH COURT JUDGES (CONDITIONS  
OF SERVICE) AMENDMENT ACT, 1961

No. 50 OF 1961

[8th December, 1961]

An Act further to amend the High Court Judges (Conditions of Service) Act, 1954.

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

1. This Act may be called the High Court Judges (Conditions of Service) Amendment Act, 1961.

2. In section 2 of the High Court Judges (Conditions of Service) Act, 1954 (hereinafter referred to as the principal Act), in subsection (1), after clause (g), the following clause shall be, and shall be deemed always to have been, inserted, namely:—

‘(gg) “pension” means a pension of any kind whatsoever payable to or in respect of a Judge, and includes any gratuity or other sum or sums so payable by way of death or retirement benefits;’

3. After section 17 of the principal Act, the following section shall be, and shall be deemed always to have been, inserted, namely:—

“17A. Where any Judge who has elected to receive the pension payable to him under Part II or Part III of the First Schedule dies, whether before or after retirement, in circumstances to which section 17 does not apply, a family pension or gratuity, if any, shall be payable to the person or persons entitled thereto under the ordinary rules of his service if he had not been appointed a Judge, his service as a Judge being treated as service therein for the purpose of calculating that family pension or gratuity.”

*Rep. by Act 52 of 1969*

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*High Court Judges (Conditions [ACT 50 OF 1961]  
of Service) Amendment*

Amendment  
of section 24.

4. In section 24 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

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

*Rep. by Act 52 of 1964, s.2 & sch. I (w.e.f. 29.12.64)*

THE INDUSTRIES (DEVELOPMENT AND  
REGULATION) AMENDMENT ACT, 1961

No. 51 OF 1961

[11th December, 1961]

An Act further to amend the Industries (Development and  
Regulation) Act, 1951

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

1. This Act may be called the Industries (Development and Short title.  
Regulation) Amendment Act, 1961.

2. In sub-section (2) of section 1 of the Industries (Development Amendment  
and Regulation) Act, 1951, the words "except the State of Jammu <sup>of section 1,</sup>  
and Kashmir" shall be omitted.

Not Corrected: See India Code, Vol. V B, Pt. III P. 365.

## THE APPRENTICES ACT, 1961

### ARRANGEMENT OF SECTIONS

#### CHAPTER I

##### PRELIMINARY

#### SECTIONS

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

#### CHAPTER II

##### APPRENTICES AND THEIR TRAINING

3. Qualifications for being engaged as an apprentice.
4. Contract of apprenticeship.
5. Novation of contract of apprenticeship.
6. Period of apprenticeship training.
7. Termination of apprenticeship contract.
8. Number of apprentices for a designated trade.
9. Practical and basic training of apprentices.
10. Related instruction of apprentices.
11. Obligations of employers.
12. Obligations of apprentices.
13. Payment to apprentices.
14. Health, safety and welfare of apprentices.
15. Hours of work, overtime, leave and holidays.
16. Employer's liability for compensation for injury.
17. Conduct and discipline.
18. Apprentices are trainees and not workers.
19. Records and returns.
20. Settlement of disputes.
21. Holding of test and grant of certificate and conclusion of training.
22. Offer and acceptance of employment.

Not Corrected: See India Code

[ACT 52 OF 1961]

Apprentices

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CHAPTER III

AUTHORITIES

SECTIONS

23. Authorities.
24. Constitution of Councils.
25. Vacancies not to invalidate acts and proceedings.
26. Apprenticeship Advisers.
27. Deputy and Assistant Apprenticeship Advisers.
28. Apprenticeship Advisers to be public servants.
29. Powers of entry, inspection, etc.
30. Offences and penalties.
31. Penalty where no specific penalty is provided.
32. Offences by companies.
33. Cognizance of offences.
34. Delegation of powers.
35. Construction of references.
36. Protection of action taken in good faith.
37. Power to make rules.
38. Repeal.

THE SCHEDULE.

Not Corrected. See India Code, Vol. 58, Pt. 2, p. 365

## THE APPRENTICES ACT, 1961

No. 52 OF 1961

[12th December, 1961]

An Act to provide for the regulation and control of training of apprentices in trades and for matters connected therewith.

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

### CHAPTER I

#### PRELIMINARY

Short title,  
extent, com-  
mencement  
and applica-  
tion.

1. (1) This Act may be called the Apprentices Act, 1961.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date<sup>1</sup> as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States.
- (4) The provisions of this Act shall not apply to—
  - (a) any area or to any industry in any area unless the Central Government by notification in the Official Gazette specifies that area or industry as an area or industry to which the said provisions shall apply with effect from such date as may be mentioned in the notification;
  - (b) any graduate or diploma apprentice undergoing training in accordance with any scheme framed by or with the approval of the Government;
  - (c) any special apprenticeship scheme for imparting training to apprentices in non-designated trades.

<sup>1</sup> 1-3-1962, vide Notification No. G.S.R. 246, dated 12-2-1962, Gazette of India, Pt. II, Sec. 3(i), p. 218.

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

Definitions.

(a) "apprentice" means a person who is undergoing apprenticeship training in a designated trade in pursuance of a contract of apprenticeship;

(b) "Apprenticeship Adviser" means the Central Apprenticeship Adviser appointed under sub-section (1) of section 26 or the State Apprenticeship Adviser appointed under sub-section (2) of that section;

(c) "Apprenticeship Council" means the Central Apprenticeship Council or the State Apprenticeship Council established under sub-section (1) of section 24;

(d) "appropriate Government" means,—

(1) in relation to—

(a) the Central Apprenticeship Council, or

(b) any establishment of any railway, major port, mine or oil field, or

(c) any establishment owned, controlled or managed by—

(i) the Central Government or a department of the Central Government,

(ii) a company in which not less than fifty-one per cent. of the share capital is held by the Central Government or partly by that Government and partly by one or more State Governments,

(iii) a corporation (including a co-operative society) established by or under a Central Act which is owned, controlled or managed by the Central Government,

the Central Government;

(2) in relation to—

(a) a State Apprenticeship Council, or

(b) any establishment other than an establishment specified in sub-clause (1) of this clause,

the State Government;

(e) "designated trade" means a trade which the Central Government, after consultation with the Central Apprenticeship Council, may, by notification in the Official Gazette, specify as a designated trade for the purposes of this Act;

(f) "employer" means any person who employs one or more other persons to do any work in an establishment for remuneration and includes any person entrusted with the supervision and control of employees in such establishment;

(g) "establishment" includes any place where any industry is carried on;

(h) "establishment in private sector" means an establishment which is not an establishment in public sector;

(i) "establishment in public sector" means an establishment owned, controlled or managed by—

(1) the Government or a department of the Government;

(2) a Government company as defined in section 617 of the Companies Act, 1956;

1 of 1956.

(3) a corporation (including a co-operative society) established by or under a Central, Provincial or State Act, which is owned, controlled or managed by the Government;

(4) a local authority;

(j) "graduate or diploma apprentice" means an apprentice who holds, or is undergoing training in order that he may hold, a degree or diploma granted by any institution recognised by the Government;

(k) "industry" means any industry, trade, business or occupation in which any trade may be specified as a designated trade;

(l) "National Council" means the National Council for Training in Vocational Trades established by the resolution of the Government of India in the Ministry of Labour (Directorate General of Resettlement and Employment) No. TR/E.P.-24/56, dated the 21st August, 1956;

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

(n) "State" includes a Union territory;

(o) "State Council" means a State Council for Training in Vocational Trades established by the State Government;

(p) "State Government" in relation to a Union territory means the Administrator thereof.

## CHAPTER II

## APPRENTICES AND THEIR TRAINING

3. A person shall not be qualified for being engaged as an apprentice to undergo apprenticeship training in any designated trade, unless he—

Qualifications for being engaged as an apprentice.

(a) is not less than fourteen years of age, and

(b) satisfies such standards of education and physical fitness as may be prescribed:

Provided that different standards may be prescribed in relation to apprenticeship training in different designated trades.

4. (1) No person shall be engaged as an apprentice to undergo apprenticeship training in a designated trade unless—

Contract of apprenticeship.

(a) such person or if he is a minor, his guardian has entered into a contract of apprenticeship with the employer, and

(b) the contract of apprenticeship has been registered with the Apprenticeship Adviser.

(2) Every contract of apprenticeship may contain such terms and conditions as may be agreed to by the parties to the contract:

Provided that no such term or condition shall be inconsistent with any provision of this Act or any rule made thereunder.

(3) The Apprenticeship Adviser shall not register a contract of apprenticeship unless he is satisfied that the person described as an apprentice in the contract is qualified under this Act for being engaged as an apprentice to undergo apprenticeship training in the designated trade specified in the contract.

5. Where an employer with whom a contract of apprenticeship has been entered into, is for any reason unable to fulfil his obligations under the contract and with the approval of the Apprenticeship Adviser it is agreed between the employer, the apprentice or his guardian and any other employer that the apprentice shall be engaged as an apprentice under the other employer for the unexpired portion of the period of apprenticeship training, the agreement, on registration with the Apprenticeship Adviser, shall be deemed to be the contract of apprenticeship between the apprentice or his guardian and the other employer, and on and from the date of such registration, the contract of apprenticeship with the first employer shall terminate and no obligation under that contract shall be enforceable at the instance of any party to the contract against the other party thereto.

Novation of contract of apprenticeship.

Period of  
apprentice-  
ship train-  
ing.

6. The period of apprenticeship training, which shall be specified in the contract of apprenticeship, shall be as follows:—

(a) in the case of apprentices who, having undergone institutional training in a school or other institution recognised by the National Council, have passed the trade tests conducted by that Council, the period of apprenticeship training shall be such as may be determined by that Council;

(b) in the case of other apprentices, the period of apprenticeship training shall be such as may be prescribed.

Termination  
of appren-  
ticeship  
contract.

7. (1) The contract of apprenticeship shall terminate on the expiry of the period of apprenticeship training.

(2) Either party to a contract of apprenticeship may make an application to the Apprenticeship Adviser for the termination of the contract, and when such application is made, shall send by post a copy thereof to the other party to the contract.

(3) After considering the contents of the application and the objections, if any, filed by the other party, the Apprenticeship Adviser may, by order in writing, terminate the contract if he is satisfied that the parties to the contract or any of them have or has failed to carry out the terms and conditions of the contract and that it is desirable in the interests of the parties or any of them to terminate the same:

Provided that where a contract is terminated—

(a) for failure on the part of the employer to carry out the terms and conditions of the contract, the employer shall pay to the apprentice such compensation as may be prescribed;

(b) for such failure on the part of the apprentice, the apprentice or his guardian shall refund to the employer as cost of training such amount as may be determined by the Apprenticeship Adviser.

Number of  
apprentices  
for a  
designated  
trade.

8. (1) The Central Government after consulting the Central Apprenticeship Council shall, by order in the Official Gazette, determine for each designated trade the ratio of apprentices to workers other than unskilled workers in that trade:

Provided that nothing contained in this sub-section shall be deemed to prevent any employer from engaging a number of apprentices in excess of the ratio determined under this sub-section.

(2) In determining the ratio as aforesaid, the Central Government shall have regard to the facilities available for apprenticeship training under this Act in the designated trade concerned as well as to the facilities that may have to be made available for the training of graduate and diploma apprentices, if any, under any scheme of training for such graduate and diploma apprentices framed or that may be framed by or with the approval of the Central Government.

(3) The Apprenticeship Adviser may, by notice in writing, require an employer to engage such number of apprentices within the ratio determined by the Central Government for any designated trade in his establishment, to undergo apprenticeship training in that trade and the employer shall comply with such requisition.

(4) Several employers may join together for the purpose of providing practical training to the apprentices under them by moving them between their respective establishments.

(5) Where, having regard to the public interest, a number of apprentices in excess of the ratio determined by the Central Government should in the opinion of the appropriate Government be trained, the appropriate Government may require employers to train the additional number of apprentices.

(6) Every employer to whom such requisition as aforesaid is made, shall comply with the requisition if the Government concerned makes available such additional facilities and such additional financial assistance as are considered necessary by the Apprenticeship Adviser for the training of the additional number of apprentices.

(7) Any employer not satisfied with the decision of the Apprenticeship Adviser under sub-section (6), may make a reference to the Central Apprenticeship Council and such reference shall be decided by a Committee thereof appointed by that Council for the purpose and the decision of that Committee shall be final.

9. (1) Every employer shall make suitable arrangements in his workshop for imparting a course of practical training to every apprentice engaged by him in accordance with the programme approved by the Apprenticeship Adviser.

Practical and basic training of apprentices.

(2) The Central Apprenticeship Adviser shall be given all reasonable facilities for access to each such apprentice with a view to test his work and to ensure that the practical training is being imparted in accordance with the approved programme:

Provided that the State Apprenticeship Adviser shall also be given such facilities in respect of apprentices undergoing training in establishments in relation to which the appropriate Government is the State Government.

(3) Such of the apprentices as have not undergone institutional training in a school or other institution recognised by the National Council shall, before admission in the workshop for practical training, undergo a course of basic training.

(4) Where an employer employs in his establishment five hundred or more workers, the basic training shall be imparted to the apprentices either in separate parts of the workshop building or in a separate building which shall be set up by the employer himself, but the appropriate Government may grant loans to the employer on easy terms and repayable by easy instalments to meet the cost of the land, construction and equipment for such separate building.

(5) Where an employer employs in his establishment less than five hundred workers, the basic training shall be imparted to the apprentices in training institutes set up by the Government.

(6) In any such training institute, which shall be located within the premises of the most suitable establishment in the locality or at any other convenient place, the apprentices engaged by two or more employers may be imparted basic training.

(7) The syllabus of, and the equipment to be utilised for, practical training including basic training shall be such as may be approved by the Central Government in consultation with the Central Apprenticeship Council.

(8) (a) Recurring costs (including the cost of stipends) incurred by an employer in connection with practical training imparted to apprentices other than those referred to in clause (a) of section 6 shall be borne—

(i) if such employer employs five hundred workers or more, by the employer;

(ii) if such employer employs less than five hundred workers, by the employer and the Government in equal shares up to such limit as may be laid down by the Central Government and beyond that limit, by the employer alone; and

(b) recurring costs (including the cost of stipends), if any, incurred by an employer in connection with practical training imparted to apprentices referred to in clause (a) of section 6 shall, in every case, be borne by the employer.

10. (1) An apprentice who is undergoing practical training in an establishment shall, during the period of practical training, be given a course of related instruction (which shall be appropriate to the trade) approved by the Central Government in consultation with the Central Apprenticeship Council, with a view to giving the apprentice such theoretical knowledge as he needs in order to become fully qualified as a skilled craftsman. Related instruction of apprentices.

(2) Related instruction shall be imparted at the cost of the appropriate Government but the employer shall, when so required, afford all facilities for imparting such instruction.

(3) Any time spent by an apprentice in attending classes on related instruction shall be treated as part of his paid period of work.

(4) In the case of apprentices who have passed the trade tests conducted by the National Council after having undergone a course of institutional training, the related instruction may be given on such reduced or modified scale as may be considered appropriate by the National Council.

11. Without prejudice to the other provisions of this Act, every employer shall have the following obligations in relation to an apprentice, namely:— Obligations of employers.

(a) to provide the apprentice with the training in his trade in accordance with the provisions of this Act, and the rules made thereunder;

(b) if the employer is not himself qualified in the trade, to ensure that a person duly qualified is placed in charge of the training of the apprentice; and

(c) to carry out his obligations under the contract of apprenticeship.

12. Every apprentice undergoing apprenticeship training shall have the following obligations, namely:— Obligations of apprentices.

(a) to learn his trade conscientiously and diligently and endeavour to qualify himself as a skilled craftsman before the expiry of the period of training;

(b) to attend practical and instructional classes regularly;

(c) to carry out all lawful orders of his employer and superiors in the establishment; and

(d) to carry out his obligations under the contract of apprenticeship.

Payments  
to appren-  
tices.

13. (1) The employer shall pay to every apprentice during the period of apprenticeship training such stipend at a rate not less than the prescribed minimum rate as may be specified in the contract of apprenticeship and the stipend so specified shall be paid at such intervals and subject to such conditions as may be prescribed.

(2) An apprentice shall not receive any other payment from his employer nor shall he be paid on the basis of piece work or required to take part in any output bonus or other incentive scheme.

Health,  
safety and  
welfare of  
apprentices.

14. Where any apprentices are undergoing training in a factory, the provisions of Chapters III, IV and V of the Factories Act, 1948, 63 of 1948, shall apply in relation to the health, safety and welfare of the apprentices as if they were workers within the meaning of that Act and when any apprentices are undergoing training in a mine, the provisions of Chapter V of the Mines Act, 1952, shall apply in 35 of 1952, relation to the health and safety of the apprentices as if they were persons employed in the mine.

Hours of  
work, over-  
time, leave  
and holidays.

15. (1) The weekly and daily hours of work of an apprentice while undergoing practical training in a workshop shall be such as may be prescribed.

(2) No apprentice shall be required or allowed to work overtime except with the approval of the Apprenticeship Adviser who shall not grant such approval unless he is satisfied that such overtime is in the interest of the training of the apprentice or in the public interest.

(3) An apprentice shall be entitled to such leave as may be prescribed and to such holidays as are observed in the establishment in which he is undergoing training.

Employer's  
liability for  
compensa-  
tion for  
injury.

16. If personal injury is caused to an apprentice by accident arising out of and in the course of his training as an apprentice, his employer shall be liable to pay compensation which shall be determined and paid, so far as may be, in accordance with the provisions of the Workmen's Compensation Act, 1923, subject to the 8 of 1923, modifications specified in the Schedule.

Conduct and  
discipline.

17. In all matters of conduct and discipline, the apprentice shall be governed by the rules and regulations applicable to workers in the trade in the establishment in which the apprentice is undergoing training.

18. Save as otherwise provided in this Act,—

Apprentices  
are trainees  
and not  
workers.

(a) every apprentice undergoing apprenticeship training in a designated trade in an establishment shall be a trainee and not a worker; and

(b) the provisions of any law with respect to labour shall not apply to or in relation to such apprentice.

19. (1) Every employer shall maintain records of the progress of training of each apprentice undergoing apprenticeship training in his establishment in such form as may be prescribed. Records and  
returns.

(2) Every such employer shall also furnish such information and returns in such form, to such authorities and at such intervals as may be prescribed.

20. (1) Any disagreement or dispute between an employer and an apprentice arising out of the contract of apprenticeship shall be referred to the Apprenticeship Adviser for decision. Settlement  
of disputes

(2) Any person aggrieved by the decision of the Apprenticeship Adviser under sub-section (1) may, within thirty days from the date of communication to him of such decision, prefer an appeal against the decision to the Apprenticeship Council and such appeal shall be heard and determined by a Committee of that Council appointed for the purpose.

(3) The decision of the Committee under sub-section (2) and subject only to such decision, the decision of the Apprenticeship Adviser under sub-section (1) shall be final.

21. (1) Every apprentice who has completed the period of training shall appear for a test to be conducted by the National Council to determine his proficiency in the designated trade in which he has served his apprenticeship. Holding of  
test and  
grant of  
certificate  
and conclu-  
sion of  
training.

(2) Every apprentice who passes the test referred to in sub-section (1) shall be granted a certificate of proficiency in the trade by the National Council.

22. (1) It shall not be obligatory on the part of the employer to offer any employment to any apprentice who has completed the period of his apprenticeship training in his establishment, nor shall it be obligatory on the part of the apprentice to accept an employment under the employer. Offer and  
acceptance of  
employment.

(2) Notwithstanding anything in sub-section (1), where there is a condition in a contract of apprenticeship that the apprentice shall,

after the successful completion of the apprenticeship training, serve the employer, the employer shall, on such completion, be bound to offer suitable employment to the apprentice, and the apprentice shall be bound to serve the employer in that capacity for such period and on such remuneration as may be specified in the contract:

Provided that where such period or remuneration is not, in the opinion of the Apprenticeship Adviser, reasonable, he may revise such period or remuneration so as to make it reasonable, and the period or remuneration so revised shall be deemed to be the period or remuneration agreed to between the apprentice and the employer.

### CHAPTER III

#### AUTHORITIES

**Authorities.** 23. (1) In addition to the Government, there shall be the following authorities under this Act, namely:—

- (a) The National Council,
- (b) The Central Apprenticeship Council,
- (c) The State Council,
- (d) The State Apprenticeship Council,
- (e) The Central Apprenticeship Adviser, and
- (f) The State Apprenticeship Adviser.

(2) Every State Council shall be affiliated to the National Council and every State Apprenticeship Council shall be affiliated to the Central Apprenticeship Council.

(3) Each of the authorities specified in sub-section (1) shall, in relation to apprenticeship training under this Act, perform such functions as are assigned to it by or under this Act or by the Government:

Provided that a State Council shall also perform such functions as are assigned to it by the National Council and the State Apprenticeship Council shall also perform such functions as are assigned to it by the Central Apprenticeship Council.

**Constitution  
of Councils.**

24. (1) The Central Government shall, by notification in the Official Gazette, establish the Central Apprenticeship Council and the State Government shall, by notification in the Official Gazette, establish the State Apprenticeship Council.

(2) The Central Apprenticeship Council shall consist of a Chairman and such number of other members as the Central Gov-

ernment may think expedient, to be appointed by that Government by notification in the Official Gazette from among the following categories of persons, namely:—

(a) representatives of employers in establishments in the public and private sectors,

(b) representatives of the Central Government and of the State Governments, and

(c) persons having special knowledge and experience on matters relating to industry and labour.

(3) The number of persons to be appointed as members of the Central Apprenticeship Council from each of the categories specified in sub-section (2), the term of office of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of the Council shall be such as may be prescribed.

(4) The State Apprenticeship Council shall consist of a Chairman and such number of other members as the State Government may think expedient, to be appointed by that Government by notification in the Official Gazette from among the following categories of persons, namely:—

(a) representatives of employers in establishments in the public and private sectors,

(b) representatives of the Central Government and of the State Government, and

(c) persons having special knowledge and experience of matters relating to industry and labour.

(5) The number of persons to be appointed as members of the State Apprenticeship Council from each of the categories specified in sub-section (4), the term of office of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of the Council shall be such as the State Government may, by notification in the Official Gazette, determine.

(6) The fees and allowances, if any, to be paid to the Chairman and the other members of the Central Apprenticeship Council, shall be such as may be determined by the Central Government and the fees and allowances, if any, to be paid to the Chairman and the other members of the State Apprenticeship Council shall be such as may be determined by the State Government.

Vacancies  
not to in-  
validate acts  
and proceed-  
ings.

25. No act done or proceeding taken by the National Council, the Central Apprenticeship Council, the State Council or the State Apprenticeship Council under this Act shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, such Council.

Apprentice-  
ship Advi-  
sers.

26. (1) The Central Government shall, by notification in the Official Gazette, appoint a suitable person as the Central Apprenticeship Adviser.

(2) The State Government shall, by notification in the Official Gazette, appoint a suitable person as the State Apprenticeship Adviser.

(3) The Central Apprenticeship Adviser shall be the Secretary to the Central Apprenticeship Council and the State Apprenticeship Adviser shall be the Secretary to the State Apprenticeship Council.

Deputy and  
Assistant  
Apprentice-  
ship Advi-  
sers.

27. (1) The Government may appoint suitable persons as Deputy and Assistant Apprenticeship Advisers to assist the Apprenticeship Adviser in the performance of his functions.

(2) Every Deputy or Assistant Apprenticeship Adviser shall, subject to the control of the Apprenticeship Adviser, perform such functions as may be assigned to him by the Apprenticeship Adviser.

Apprentice-  
ship Advi-  
sers to be  
public ser-  
vants.

28. Every Apprenticeship Adviser and every Deputy or Assistant Apprenticeship Adviser appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860

Powers of  
entry,  
inspection,  
etc.

29. (1) Subject to any rules made in this behalf, the Central Apprenticeship Adviser may—

(a) with such assistants, if any, as he thinks fit, enter, inspect and examine any establishment or part thereof at any reasonable time;

(b) examine any apprentice employed therein or require the production of any register, record or other documents maintained in pursuance of this Act and take on the spot or otherwise statements of any person which he may consider necessary for carrying out the purposes of this Act;

(c) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and the rules made thereunder are being observed in the establishment;

(d) exercise such other powers as may be prescribed:

Provided that a State Apprenticeship Adviser may also exercise any of the powers specified in clause (a), (b), (c) or (d) of this sub-section in relation to establishments for which the appropriate Government is the State Government.

(2) Notwithstanding anything in sub-section (1), no person shall be compelled under this section to answer any question or make any statement which may tend directly or indirectly to incriminate him.

30. (1) If any employer—

Offences and penalties.

(a) engages as an apprentice a person who is not qualified for being so engaged, or

(b) fails to carry out the terms and conditions of a contract of apprenticeship, or

(c) contravenes the provisions of this Act relating to the number of apprentices which he is required to engage under those provisions,

he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

(2) If any employer or any other person—

(a) required to furnish any information or return—

(i) refuses or neglects to furnish such information or return, or

(ii) furnishes or causes to be furnished any information or return which is false and which he either knows or believes to be false or does not believe to be true, or

(iii) refuses to answer, or gives a false answer to any question necessary for obtaining any information required to be furnished by him, or

(b) refuses or wilfully neglects to afford the Central or the State Apprenticeship Adviser any reasonable facility for making any entry, inspection, examination or inquiry authorised by or under this Act, or

(c) requires an apprentice to work overtime without the approval of the Apprenticeship Adviser, or

(d) employs an apprentice on any work which is not connected with his training, or

(e) makes payment to an apprentice on the basis of piece-work, or

(f) requires an apprentice to take part in any output bonus or incentive scheme,

he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

Penalty where no specific penalty is provided.

31. If any employer or any other person contravenes any provision of this Act for which no punishment is provided in section 30, he shall be punishable with fine which may extend to five hundred rupees.

Offences by companies.

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

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

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

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

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

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

Cognizance of offences.

33. No court shall take cognizance of any offence under this Act or the rules made thereunder except on a complaint thereof in writing made by the Apprenticeship Adviser within six months from the date on which the offence is alleged to have been committed.

34. The appropriate Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act or the rules made thereunder shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also—

(a) where the appropriate Government is the Central Government, by such officer or authority subordinate to the Central Government or by the State Government or by such officer or authority subordinate to the State Government, as may be specified in the notification; and

(b) where the appropriate Government is the State Government, by such officer or authority subordinate to the State Government as may be specified in the notification.

35. (1) Any reference in this Act or in the rules made thereunder to the Apprenticeship Council shall, unless the context otherwise requires, mean in relation to apprenticeship training in a designated trade in an establishment in relation to which the Central Government is the appropriate Government, the Central Apprenticeship Council and in relation to apprenticeship training in a designated trade in an establishment in relation to which the State Government is the appropriate Government, the State Apprenticeship Council.

(2) Any reference in this Act or in the rules made thereunder to the Apprenticeship Adviser shall, unless the context otherwise requires,—

(a) mean in relation to apprenticeship training in a designated trade in an establishment in relation to which the Central Government is the appropriate Government, the Central Apprenticeship Adviser and in relation to apprenticeship training in a designated trade in an establishment in relation to which the State Government is the appropriate Government, the State Apprenticeship Adviser;

(b) be deemed to include a Deputy or Assistant Apprenticeship Adviser performing the functions of the Apprenticeship Adviser assigned to him under sub-section (2) of section 27.

36. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Protection of  
action taken  
in good  
faith.

Power to  
make rules.

37. (1) The Central Government may, after consulting the Central Apprenticeship Council, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Rules made under this Act may provide that a contravention of any such rule shall be punishable with fine which may extend to fifty rupees.

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

Repeal.

38. The Apprentices Act, 1850 is hereby repealed.

19 of 1850.

#### THE SCHEDULE

(See section 16)

#### MODIFICATIONS IN THE WORKMEN'S COMPENSATION ACT, 1923 IN ITS APPLICATION TO APPRENTICES UNDER THE APPRENTICES ACT, 1961

In the Workmen's Compensation Act, 1923,—

(1) in section 2,—

(a) for clause (e), substitute—

“(e) “employer” means an employer as defined in the Apprentices Act, 1961, who has engaged one or more apprentices;”

(b) omit clause (k);

(c) for clause (m), substitute—

“(m) “wages” means the stipend payable to an apprentice under section 13(1) of the Apprentices Act, 1961;”

(d) for clause (n), substitute—

“(n) “workman” means any person who is engaged as an apprentice as defined in the Apprentices Act, 1961, and who in the course of his apprenticeship training is employed in any such capacity as is specified in Schedule II;”

- (2) omit section 12;
- (3) omit section 15;
- (4) omit the proviso to section 21 (1);
- (5) omit the words "or a registered Trade Union" in section 24;
- (6) omit clause (d) in section 30 (1);
- (7) omit clauses (vi), (xi), (xiii), (xvii), (xviii), (xx), (xxii), (xxiv), (xxv), and (xxxii) in Schedule II.

Not Corrected: See India Code, vol. VI<sup>B</sup>, Pt. VII, p. 385.

## THE MATERNITY BENEFIT ACT, 1961

### ARRANGEMENT OF SECTIONS

#### SECTIONS

1. Short title, extent and commencement.
2. Application of Act.
3. Definitions.
4. Employment of, or work by, women prohibited during certain periods.
5. Right to payment of maternity benefit.
6. Notice of claim for maternity benefit and payment thereof.
7. Payment of maternity benefit in case of death of a woman.
8. Payment of medical bonus.
9. Leave for miscarriage.
10. Leave for illness arising out of pregnancy, delivery, premature birth of child, or miscarriage.
11. Nursing breaks.
12. Dismissal during absence or pregnancy.
13. No deduction of wages in certain cases.
14. Appointment of Inspectors.
15. Powers and duties of Inspectors.
16. Inspectors to be public servants.
17. Power of Inspector to direct payments to be made.
18. Forfeiture of maternity benefit.
19. Abstract of Act and rules thereunder to be exhibited.
20. Registers, etc.
21. Penalty for contravention of Act by employer.
22. Penalty for obstructing Inspector.
23. Cognizance of offences.

SECTIONS

24. Protection of action taken in good faith.
  25. Power of Central Government to give directions.
  26. Power to exempt establishments.
  27. Effect of laws and agreements inconsistent with this Act.
  28. Power to make rules.
  29. Amendment of Act 69 of 1951.
  30. Repeal.
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Not Corrected: See India Code, Vol. VB, 192 VH, p. 385  
THE MATERNITY BENEFIT ACT, 1961

No. 53 OF 1961

[12th December, 1961]

An Act to regulate the employment of women in certain establishments for certain periods before and after child-birth and to provide for maternity benefit and certain other benefits.

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

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Maternity Benefit Act, 1961.
- (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 may be notified in this behalf in the Official Gazette,—
  - (a) in relation to mines in the territories to which this Act extends, by the Central Government; and
  - (b) in relation to other establishments in a State, by the State Government.

Application  
of Act.

2. (1) It applies, in the first instance, to every establishment being a factory, mine or plantation including any such establishment belonging to Government:

Provided that the State Government may, with the approval of the Central Government, after giving not less than two months' notice of its intention of so doing, by notification in the Official Gazette, declare that all or any of the provisions of this Act shall apply also to any other establishment or class of establishments, industrial, commercial, agricultural or otherwise.

- (2) Nothing contained in this Act shall apply to any factory or other establishment to which the provisions of the Employees' State Insurance Act, 1948, apply for the time being.

34 of 1948.

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

Definitions.

(a) "appropriate Government" means, in relation to an establishment being a mine, the Central Government and in relation to any other establishment, the State Government;

(b) "child" includes a still-born child;

(c) "delivery" means the birth of a child;

(d) "employer" means—

(i) in relation to an establishment which is under the control of the Government, a person or authority appointed by the Government for the supervision and control of employees or where no person or authority is so appointed, the head of the department;

(ii) in relation to an establishment under any local authority, the person appointed by such authority for the supervision and control of employees or where no person is so appointed, the chief executive officer of the local authority;

(iii) in any other case, the person who, or the authority which, has the ultimate control over the affairs of the establishment and where the said affairs are entrusted to any other person whether called a manager, managing director, managing agent, or by any other name, such person;

(e) "establishment" means a factory, mine, or plantation, or an establishment to which the provisions of this Act have been declared under sub-section (1) of section 2 to be applicable;

(f) "factory" means a factory as defined in clause (m) of section 2 of the Factories Act, 1948;

(g) "Inspector" means an Inspector appointed under section 14;

(h) "maternity benefit" means the payment referred to in sub-section (1) of section 5;

(i) "mine" means a mine as defined in clause (j) of section 2 of the Mines Act, 1952;

63 of 1948.

35 of 1952.

(j) "miscarriage" means expulsion of the contents of a pregnant uterus at any period prior to or during the twenty-sixth week of pregnancy but does not include any miscarriage, the causing of which is punishable under the Indian Penal Code, 45 of 1960.

(k) "plantation" means a plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951;

69 of 1951.

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

(m) "State Government", in relation to a Union territory, means the Administrator thereof;

(n) "wages" means all remuneration paid or payable in cash to a woman, if the terms of the contract of employment, express or implied, were fulfilled and includes—

(1) such cash allowances (including dearness allowance and house rent allowance) as a woman is for the time being entitled to;

(2) incentive bonus; and

(3) the money value of the concessional supply of food-grains and other articles;

but does not include—

(i) any bonus other than incentive bonus;

(ii) over-time earnings and any deduction or payment made on account of fines;

(iii) any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the woman under any law for the time being in force; and

(iv) any gratuity payable on the termination of service;

(o) "woman" means a woman employed, whether directly or through any agency, for wages in any establishment.

Employment of, or work by, women prohibited during certain periods.

4. (1) No employer shall knowingly employ a woman in any establishment during the six weeks immediately following the day of her delivery or her miscarriage.

(2) No woman shall work in any establishment during the six weeks immediately following the day of her delivery or her miscarriage.

(3) Without prejudice to the provisions of section 6, no pregnant woman shall, on a request being made by her in this behalf, be required by her employer to do during the period specified in sub-section (4) any work which is of an arduous nature or which involves long hours of standing, or which in any way is likely to interfere with her pregnancy or the normal development of the foetus, or is likely to cause her miscarriage or otherwise to adversely affect her health.

(4) The period referred to in sub-section (3) shall be—

(a) the period of one month immediately preceding the period of six weeks, before the date of her expected delivery;

(b) any period during the said period of six weeks for which the pregnant woman does not avail of leave of absence under section 6.

5. (1) Subject to the provisions of this Act, every woman shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of the average daily wage for the period of her actual absence immediately preceding and including the day of her delivery and for the six weeks immediately following that day. Right to payment of maternity benefit.

*Explanation.*—For the purpose of this sub-section, the average daily wage means the average of the woman's wages payable to her for the days on which she has worked during the period of three calendar months immediately preceding the date from which she absents herself on account of maternity, or one rupee a day, whichever is higher.

(2) No woman shall be entitled to maternity benefit unless she has actually worked in an establishment of the employer from whom she claims maternity benefit, for a period of not less than one hundred and sixty days in the twelve months immediately preceding the date of her expected delivery:

Provided that the qualifying period of one hundred and sixty days aforesaid shall not apply to a woman who has immigrated into the State of Assam and was pregnant at the time of the immigration.

*Explanation.*—For the purpose of calculating under this sub-section the days on which a woman has actually worked in the establishment, the days for which she has been laid off during the period of twelve months immediately preceding the date of her expected delivery shall be taken into account.

(3) The maximum period for which any woman shall be entitled to maternity benefit shall be twelve weeks, that is to say, six weeks up to and including the day of her delivery and six weeks immediately following that day:

Provided that where a woman dies during this period, the maternity benefit shall be payable only for the days up to and including the day of her death:

Provided further that where a woman, having been delivered of a child, dies during her delivery or during the period of six weeks immediately following the date of her delivery, leaving behind in either case the child, the employer shall be liable for the maternity benefit for the entire period of six weeks immediately following the day of her delivery but if the child also dies during the said period, then, for the days up to and including the day of the death of the child.

Notice of  
claim for  
maternity  
benefit and  
payment  
thereof.

6. (1) Any woman employed in an establishment and entitled to maternity benefit under the provisions of this Act may give notice in writing in such form as may be prescribed, to her employer, stating that her maternity benefit and any other amount to which she may be entitled under this Act may be paid to her or to such person as she may nominate in the notice and that she will not work in any establishment during the period for which she receives maternity benefit.

(2) In the case of a woman who is pregnant, such notice shall state the date from which she will be absent from work, not being a date earlier than six weeks from the date of her expected delivery.

(3) Any woman who has not given the notice when she was pregnant may give such notice as soon as possible after the delivery.

(4) On receipt of the notice, the employer shall permit such woman to absent herself from the establishment until the expiry of six weeks after the day of her delivery.

(5) The amount of maternity benefit for the period preceding the date of her expected delivery shall be paid in advance by the employer to the woman on production of such proof as may be prescribed that the woman is pregnant, and the amount due for the subsequent period shall be paid by the employer to the woman within forty-eight hours of production of such proof as may be prescribed that the woman has been delivered of a child.

(6) The failure to give notice under this section shall not disentitle a woman to maternity benefit or any other amount under this Act if she is otherwise entitled to such benefit or amount and in any such case an Inspector may either of his own motion or on an application made to him by the woman, order the payment of such benefit or amount within such period as may be specified in the order.

7. If a woman entitled to maternity benefit or any other amount under this Act, dies before receiving such maternity benefit or amount, or where the employer is liable for maternity benefit under the second proviso to sub-section (3) of section 5, the employer shall pay such benefit or amount to the person nominated by the woman in the notice given under section 6 and in case there is no such nominee, to her legal representative.

Payment of maternity benefit in case of death of a woman.

8. Every woman entitled to maternity benefit under this Act shall also be entitled to receive from her employer a medical bonus of twenty-five rupees, if no pre-natal confinement and post-natal care is provided for by the employer free of charge.

Payment of medical bonus.

9. In case of miscarriage, a woman shall, on production of such proof as may be prescribed, be entitled to leave with wages at the rate of maternity benefit, for a period of six weeks immediately following the day of her miscarriage.

Leave for miscarriage.

10. A woman suffering from illness arising out of pregnancy, delivery, premature birth of child or miscarriage shall, on production of such proof as may be prescribed, be entitled, in addition to the period of absence allowed to her under section 6, or, as the case may be, under section 9, to leave with wages at the rate of maternity benefit for a maximum period of one month.

Leave for illness arising out of pregnancy, delivery, premature birth of child, or miscarriage.

11. Every woman delivered of a child who returns to duty after such delivery shall, in addition to the interval for rest allowed to her, be allowed in the course of her daily work two breaks of the prescribed duration for nursing the child until the child attains the age of fifteen months.

Nursing breaks.

12. (1) When a woman absents herself from work in accordance with the provisions of this Act, it shall be unlawful for her employer to discharge or dismiss her during or on account of such absence or to give notice of discharge or dismissal on such a day that the notice will expire during such absence, or to vary to her disadvantage any of the conditions of her service.

Dismissal during absence of pregnancy.

(2) (a) The discharge or dismissal of a woman at any time during her pregnancy, if the woman but for such discharge or dismissal would have been entitled to maternity benefit or medical bonus referred to in section 8, shall not have the effect of depriving her of the maternity benefit or medical bonus:

Provided that where the dismissal is for any prescribed gross misconduct, the employer may, by order in writing communicated to the woman, deprive her of the maternity benefit or medical bonus or both.

(b) Any woman deprived of maternity benefit or medical bonus or both, may, within sixty days from the date on which the order of such deprivation is communicated to her, appeal to such authority as may be prescribed, and the decision of that authority on such appeal, whether the woman should or should not be deprived of maternity benefit or medical bonus or both, shall be final.

(c) Nothing contained in this sub-section shall affect the provisions contained in sub-section (1).

No deduction of wages in certain cases.

13. No deduction from the normal and usual daily wages of a woman entitled to maternity benefit under the provisions of this Act shall be made by reason only of—

(a) the nature of work assigned to her by virtue of the provisions contained in sub-section (3) of section 4; or

(b) breaks for nursing the child allowed to her under the provisions of section 11.

Appointment of Inspectors

14. The appropriate Government may, by notification in the Official Gazette, appoint such officers as it thinks fit to be Inspectors for the purposes of this Act and may define the local limits of the jurisdiction within which they shall exercise their functions under this Act.

Powers and duties of Inspectors.

15. An Inspector may, subject to such restrictions or conditions as may be prescribed, exercise all or any of the following powers, namely:—

(a) enter at all reasonable times with such assistants, if any, being persons in the service of the Government or any local or other public authority, as he thinks fit, any premises or place where women are employed or work is given to them in an establishment, for the purposes of examining any registers, records and notices required to be kept or exhibited by or under this Act and require their production for inspection;

(b) examine any person whom he finds in any premises or place and who, he has reasonable cause to believe, is employed in the establishment:

Provided that no person shall be compelled under this section to answer any question or give any evidence tending to incriminate himself;

(c) require the employer to give information regarding the names and addresses of women employed, payments made to them, and applications or notices received from them under this Act; and

(d) take copies of any registers and records or notices or any portions thereof.

16. Every Inspector appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. Inspectors to be public servants.

17. (1) Any woman claiming that maternity benefit or any other amount to which she is entitled under this Act and any person claiming that payment due under section 7 has been improperly withheld may make a complaint to the Inspector. Power of Inspector to direct payments to be made.

(2) The Inspector may, of his own motion or on receipt of a complaint referred to in sub-section (1), make an inquiry or cause an inquiry to be made and if satisfied that payment has been wrongfully withheld, may direct the payment to be made in accordance with his orders.

(3) Any person aggrieved by the decision of the Inspector under sub-section (2) may, within thirty days from the date on which such decision is communicated to such person, appeal to the prescribed authority.

(4) The decision of the prescribed authority where an appeal has been preferred to it under sub-section (3) or of the Inspector where no such appeal has been preferred, shall be final.

(5) Any amount payable under this section shall be recoverable as an arrear of land revenue.

18. If a woman works in any establishment after she has been permitted by her employer to absent herself under the provisions of section 6 for any period during such authorised absence, she shall forfeit her claim to the maternity benefit for such period. Forfeiture of maternity benefit.

19. An abstract of the provisions of this Act and the rules made thereunder in the language or languages of the locality shall be exhibited in a conspicuous place by the employer in every part of the establishment in which women are employed. Abstract of Act and Rules thereunder to be exhibited.

- Registers, etc.** 20. Every employer shall prepare and maintain such registers, records and muster-rolls and in such manner as may be prescribed.
- Penalty for contravention of Act by employer.** 21. If any employer contravenes the provisions of this Act or the rules made thereunder, he shall be punishable with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both; and where the contravention is of any provision regarding maternity benefit or regarding payment of any other amount and such maternity benefit or amount has not already been recovered, the court shall, in addition recover such maternity benefit or amount as if it were a fine and pay the same to the person entitled thereto.
- Tenalty for obstructing Inspector.** 22. Whoever fails to produce on demand by the Inspector any register or document in his custody kept in pursuance of this Act or the rules made thereunder or conceals or prevents any person from appearing before or being examined by an Inspector shall be punishable with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both.
- Cognizance of offences.** 23. (1) No prosecution for an offence punishable under this Act or any rule made thereunder shall be instituted after the expiry of one year from the date on which the offence is alleged to have been committed and no such prosecution shall be instituted except by, or with the previous sanction of, the Inspector:
- Provided that in computing the period of one year aforesaid, the time, if any, taken for the purpose of obtaining such previous sanction shall be excluded.
- (2) No court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any such offence.
- Protection of action taken in good faith.** 24. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or order made thereunder.
- Power of Central Government to give directions.** 25. The Central Government may give such directions as it may deem necessary to a State Government regarding the carrying into execution of the provisions of this Act and the State Government shall comply with such directions.
- Power to exempt establishments.** 26. If the appropriate Government is satisfied that having regard to an establishment or a class of establishments providing for the grant of benefits which are not less favourable than those provided in this Act, it is necessary so to do, it may, by notifica-

tion in the Official Gazette, exempt, subject to such conditions and restrictions, if any, as may be specified in the notification, the establishment or class of establishments from the operation of all or any of the provisions of this Act or of any rule made thereunder.

27. (1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the coming into force of this Act:

Effect of laws and agreements inconsistent with this Act.

Provided that where under any such award, agreement, contract of service or otherwise, a woman is entitled to benefits in respect of any matter which are more favourable to her than those to which she would be entitled under this Act, the woman shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that she is entitled to receive benefits in respect of other matters under this Act.

(2) Nothing contained in this Act shall be construed to preclude a woman from entering into an agreement with her employer for granting her rights or privileges in respect of any matter which are more favourable to her than those to which she would be entitled under this Act.

28. (1) The appropriate Government may, subject to the condition of previous publication and by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the preparation and maintenance of registers, records and muster-rolls;

(b) the exercise of powers (including the inspection of establishments) and the performance of duties by Inspectors for the purposes of this Act;

(c) the method of payment of maternity benefit and other benefits under this Act in so far as provision has not been made therefor in this Act;

(d) the form of notices under section 6;

(e) the nature of proof required under the provisions of this Act;

(f) the duration of nursing breaks referred to in section 11;

(g) acts which may constitute gross misconduct for purposes of section 12;

(h) the authority to which an appeal under clause (b) of sub-section (2) of section 12 shall lie; the form and manner in which such appeal may be made and the procedure to be followed in disposal thereof;

(i) the authority to which an appeal shall lie against the decision of the Inspector under section 17; the form and manner in which such appeal may be made and the procedure to be followed in disposal thereof;

(j) the form and manner in which complaints may be made to Inspectors under sub-section (1) of section 17 and the procedure to be followed by them when making inquiries or causing inquiries to be made under sub-section (2) of that section;

(k) any other matter which is to be, or may be, prescribed.

(3) Every rule made by the Central Government under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, 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.

Amendment  
of Act 69 of  
1951.

29. In section 32 of the Plantations Labour Act, 1951,—

(a) in sub-section (1), the letter and brackets "(a)" before the words "in the case of sickness", the word "and" after the words "sickness allowance" and clause (b) shall be omitted;

(b) in sub-section (2), the words "or maternity" shall be omitted.

Repeal.

30. On the application of this Act—

(i) to mines, the Mines Maternity Benefit Act, 1941; and 19 of 1941

(ii) to factories situate in the Union territory of Delhi, the Bombay Maternity Benefit Act, 1929, as in force in that territory, shall stand repealed.

Bom. Ac  
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THE APPROPRIATION (RAILWAYS) No. 4 ACT, 1961

No. 54 OF 1961

[13th December, 1961]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the service of the financial year 1961-62 for the purposes of Railways.

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

1. This Act may be called the Appropriation (Railways) No. 4 Short title Act, 1961.

2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of eight crores, thirty lakhs and five thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1961-62, in respect of the services relating to railways specified in column 2 of the Schedule. <sup>Issue of Rs. 8,30,05,000 out of the Consolidated Fund of India for the Financial year 1961-62.</sup>

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. <sup>Appropriation.</sup>

## THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parlia- ment	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Railway Board	3,05,000	..	3,05,000
2	Miscellaneous Expendi- ture.	28,61,000	..	28,61,000
7	Working Expenses— Operation (Fuel).	4,91,32,000	..	4,91,32,000
9	Working Expenses— Miscellaneous Expenses.	3,02,25,000	82,000	3,03,07,000
15	Construction of New Lines.	3,00,000	..	3,00,000
16	Open Line Works— Additions	1,00,000	..	1,00,000
	TOTAL	8,29,23,000	82,000	8,30,05,000

Not Corrected: See India Code, vol. VA Pt I p. 201

THE SUGAR (REGULATION OF PRODUCTION)  
ACT, 1961

No. 55 OF 1961

[17th December, 1961]

An Act to provide for the regulation of production of sugar in the interests of the general public and for the levy and collection of a special excise duty on sugar produced by a factory in excess of the quota fixed for the purpose.

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

1. (1) This Act may be called the Sugar (Regulation of Production) Act, 1961.

Short title,  
extent and  
commence-  
ment.

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

(3) It shall be deemed to have come into force on the 1st day of November, 1961.

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

Definitions.

(a) "Central Excises Act" means the Central Excises and Salt Act, 1944;

1 of 1944.

(b) "factory" means any premises (including the precincts thereof), wherein or in any part of which sugar is being manufactured by the vacuum pan process, or, wherein or in any part of which, any manufacturing process connected with the production of sugar by the vacuum pan process is being carried on or is ordinarily carried on;

30 of 1958.

(c) "owner" shall have the meaning assigned to it in the Sugar Export Promotion Act, 1958;

(d) "permissible quota" means the quota referred to in section 3;

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

(f) "sugar" means any form of sugar, whether wholly or partially manufactured, but does not include—

(i) khandsari sugar, that is to say, sugar in the manufacture of which neither a vacuum pan nor a vacuum evaporator is employed; or

(ii) palmyra sugar, that is to say, sugar manufactured from jaggery obtained by boiling the juice of the palmyra palm;

(g) "year" means the year beginning on the first day of November and ending on the thirty-first day of October in the following year.

Fixation of  
permissible  
quota.

3. (1) The Central Government may, by order in writing, fix from time to time, in accordance with the prescribed formula, the quantity of sugar which may be produced in a factory during any year.

(2) In prescribing the formula referred to in sub-section (1), the Central Government shall have regard to—

(a) the quantity of sugar available at the commencement of the year in the territories to which this Act extends,

(b) the quantity of sugar which, in its opinion, would be reasonably required for consumption during the year in the territories to which this Act extends,

(c) the quantity of sugar which, in its opinion, is likely to be required for export during the year,

(d) the working capacity of the factory during the relevant period,

(e) the number of days on which the factory actually worked during the relevant period,

(f) the quantity of sugar produced expressed as percentage of the sugarcane crushed during the relevant period, and

(g) such other matters as may be prescribed.

(3) The order referred to in sub-section (1) shall be communicated to the owner of each factory and the quantity fixed under the

order for any year shall be deemed to be the permissible quota in respect of the factory for that year.

4. (1) Where the quantity of sugar produced in a factory during any year exceeds the permissible quota fixed for it for that year, there shall be levied and collected on the quantity of sugar which is produced in excess of the permissible quota a special duty of excise at the rate at which the duty of excise is chargeable on sugar under the Central Excises Act for the time being in force. Levy and collection of special excise duty.

(2) The special duty of excise referred to in sub-section (1) shall be in addition to the duty of excise chargeable on sugar under the Central Excises Act or any other law for the time being in force and shall be paid by the owner to such authority as may be specified in the notice demanding the payment of duty and within such period not exceeding ninety days as may be specified in such notice.

(3) If any such owner does not pay the whole or any part of the duty payable by him within the period referred to in sub-section (2), he shall be liable to pay in respect of every period of thirty days or part thereof during which the default continues a penalty which may extend to ten per cent. of the duty outstanding from time to time, the penalty being adjudged in the same manner as the penalty to which a person is liable under the rules made under the Central Excises Act, is adjudged.

(4) The provisions of the Central Excises Act and the rules made thereunder, including those relating to refunds and exemptions from duty shall, so far as may be, apply in relation to the levy and collection of the special duty of excise or any other sum referred to in this section as they apply in relation to the levy and collection of duty on sugar or other sums of money payable to the Central Government under that Act or the rules made thereunder:

Provided that no refund of the special excise duty or other sum shall be granted, if the whole or any part of the sugar in respect of which such duty or sum is payable under this section, is exported out of India.

5. The Central Government may, by notification in the Official Gazette, direct that any power conferred on it by this Act shall, subject to such conditions, if any, as may be specified in the notification, be exercisable also by such officer or authority subordinate to the Central Government as may be specified in the notification. Official Delegation of powers.

6. No suit, prosecution or other legal proceeding shall lie against the Central Government or any of its officers for or in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder. Protection of action taken under Act.

Power to  
make rules.

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

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

(a) the formula for fixing the quota under section 3, and the relevant period referred to in clauses (d), (e) and (f), and the matters referred to in clause (g) of sub-section (2) of that section;

(b) the submission by owners to such authority as may be specified in this behalf, of returns or reports or other information relating to the manufacture and stocks of sugar;

(c) the manner in which the accounts of the factory in respect of the manufacture of sugar may be maintained;

(d) the inspection of records and registers of factories;

(e) any other matter which is to be or may be prescribed under this Act.

(3) In making a rule under this section, the Central Government may direct that a breach thereof shall be punishable with fine which may extend to five thousand rupees.

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

Repeal and  
saving.

8. (1) The Sugar (Regulation of Production) Ordinance, 1961, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of any of the powers conferred by or under the

said Ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act as if this Act were in force on the day on which such thing was done or action was taken.

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Rep. by Act 52 of 1964, S. 2 + Sec. I (w.c.f. 29.12.64)

THE INDIAN TARIFF (AMENDMENT) ACT, 1961

No. 56 OF 1961

[17th December, 1961]

An Act further to amend the Indian Tariff Act, 1934.

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

Short title and commencement. 1. (1) This Act may be called the Indian Tariff (Amendment) Act, 1961.

(2) The provisions of clause (i) of section 2 [relating to Items Nos. 28(4), 28(33), 28(34) and 30 (14)] shall come into force on the first day of January, 1962, and the remaining provisions shall come into force at once.

Amendment of First Schedule.

2. In the First Schedule to the Indian Tariff Act, 1934,—

32 of 1934.

(i) in Items Nos. 28(4), 28(33), 28(34) and 30(14), in the last column headed "Duration of protective rates of duty", for the word, figures and letters "December 31st, 1961" wherever they occur, the word, figures and letters "December 31st, 1964" shall be substituted;

(ii) in Item No. 28(7A), in the second column headed "Name of article", for the words "Liquid gold for glass making", the words "Liquid gold including liquid lustres containing chemically combined gold" shall be substituted;

(iii) in Item No. 65(1), in the second column headed "Name of article", for the words "Nickel, pellets, cakes, slabs, annodes, shots, blocks, granules, scraps and powder", the words "Nickel, pellets, cakes, slabs, anodes, shots, blocks, granules, scraps, powder and briquettes" shall be substituted;

(iv) for Item No. 72(14), the following Item shall be substituted, namely:—

72(14)	(a) The following electric motors, namely :—				
	(i) Squirrel cage induction motors and slip ring motors of a brake-horse-power not exceeding 500 but not less than one brake-horse-power, excluding variable speed commutator motors.	Protective.	15 per cent. <i>ad valorem.</i>	... ..	December 31st, 1963.
	(ii) Single phase motors of a brake-horse-power not exceeding 3 but not less than one brake-horse-power.	Protective.	15 per cent. <i>ad valorem.</i>	... ..	December 31st, 1963.
	(iii) Fractional h.p. motors of not less than one-quarter of one brake-horse-power.	Protective.	15 per cent. <i>ad valorem.</i>	... ..	December 31st, 1963.
	(iv) Fractional h.p. motors of less than one-quarter of one brake-horse-power.	Protective.	35 per cent. <i>ad valorem.</i>	... ..	December 31st, 1963.
(b) Component parts of electric motors as defined in sub-items (i), (ii) and (iii) of item 72 (14) (a), but excluding control gear for the same, provided that only such articles shall be deemed to be component parts as are essential for the working of the electric motors and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose.	Protective.	20 per cent. <i>ad valorem.</i>	... ..	December 31st, 1963.	
(c) Component parts of electric motors as defined in sub-item (iv) of Item 72 (14) (a).	Protective.	35 per cent. <i>ad valorem.</i>	... ..	December 31st, 1963."	

(v) Item No. 72(30) shall be omitted.

THE APPROPRIATION (No. 5) ACT, 1961

No. 57 OF 1961

[17th December, 1961]

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 1961-62.

Be it enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Appropriation (No. 5) Act, 1961.

Issue of Rs.  
10,74,30,000  
out of the  
Consolida-  
ted Fund of  
India for the  
year 1961-62.

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 ten crores, seventy-four lakhs and thirty thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1961-62, in respect of the services specified in column 2 of the Schedule.

Appropriation.

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

THE SCHEDULE  
(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parlia- ment	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
2	Industries	1,000	..	1,000
19	State of Pondicherry	..	4,000	4,000
19-A	Dadra and Nagar Haveli Area	21,28,000	..	21,28,000
22	Customs	..	35,000	35,000
34	Grants-in-aid to States	1,000	..	1,000
41	Animal Husbandry	1,000	..	1,000
60	Miscellaneous Depart- ments and Expendi- ture under the Ministry of Home Affairs	1,000	..	1,000
90	Lighthouses and Lightships	54,00,000	..	54,00,000
32	Capital Outlay of the Ministry of Steel, Mines and Fuel	6,75,00,000	..	6,75,00,000
137	Other Capital Outlay of the Ministry of Transport and Com- munications	2,83,00,000	5,59,000	2,88,59,000
138	Delhi Capital Outlay	..	35,00,000	35,00,000
	<b>TOTAL</b>	<b>10,33,32,000</b>	<b>40,98,000</b>	<b>10,74,30,000</b>

Not Corrected: See India Code, VB, Pt VII, p. 399.

## THE IRON ORE MINES LABOUR WELFARE

CESS ACT, 1961

No. 58 OF 1961

[19th December, 1961]

An Act to provide for the levy and collection of a cess on iron ore for the financing of activities to promote the welfare of labour employed in the iron ore mining industry.

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

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Iron Ore Mines Labour Welfare Cess Act, 1961.

(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.

Levy and  
collection of  
cess on iron  
ore.

2. With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be levied and collected, as a cess for the purposes of this Act on all iron ore produced in any mine, a duty of excise at such rate not exceeding fifty naye paise per metric tonne of iron ore as the Central Government may, from time to time, fix by notification in the Official Gazette.

Application  
of proceeds  
of cess.

3. An amount equivalent to the proceeds of the duty levied under this Act, reduced by the cost of collection as determined by the Central Government, together with any income from investment of the said amount and any other moneys received by the Central Government for the purposes of this Act, shall, after due appropriation made by Parliament by law, be utilised by the Central Government to meet the expenditure incurred in connection with measures which, in the opinion of that Government, are necessary or expedient to promote

the welfare of labour employed in the iron ore mining industry; and in particular,—

(a) to defray the cost of measures for the benefit of labour employed in the iron ore mining industry directed towards—

(i) the improvement of public health and sanitation, the prevention of disease and the provision and improvement of medical facilities,

(ii) the provision and improvement of water supplies and facilities for washing,

(iii) the provision and improvement of educational facilities,

(iv) the improvement of standards of living including housing and nutrition, the amelioration of social conditions and the provision of recreational facilities, and

(v) the provision of transport to and from work;

(b) to make grants to a State Government, a local authority, the owner of an iron ore mine or any other person, of money in aid of any scheme approved by the Central Government for any purpose connected with the welfare of labour employed in the iron ore mining industry;

(c) to pay annually grants-in-aid to such of the owners of iron ore mines as provide to the satisfaction of the Central Government welfare facilities of the prescribed standard for the benefit of labour employed in their mines, so, however, that the amount payable as grant-in-aid to the owner of an iron ore mine shall not exceed—

(i) the amount spent by the owner of the mine in the provision of welfare facilities, as determined by the Central Government or any person specified by it in this behalf, or

(ii) such amount as may be prescribed by rules made under this Act;

whichever is less:

Provided that no grant-in-aid shall be payable in respect of any welfare facilities provided by the owner of an iron ore mine where the amount spent thereon determined as aforesaid is less than the amount prescribed by rules made in this behalf;

(d) to meet the allowances, if any, of members of the Advisory Committees constituted under section 4, and the salaries and allowances, if any, of persons appointed under section 5.

Advisory  
Committees.

4. (1) The Central Government may constitute as many Advisory Committees as it thinks fit, but not exceeding one for each of the principal iron ore producing States, to advise the Central Government on such matters arising out of the administration of this Act as may be referred to it by that Government, including matters relating to the application of the amount of cess or of any other moneys referred to in section 3.

(2) Each Advisory Committee shall consist of such number of persons as may be appointed to it by the Central Government and the members shall be chosen in such manner as may be prescribed by rules made under this Act:

Provided that each Advisory Committee shall include an equal number of members representing Government, the owners of iron ore mines and workmen employed in the iron ore mining industry and that at least one member of each such Committee shall be a woman.

(3) The Chairman of each Advisory Committee shall be appointed by the Central Government.

(4) The Central Government shall publish in the Official Gazette the names of all members of the Advisory Committees.

Appoint-  
ment and  
powers of  
staff.

5. (1) The Central Government may appoint Inspectors, Welfare Administrators and such other officers and staff as it thinks necessary for the purposes of this Act.

(2) Every person so appointed shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 45 of 186

(3) Any Inspector or Welfare Administrator may,—

(a) with such assistance, if any, as he thinks fit, enter at any reasonable time, any place which he considers it necessary to enter for carrying out the purposes of this Act, and

(b) do within such place anything necessary for the proper discharge of his duties.

Power of  
Central  
Government  
to exempt.

6. Notwithstanding anything hereinbefore contained in this Act, if the Central Government is satisfied that there is in force in any State or part thereof a law making adequate provision for the financing of activities to promote the welfare of labour employed in the iron ore mining industry, it may, by notification in the Official Gazette, direct that all or any of the provisions of this Act shall not

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apply, or shall apply to such State or part subject to such exceptions and modifications as may be specified in the notification.

7. The Central Government shall, as soon as may be, after the end of each financial year cause to be published in the Official Gazette a report giving an account of its activities financed under this Act during the previous financial year, together with a statement of accounts.

Annual report of activities financed under the Act.

8. (1) The Central Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules for carrying into effect the purposes of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the assessment and collection of a cess levied under this Act;

(b) the determination of the cost of collection of the cess;

(c) the manner in which the amount of the cess and other moneys, if any, may be applied on the measures specified in section 3;

(d) the conditions governing the grant of money under clause (b) of section 3;

(e) the standard of welfare facilities to be provided by owners of iron ore mines for the purposes of clause (c) of section 3 and the amounts referred to in sub-clause (ii) and proviso of that clause;

(f) the composition of the Advisory Committees constituted under section 4, the manner in which the members thereof shall be chosen, the term of office of such members, the allowances, if any, payable to them, and the manner in which the Advisory Committees shall conduct their business;

(g) the recruitment, conditions of service and the duties of all persons appointed under section 5;

(h) the furnishing by owners, agents or managers of iron ore mines, of statistical and other information.

(3) In making any rule under this section, the Central Government may direct that a breach thereof shall be punishable with fine.

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

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in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, 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.

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Not Corrected: See India Code, vol. LVII Pt VI p. 147.  
THE INSTITUTES OF TECHNOLOGY ACT, 1961

ARRANGEMENT OF SECTIONS

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Not Corrected: See India Code, VOL. LVA, Pt. VI, p. 147  
**THE INSTITUTES OF TECHNOLOGY ACT, 1961**

No. 59 OF 1961

[19th December, 1961]

An Act to declare certain institutions of technology to be institutions of national importance and to provide for certain matters connected with such institutions and the Indian Institute of Technology, Kharagpur.

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

**CHAPTER I**

**PRELIMINARY**

1. (1) This Act may be called the Institutes of Technology Act, 1961. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

2. Whereas the objects of the institutions known as the Indian Institute of Technology, Bombay, the Indian Institute of Technology, Kanpur and the Indian Institute of Technology, Madras are such as to make them institutions of national importance, it is hereby declared that each such institution is an institution of national importance. Declaration of certain institutions as institutions of national importance.

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

(a) "Board", in relation to any Institute, means the Board of Governors thereof;

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

(c) "corresponding Institute" means,—

(i) in relation to the society known as the Indian Institute of Technology, Bombay, the Indian Institute of Technology, Bombay;

1-4-1962, vide Notification No. S.O.929, dated 23-3-1962, Gazette of India, Pt. II, Sec. 3 (ii), p. 867.

(ii) in relation to the society known as the Indian Institute of Technology (Kanpur) Society, the Indian Institute of Technology, Kanpur, and

(iii) in relation to the society known as the Indian Institute of Technology, Madras, the Indian Institute of Technology, Madras;

(d) "Council" means the Council established under subsection (1) of section 31;

(e) "Deputy Director", in relation to any Institute, means the Deputy Director thereof;

(f) "Director", in relation to any Institute, means the Director thereof;

(g) "Institute" means any of the Institutions mentioned in section 2 and includes the Indian Institute of Technology, Kharagpur, incorporated under the Indian Institute of Technology 5 of 1956. (Kharagpur) Act, 1956;

(h) "Registrar", in relation to any Institute, means the Registrar thereof;

(i) "Senate", in relation to any Institute, means the Senate thereof;

(j) "society" means any of the following societies registered 21 of 1860. under the Societies Registration Act, 1860, namely:—

(i) the Indian Institute of Technology, Bombay;

(ii) the Indian Institute of Technology (Kanpur) Society;

(iii) the Indian Institute of Technology, Madras;

(k) "Statutes" and "Ordinances", in relation to any Institute, mean the Statutes and Ordinances of the Institute made under this Act.

## CHAPTER II

### THE INSTITUTES

Incorporation of institutes.

4. (1) Each of the Institutes mentioned in section 2 shall be a body corporate having perpetual succession and a common seal and shall, by its name, sue and be sued.

(2) The body corporate constituting each of the said Institutes shall consist of a Chairman, a Director and other members of the Board for the time being of the Institute.

5. On and from the commencement of this Act,—

Effect of incorporation of institutes.

(a) any reference to a society in any law (other than this Act) or in any contract or other instrument shall be deemed as a reference to the corresponding Institute;

(b) all property, movable and immovable, of or belonging to a society shall vest in the corresponding Institute;

(c) all the rights and liabilities of a society shall be transferred to, and be the rights and liabilities of, the corresponding Institute; and

(d) every person employed by a society immediately before such commencement shall hold his office or service in the corresponding Institute by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident fund and other matters as he would have held the same if this Act had not been passed, and shall continue to do so unless and until his employment is terminated or until such tenure, remuneration and terms and conditions are duly altered by the Statutes:

Provided that if the alteration so made is not acceptable to such employee, his employment may be terminated by the Institute in accordance with the terms of the contract with the employee or, if no provision is made therein in this behalf, on payment to him by the Institute of compensation equivalent to three months' remuneration in the case of permanent employees and one month's remuneration in the case of other employees.

6. (1) Subject to the provisions of this Act, every Institute shall exercise the following powers and perform the following duties, namely:—

Powers of Institutes.

(a) to provide for instruction and research in such branches of engineering and technology, sciences and arts, as the Institute may think fit, and for the advancement of learning and dissemination of knowledge in such branches;

(b) to hold examinations and grant degrees, diplomas and other academic distinctions or titles;

(c) to confer honorary degrees or other distinctions;

(d) to fix, demand and receive fees and other charges;

(e) to establish, maintain and manage halls and hostels for the residence of students;

(f) to supervise and control the residence and regulate the discipline of students of the Institute and to make arrangements for promoting their health, general welfare and cultural and corporate life;

(g) to provide for the maintenance of units of the National Cadet Corps for the students of the Institute;

(h) to institute academic and other posts and to make appointments thereto (except in the case of the Director);

(i) to frame Statutes and Ordinances and to alter, modify or rescind the same;

(j) to deal with any property belonging to or vested in the Institute in such manner as the Institute may deem fit for advancing the objects of the Institute;

(k) to receive gifts, grants, donations or benefactions from the Government and to receive bequests, donations and transfers of movable or immovable properties from testators, donors or transferors, as the case may be;

(l) to co-operate with educational or other institutions in any part of the world having objects wholly or partly similar to those of the Institute by exchange of teachers and scholars and generally in such manner as may be conducive to their common objects;

(m) to institute and award fellowships, scholarships, exhibitions, prizes and medals; and

(n) to do all such things as may be necessary, incidental or conducive to the attainment of all or any of the objects of the Institute.

(2) Notwithstanding anything contained in sub-section (1), an Institute shall not dispose of in any manner any immovable property without the prior approval of the Visitor.

Institutes to be open to all races, creeds and classes.

7. (1) Every Institute shall be open to persons of either sex and of whatever race, creed, caste or class, and no test or condition shall be imposed as to religious belief or profession in admitting or appointing members, students, teachers or workers or in any other connection whatsoever.

(2) No bequest, donation or transfer of any property shall be accepted by any Institute which in the opinion of the Council involves conditions or obligations opposed to the spirit and object of this section.

8. All teaching at each of the Institutes shall be conducted by or in the name of the Institute in accordance with the Statutes and Ordinances made in this behalf. Teaching at Institute.

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

(2) The Visitor may appoint one or more persons to review the work and progress of any Institute and to hold inquiries into the affairs thereof and to report thereon in such manner as the Visitor may direct.

(3) Upon receipt of any such report, the Visitor may 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 Institute shall be bound to comply with such directions.

10. The following shall be the authorities of an Institute, namely: - Authorities of Institutes.

(a) a Board of Governors;

(b) a Senate; and

(c) such other authorities as may be declared by the Statutes to be the authorities of the Institute.

11. The Board of an Institute shall consist of the following persons, namely:— Board of Governors.

(a) the Chairman, to be nominated by the Visitor;

(b) the Director, *ex officio*;

(c) one person to be nominated by the Government of each of the States comprising the zone in which the Institute is situated, from among persons who, in the opinion of that Government, are technologists or industrialists of repute;

(d) four persons having special knowledge or practical experience in respect of education, engineering or science, to be nominated by the Council; and

(e) two professors of the Institute, to be nominated by the Senate.

*Explanation.*—In this section, the expression "zone" means a zone as for the time being demarcated by the All-India Council for Technical Education for the purposes of this Act.

Term of office of, vacancies among, and allowances payable to, members of Board.

12. (1) Save as otherwise provided in this section, the term of office of the Chairman or any other member of the Board shall be three years from the date of his nomination.

(2) The term of office of an *ex officio* member shall continue so long as he holds the office by virtue of which he is a member.

(3) The term of office of a member nominated under clause (c) of section 11 shall be two years from the 1st day of January of the year in which he is nominated.

(4) The term of office of a member nominated to fill a casual vacancy shall continue for the remainder of the term of the member in whose place he has been nominated.

(5) Notwithstanding anything contained in this section, an outgoing member shall, unless the Council otherwise directs, continue in office until another person is nominated as a member in his place.

(6) The members of the Board shall be entitled to such allowances, if any, from the Institute as may be provided for in the Statutes but no member other than the persons referred to in clauses (b) and (e) of section 11 shall be entitled to any salary by reason of this sub-section.

Functions of Board.

13. (1) Subject to the provisions of this Act, the Board of any Institute shall be responsible for the general superintendence, direction and control of the affairs of the Institute and shall exercise all the powers of the Institute not otherwise provided for by this Act, the Statutes and the Ordinances, and shall have the power to review the acts of the Senate.

(2) Without prejudice to the provisions of sub-section (1), the Board of any Institute shall—

(a) take decisions on questions of policy relating to the administration and working of the Institute;

(b) institute courses of study at the Institute;

(c) make Statutes;

(d) institute and appoint persons to academic as well as other posts in the Institute;

(e) consider and modify or cancel Ordinances;

(f) consider and pass resolutions on the annual report, the annual accounts and the budget estimates of the Institute for the next financial year as it thinks fit and submit them to the Council together with a statement of its development plans;

(g) exercise such other powers and perform such other duties as may be conferred or imposed upon it by this Act or the Statutes.

(<sup>2</sup>) The Board shall have the power to appoint such committees as it considers necessary for the exercise of its powers and the performance of its duties under this Act.

14. The Senate of each Institute shall consist of the following persons, namely:—

(a) the Director, *ex officio*, who shall be the Chairman of the Senate;

(b) the Deputy Director, *ex officio*;

(c) the professors appointed or recognised as such by the Institute for the purpose of imparting instruction in the Institute;

(d) three persons, not being employees of the Institute, to be nominated by the Chairman in consultation with the Director, from among educationists of repute, one each from the fields of science, engineering and humanities; and

(e) such other members of the staff as may be laid down in the Statutes.

15. Subject to the provisions of this Act, the Statutes and the Ordinances, the Senate of an Institute shall have the control and general regulation, and be responsible for the maintenance, of standards of instruction, education and examination in the Institute and shall exercise such other powers and perform such other duties as may be conferred or imposed upon it by the Statutes.

Functions of Senate.

16. (1) The Chairman shall ordinarily preside at the meetings of the Board and at the Convocations of the Institute.

Chairman of Board.

(2) It shall be the duty of the Chairman to ensure that the decisions taken by the Board are implemented.

(3) The Chairman shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Statutes.

17. (1) The Director of each Institute shall be appointed by the Council with the prior approval of the Visitor.

Director.

(2) The Director shall be the principal academic and executive officer of the Institute and shall be responsible for the proper administration of the Institute and for the imparting of instruction and maintenance of discipline therein.

(3) The Director shall submit annual reports and accounts to the Board.

(4) The Director shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Statutes or Ordinances.

**Deputy Director.**

18. The Deputy Director of each Institute shall be appointed on such terms and conditions as may be laid down by the Statutes and shall exercise such powers and perform such duties as may be assigned to him by this Act or the Statutes or by the Director.

**Registrar.**

19. (1) The Registrar of each Institute shall be appointed on such terms and conditions as may be laid down by the Statutes and shall be the custodian of records, the common seal, the funds of the Institute and such other property of the Institute as the Board shall commit to his charge.

(2) The Registrar shall act as the Secretary of the Board, the Senate, and such committees as may be prescribed by the Statutes.

(3) The Registrar shall be responsible to the Director for the proper discharge of his functions.

(4) The Registrar shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Statutes or by the Director.

**Other authorities and officers.**

20. The powers and duties of authorities and officers other than those hereinbefore mentioned shall be determined by the Statutes.

**Grants by Central Government.**

21. For the purpose of enabling the Institutes to discharge their functions efficiently under this Act, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to each Institute in each financial year such sums of money and in such manner as it may think fit.

**Fund of the Institute.**

22. (1) Every Institute shall maintain a Fund to which shall be credited—

(a) all moneys provided by the Central Government;

(b) all fees and other charges received by the Institute;

(c) all moneys received by the Institute by way of grants, gifts, donations, benefactions, bequests or transfers; and

(d) all moneys received by the Institute in any other manner or from any other source.

(2) All moneys credited to the Fund of any Institute shall be deposited in such Banks or invested in such manner as the Institute may, with the approval of the Central Government, decide.

(3) The Fund of any Institute shall be applied towards meeting the expenses of the Institute including expenses incurred in the exercise of its powers and discharge of its duties under this Act.

23. (1) Every Institute shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the balance-sheet, in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India. Accounts and audit.

(2) The accounts of every Institute shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Institute to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of any Institute shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts, and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the offices of the Institute.

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

24. (1) Every Institute shall constitute for the benefit of its employees, including the Director, in such manner and subject to such conditions as may be prescribed by the Statutes, such pension, insurance and provident funds as it may deem fit. Pension and provident fund.

(2) Where any such provident fund has been so constituted, the Central Government may declare that the provisions of the Provident Funds Act, 1925 shall apply to such fund as if it were a Government Provident Fund.

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25. All appointments on the staff of any Institute, except that of the Director, shall be made in accordance with the procedure laid down in the Statutes, by— Appointments.

(a) the Board, if the appointment is made on the academic staff in the post of Lecturer or above or if the appointment is

made on the non-academic staff in any cadre the maximum of the pay-scale for which exceeds six hundred rupees per month;

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

**Statutes.**

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

(a) the conferment of honorary degrees;

(b) the formation of departments of teaching;

(c) the fees to be charged for courses of study in the Institute and for admission to the examinations of degree and diplomas of the Institute;

(d) the institution of fellowships, scholarships, exhibitions, medals and prizes;

(e) the term of office and the method of appointment of officers of the Institute;

(f) the qualifications of teachers of the Institute;

(g) the classification, the method of appointment and the determination of the terms and conditions of service of, teachers and other staff of the Institute;

(h) the constitution of pension, insurance and provident funds for the benefit of the officers, teachers and other staff of the Institute;

(i) the constitution, powers and duties of the authorities of the Institute;

(j) the establishment and maintenance of halls and hostels;

(k) the conditions of residence of students of the Institute and the levying of fees for residence in the halls and hostels and of other charges;

(l) the manner of filling vacancies among members of the Board;

(m) the allowances to be paid to the Chairman and members of the Board;

(n) the authentication of the orders and decisions of the Board;

(o) the meetings of the Board, the Senate, or any Committee, the quorum at such meetings and the procedure to be followed in the conduct of their business;

(p) any other matter which by this Act is to be or may be prescribed by the Statutes.

27. (1) The first Statutes of each Institute shall be framed by the Council with the previous approval of the Visitor and a copy of the same shall be laid as soon as may be before each House of Parliament. Statutes how made.

(2) The Board may, from time to time, make new or additional Statutes or may amend or repeal the Statutes in the manner hereafter in this section provided.

(3) Every new Statute or addition to the Statutes or any amendment or repeal of a Statute shall require the previous approval of the Visitor who may assent thereto or withhold assent or remit it to the Board 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.

28. Subject to the provisions of this Act and the Statutes, the Ordinances, Ordinances of each Institute may provide for all or any of the following matters, namely:—

- (a) the admission of the students to the Institute;
- (b) the courses of study to be laid down for all degrees and diplomas of the Institute;
- (c) the conditions under which students shall be admitted to the degree or diploma courses and to the examinations of the Institute, and shall be eligible for degrees and diplomas;
- (d) the conditions of award of the fellowships, scholarships, exhibitions, medals and prizes;
- (e) the conditions and mode of appointment and duties of examining bodies, examiners and moderators;
- (f) the conduct of examinations;
- (g) the maintenance of discipline among the students of the Institute; and
- (h) any other matter which by this Act or the Statutes is to be or may be provided for by the Ordinances.

29. (1) Save as otherwise provided in this section, Ordinances shall be made by the Senate. Ordinances how made.

(2) All Ordinances made by the Senate shall have effect from such date as it may direct, but every Ordinance so made shall be submitted, as soon as may be, to the Board and shall be considered by the Board at its next succeeding meeting.

(3) The Board shall have power by resolution to modify or cancel any such Ordinance and such Ordinance shall from the date of such resolution stand modified accordingly or cancelled, as the case may be.

Tribunal of  
Arbitration.

30. (1) Any dispute arising out of a contract between an Institute and any of its employees shall, at the request of the employee concerned or at the instance of the Institute, be referred to a Tribunal of Arbitration consisting of one member appointed by the Institute, one member nominated by the employee, and an umpire appointed by the Visitor.

(2) The decision of the Tribunal shall be final and shall not be questioned in any court.

(3) No suit or proceeding shall lie in any court in respect of any matter which is required by sub-section (1) to be referred to the Tribunal of Arbitration.

(4) The Tribunal of Arbitration shall have power to regulate its own procedure.

(5) Nothing in any law for the time being in force relating to arbitration shall apply to arbitrations under this section.

### CHAPTER III

#### THE COUNCIL

Establish-  
ment of  
Council.

31. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, specify in this behalf, there shall be established a central body to be called the Council.

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

(a) the Minister in charge of technical education in the Central Government, *ex officio*, as Chairman;

(b) the Chairman of each Institute, *ex officio*;

(c) the Director of each Institute, *ex officio*;

(d) the Chairman, University Grants Commission, *ex officio*;

(e) the Director-General, Council of Scientific and Industrial Research, *ex officio*;

(f) the Chairman of the Council of the Indian Institute of Science, Bangalore, *ex officio*;

(g) the Director of the Indian Institute of Science, Bangalore, *ex officio*;

(h) three persons to be nominated by the Central Government, one to represent the Ministry concerned with technical education, another to represent the Ministry of Finance and the third to represent any other Ministry;

(i) one person to be nominated by the All-India Council for Technical Education;

(j) not less than three, but not more than five, persons to be nominated by the Visitor, who shall be persons having special knowledge or practical experience in respect of education, industry, science or technology;

(k) three Members of Parliament, of whom two shall be elected by the House of the People from among its members and one by the Council of States from among its members.

(3) An officer of the Ministry of the Central Government concerned with technical education shall be nominated by that Government to act as the Secretary of the Council.

32. (1) Save as otherwise provided in this section, the term of office of a member of the Council shall be three years from the date of his nomination or election, as the case may be.

Term of office of, vacancies among, and allowances payable to, members of Council.

(2) The term of office of an *ex officio* member shall continue so long as he holds the office by virtue of which he is a member.

(3) A member of the Council referred to in clause (h) of sub-section (2) of section 31 shall hold office during the pleasure of the Central Government.

(4) The term of office of a member elected under clause (k) of sub-section (2) of section 31 shall expire as soon as he ceases to be a member of the House which elected him.

(5) The term of office of a member nominated or elected to fill a casual vacancy shall continue for the remainder of the term of the member in whose place he has been nominated or elected.

(6) Notwithstanding anything contained in this section an outgoing member shall, unless the Central Government otherwise directs, continue in office until another person is nominated or elected as a member in his place.

(7) The members of the Council shall be paid such travelling and other allowances by the Central Government as may be determined by that Government, but no member shall be entitled to any salary by reason of this sub-section.

Functions of Council.

33. (1) It shall be the general duty of the Council to co-ordinate the activities of all the Institutes.

(2) Without prejudice to the provisions of sub-section (1), the Council shall perform the following functions, namely:—

(a) to advise on matters relating to the duration of the courses, the degrees and other academic distinctions to be conferred by the Institutes, admission standards and other academic matters;

(b) to lay down policy regarding cadres, methods of recruitment and conditions of service of employees, institution of scholarships and freeships, levying of fees and other matters of common interest;

(c) to examine the development plans of each Institute and to approve such of them as are considered necessary and also to indicate broadly the financial implications of such approved plans;

(d) to examine the annual budget estimates of each Institute and to recommend to the Central Government the allocation of funds for that purpose;

(e) to advise the Visitor, if so required, in respect of any function to be performed by him under this Act; and

(f) to perform such other functions as are assigned to it by or under this Act.

Chairman of Council.

34. (1) The Chairman of the Council shall ordinarily preside at the meetings of the Council.

(2) It shall be the duty of the Chairman of the Council to ensure that the decisions taken by the Council are implemented.

(3) The Chairman shall exercise such other powers and perform such other duties as are assigned to him by this Act.

Power to make rules in respect of matters in this Chapter.

35. (1) The Central Government may 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 filling vacancies among the members of the Council;

(b) the disqualifications for being chosen as, and for being a member of the Council;

(c) the circumstances in which, and the authority by which, members may be removed;

(d) the meetings of the Council and the procedure of conducting business thereat;

(e) the travelling and other allowances payable to members of the Council; and

(f) the functions of the Council and the manner in which such functions may be exercised.

CHAPTER IV

MISCELLANEOUS

36. No act of the Council, or any Institute or Board or Senate or any other body set up under this Act or the Statutes, shall be invalid merely by reason of— Acts and proceedings not to be invalidated by vacancies.

(a) any vacancy in, or defect in the constitution thereof, or

(b) any defect in the election, nomination or appointment of a person acting as a member thereof, or

(c) any irregularity in its procedure not affecting the merits of the case.

37. 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 provision or give such direction not inconsistent with the purposes of this Act, as appears to it to be necessary or expedient for removing the difficulty. Power to remove difficulties.

38. Notwithstanding anything contained in this Act,— Transitional provisions.

(a) the Board of Governors of an Institute functioning as such immediately before the commencement of this Act shall continue to so function until a new Board is constituted for that Institute under this Act, but on the constitution of a new Board under this Act, the members of the Board holding office before such constitution shall cease to hold office;

(b) any Academic Council constituted in relation to any Institute before the commencement of this Act shall be deemed to be the Senate constituted under this Act until a Senate is constituted under this Act for that Institute;

(c) until the first Statutes and the Ordinances are made under this Act, the Statutes and Ordinances of the Indian Institute of Technology, Kharagpur as in force immediately before the commencement of this Act shall continue to apply to that Institute and shall, with the necessary modifications and adaptations, also apply to any other Institute, in so far as they are not inconsistent with the provisions of this Act.

Repeal and savings.

39. (1) The Indian Institute of Technology (Kharagpur) Act, 1956<sup>5</sup> of 1956. is hereby repealed.

(2) Notwithstanding such repeal, the provisions of the said Act set out in the Schedule shall continue to have effect:

Provided that in the said provisions, the expression "this Act" means the said provisions.

#### THE SCHEDULE

(See section 39)

Provisions of the Indian Institute of Technology (Kharagpur) Act, 1956, continued in force

Declaration of the Indian Institute of Technology (Kharagpur) as an institution of national importance.

2. Whereas the objects of the institution known as the Indian Institute of Technology at Kharagpur in the district of Midnapore in the State of West Bengal are such as to make the institution one of national importance, it is hereby declared that the institution known as the Indian Institute of Technology, Kharagpur, is an institution of national importance.

Definitions.

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

(b) "Board" means the Board of Governors of the Institute;

(c) "Chairman" means the Chairman of the Board;

(e) "Director" means the Director of the Institute;

(g) "Institute" means the Institute known as the Indian Institute of Technology, Kharagpur, incorporated under this Act.

Incorporation.

4. (1) The first Chairman, the first Director and the first members of the Board who shall be the persons appointed in this behalf by the Central Government, by notification in the Official Gazette, and all persons, who may hereafter become or be appointed as officers or members of the Board, so long as they continue to hold such office or membership, are hereby constituted a body corporate by the name of the Indian Institute of Technology, Kharagpur.

(2) The Institute shall have perpetual succession and a common seal, and shall sue and be sued by the said name.

5. (1) Subject to the provisions of this Act, every person who is permanently employed in the Indian Institute of Technology at Kharagpur immediately before the commencement of this Act shall, on and from such commencement, become an employee of the Institute and shall hold his office or service therein by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident fund and other matters as he would have held the same on the date of commencement of this Act if this Act had not been passed.

Transfer of service of existing employees of the Indian Institute of Technology at Kharagpur.

(2) Notwithstanding anything contained in sub-section (1), the Institute may, with the prior approval of the Visitor, alter the terms and conditions of any employee specified in sub-section (1), and if the alteration is not acceptable to such employee, his employment may be terminated by the Institute in accordance with the terms of the contract with the employee or, if no provision is made therein in this behalf, on payment to him by the Institute of compensation equivalent to three months' remuneration.

(3) Every person employed in the Indian Institute of Technology at Kharagpur other than any such person as is referred to in sub-section (1) shall, on and from the commencement of this Act become an employee of the Institute upon such terms and conditions as may be provided for in the Statutes, and until such provision is made, on the terms and conditions applicable to him immediately before such commencement.

*Rep. by Act 52 of 1964, S. 2 & Sec. I (W.C.J. 29.12.64)*

THE VISVA-BHARATI (AMENDMENT) ACT, 1961

No. 60 OF 1961

[19th December, 1961]

An Act to amend the Visva-Bharati Act, 1951.

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

**Short title.** 1. This Act may be called the Visva-Bharati (Amendment) Act, 1961.

**Amendment of section 2.** 2. In the Visva-Bharati Act, 1951 (hereinafter referred to as the principal Act), in section 2, the following words shall be added and shall be deemed always to have been added at the end, namely:—

“and is as such hereby constituted as a University.”.

**Amendment of section 3.** 3. In section 3 of the principal Act, for clause (e), the following clause shall be substituted, namely:—

‘(e) “Bhavana (College)” means a hall or a unit of residence, with provision for tutorial instructions for students, provided or recognised by the University;’.

**Amendment of section 4.** 4. In section 4 of the principal Act, after the words “body corporate”, the words “as a unitary, teaching and residential University” shall be inserted and shall be deemed always to have been inserted.

**Amendment of section 5.** 5. In section 5 of the principal Act, for clause (ii), the following clause shall be substituted and shall be deemed always to have been substituted, namely:—

“(ii) all property, assets, rights and liabilities of the said Society shall be the property, assets, rights and liabilities of the University and any will, deed or other document, whether made or executed before or after the commencement of this Act, which

Rep. by Act 52 of 1964

contains or purports to contain any bequest, gift, trust, payment of money or transfer or assignment of any right or property, movable or immovable, in favour of the said Society shall be construed as if the University was therein named instead of the said Society."

6. In section 6 of the principal Act,—

Amendment of section 6.

(i) in clause (b), for the words and brackets "Bhavans (Halls)" wherever they occur, the words and brackets "Bhavanas (Colleges)" shall be substituted;

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

"(jj) with the approval of the Central Government, to borrow, on the security of property of the University, money for the purposes of the University;"

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

Insertion of new section 7A.

"7A. Notwithstanding anything contained in section 7, the University may establish and maintain, at any place in India examination centres for home study courses conducted by its Loka Shiksha Samsad (People's Education Council) and recognise, for such purposes as may be provided in the Ordinances, the certificates awarded by the said Loka Shiksha Samsad (People's Education Council) on the results of examinations conducted by it."

Maintenance of examination centres outside territorial limits.

8. In section 13 of the principal Act, in sub-section (3), after the words and brackets "Samsad (Court)", the words and brackets "and the Karma Samiti (Executive Council)" shall be inserted.

Amendment of section 13.

9. In section 19 of the principal Act, in sub-section (1), under the heading "Class I—Ex-officio members" for items (v) and (vi), the following items shall be substituted, namely:—

Amendment of section 19.

"(v) Adhyakshas (Principals) of Bhavanas (Colleges),

(vi) Adhyakshas (Directors) of Vibhagas (Departments),"

10. In section 23 of the principal Act,—

Amendment of section 23.

(i) to clause (e), the following proviso shall be added, namely:—

"Provided that no action shall be taken by the Karma Samiti (Executive Council) in respect of the number, quali-

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Visva-Bharati (Amendment)

[ACT 60

fications and status of teachers, otherwise than on the recommendation of the Shiksha Samiti (Academic Council);";

(ii) the proviso to clause (j) shall be omitted.

Amendment  
of section 27.

11. In section 27 of the principal Act, in clause (g), for the words and brackets "Bhawanas (Halls)", the words and brackets "Bhawanas (Colleges)" shall be substituted.

Amendment  
of section  
29.

12. In section 29 of the principal Act,—

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

"(cc) the purposes for which certificates awarded by the Loka Shiksha Samsad (People's Education Council) of the University may be recognised by the University;";

(ii) in clause (g), for the words and brackets "Bhawanas (Halls)", the words and brackets "Bhawanas (Colleges)" shall be substituted;

(iii) in clause (k), for the words "of teachers", the words "of studies" shall be substituted.

Amendment  
of section 32 .

13. In section 32 of the principal Act,—

(i) after the words "the University", the words and brackets "other than a student of its Loka Shiksha Samsad (People's Education Council)" shall be inserted;

(ii) for the words and brackets "Bhavan (Hall)", the words and brackets "Bhavana (College)" shall be substituted.

Amendment  
of section 36.

14. In section 36 of the principal Act, for sub-sections (2) and (3), the following sub-sections shall be substituted, namely:—

"(2) The accounts of the University shall, once at least in every year and at intervals of not more than fifteen months, be audited by the Comptroller and Auditor-General of India or any person authorised by him in this behalf.

(3) The accounts, when audited, shall be published in the Official Gazette and a copy of the accounts, together with the auditor's report shall be submitted to the Samsad (Court) and to the Paridarsaka (Visitor)."

*Ref: by Act 52 of 1964*

of 1961]

Visva-Bharati (Amendment)

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15. In section 40 of the principal Act, in sub-section (1), for <sup>Amendment</sup> the words and brackets "till the next meeting of the Samsad <sub>of section 40.</sub> (Court)", the words "until his successor enters upon his office" shall be substituted.

Rep. by Act 52 of 1964, S. 2 & Sch. I (w.c.f. 29.12.64)

## THE DELHI UNIVERSITY (AMENDMENT) ACT, 1961

No. 61 OF 1961

[19th December, 1961]

An Act further to amend the Delhi University Act, 1922.

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

Short title  
and com-  
mencement.

1. (1) This Act may be called the Delhi University (Amendment) Act, 1961.

(2) It shall come into force on such date<sup>1</sup> as the Central Government may, by notification in the Official Gazette, appoint.

Amendment  
of section 4.

2. In section 4 of the Delhi University Act, 1922 (hereinafter referred to as the principal Act),—

(a) in clause (2)—

(i) in sub-clause (c), the word “or” shall be inserted at the end;

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

“(d) have pursued a course of study by correspondence, whether residing within the territorial jurisdiction of the University or not,”;

(b) existing clause (12A) shall be re-numbered as clause (12C) and before clause (12C) as so re-numbered, the following clauses shall be inserted, namely:—

“(12A) to acquire, hold, manage and dispose of property movable or immovable, including trust or endowed property, for the purposes of the University,

<sup>1</sup> 1-2-1962; vide Notification No. F.4-52/61-U2, dated 23-1-1962, Gazette of India, Pt. I, Sec. I p. 41.

Rep: by Act 52 of 1964

[ACT 61 OF 1961]

Delhi University (Amendment)

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(12B) with the approval of the Central Government, to borrow, on the security of University property, money for the purposes of the University,".

3. In section 5 of the principal Act, in sub-section (1), after the words "under this Act", the brackets, words and figures "(other than those conferred by sub-clause (d) of clause (2) of section 4)" shall be inserted. Amendment of section 5.

4. In section 33 of the principal Act, after the words "the University", the brackets and words "(other than a student who pursues a course of study by correspondence)" shall be inserted. Amendment of section 33.

THE CONSTITUTION (TENTH AMENDMENT)  
ACT, 1961

[16th August, 1961]

An Act further to amend the Constitution of India.

Enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

Short title  
and com-  
mencement.

1. (1) This Act may be called the Constitution (Tenth Amend-  
ment) Act, 1961.

(2) It shall be deemed to have come into force on the 11th day of August, 1961.

Amendment  
of the First  
Schedule  
to the Con-  
stitution.

2. In the First Schedule to the Constitution, under the heading "THE UNION TERRITORIES", after entry 6, the following entry shall be inserted, namely:—

"7. Dadra and Nagar Haveli. The territory which immediately before the eleventh day of August, 1961 was comprised in Free Dadra and Nagar Haveli."

Amendment  
of article  
240.

3. In article 240 of the Constitution, in clause (1), after entry (b), the following entry shall be inserted, namely:—

"(c) Dadra and Nagar Haveli."

**THE CONSTITUTION (ELEVENTH AMENDMENT)  
ACT, 1961**

[19th December, 1961]

An Act further to amend the Constitution of India.

Enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Eleventh Amend- Short title.  
ment) Act, 1961.

2. In article 66 of the Constitution, in clause (1), for the words Amendment  
“members of both Houses of Parliament assembled at a joint meet- of article 66.  
ing”, the words “members of an electoral college consisting of the  
members of both Houses of Parliament” shall be substituted.

3. In article 71 of the Constitution, after clause (3), the following Amendment  
clause shall be inserted, namely:— of article 71.

“(4) The election of a person as President or Vice-Presi-  
dent shall not be called in question on the ground of the existence  
of any vacancy for whatever reason among the members of the  
electoral college electing him.”

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